

	Competition Commission of Mauritius 1 <sup>st</sup> Floor, GM Tower 7 Maupin Street Port Louis Tel. No. 211-2005 Fax No. 211-3107 email: info@ccm.mu	
<b>MEDIA RELEASE</b>		
		<b>Date:</b> 24 <sup>th</sup> October 2011
		<b>Investigation Ref:</b> CCM/INV/009
<b>TITLE: INFORMATION GATHERING FROM MEMBERS OF THE PUBLIC IN THE INVESTIGATION OF MAURITIUS TELECOM IN RELATION TO ITS MYT INTERNET ACCESS BUNDLING</b>		

The Competition Commission of Mauritius (CCM) has launched an investigation into Mauritius Telecom's offering of the My.T product on the 21<sup>st</sup> February 2011. The Statement of Issues, a document which outlines the main areas of concern at the preliminary stage of the Investigation has been issued to Mauritius Telecom.

Following the Statement of Issues, the Executive Director of the CCM wishes to invite comments or representations from members of the public to gather further information and evidence on the concerns which may or may not lead to an eventual finding of breach of the Competition Act. Comments or representations should be made by November 04<sup>th</sup> by contacting the CCM. The issues on which the public may comment are as follows:

- Market definitions for further analysis of the conduct in each relevant market which have at present been defined as
  - i. the market for fixed line retail broadband access
  - i. the market for Pay TV
  - ii. the market for ILD (International Long Distance)calls
- The effects of MT's tying and bundling conduct on competition in these markets, particularly the Pay TV market;

Dr Sean Ennis, Executive Director of the CCM, has stated: "The My.T package mixes together broadband internet – a product in which MT has a monopoly - with products such as international calls and TV services, in which it competes with other companies. Such packages might be in the interests of vigorous competition and convenient for customers. But if customers are unduly influenced towards buying TV services from MT, just because of its broadband monopoly, that could damage competition in those markets."

The investigation is continuing. It is being carried out under the “monopoly situations” provisions of the Competition Act. The next step is the preparation of the report by the Executive Director. After that report, if the Commission finds that MT’s actions have the object or effect of “restricting, preventing or distorting competition”, then the Commission can impose remedial measures on MT. Whatever the outcome, there is no possibility of any financial penalties being levied in this case, as these relate only to collusive agreements *between* several competing companies.

The Executive Director emphasised “The fact that a Statement of Issues has been communicated to MT should not be construed as conclusive findings or as a determination that MT is in breach of the Competition Act. At this stage, no such determination has been made. Any determination as to possible breaches can only be made at the stage of provisional and final report of investigation.”

The Executive Director will endeavour to the fullest extent possible to respect anonymity of any individual providing information in the context of this investigation and/or to protect any confidential information any person or any company may provide at the request of that individual.

#### **Background for editors:**

##### ***The Competition Act***

The Competition Act 2007 came fully into effect on November 25th 2009, and is enforced by the Competition Commission of Mauritius, the CCM. Sub-parts II and III of Part III of the Competition Act 2007, cover restrictive practices described under ‘Other restrictive agreements’ and ‘Monopoly situations’.

To take action, the CCM must find that the conduct of an enterprise in a monopoly situation restricts, prevents or distorts competition or otherwise exploits the monopoly situation. We refer to such conduct as ‘abuse of monopoly’. Where the Executive Director has reasonable grounds to believe that abuse is occurring, or will occur, he may launch an investigation.

***Monopoly abuse:*** It is not in itself any breach of the law for an enterprise to be in a monopoly situation. However, as per Section 46(2) of the Competition Act, enterprises which hold monopoly positions may be in breach of the abuse or exploit any market power this position confers upon them. The question for the CCM is whether such enterprises are engaged in conduct which restricts, prevents or distorts competition (such as using their market position to exclude rival enterprises) or otherwise exploiting the monopoly situation. This is sometimes termed ‘foreclosure’.

Anticompetitive foreclosure may arise through ‘bundling’: the packaging together of two or more products. If the sale of one product is conditional on the sale of another, the products are said to be ‘bundled’ or ‘tied’ together (the former term is normally used when neither product can be bought separately).

Tying and bundling are normal business practices that are not by any means necessarily anticompetitive. Many products are sold jointly, or in varying combinations. However, in some

cases bundling might be used anti-competitively. If an enterprise has market power in the sale of one product (for example a 100% market share), but sells another in more competitive markets, then it might 'leverage' market power to reduce competition in the second market. To the extent customers have to buy the monopolized (tying) product, they are forced in effect to buy the other (tied) product, reducing the sales of competitors for that second product.

The CCM takes the view that, in most markets, free competition is an effective guarantor of the interests of consumers and is likely best to promote the efficiency, adaptability and competitiveness of the economy of Mauritius. Significant weakening of competition will therefore have adverse effects.

If it finds a breach of the monopoly provisions of the Competition Act, following an investigation, the Commission has the power to force sales of assets or businesses, or require changes in company behaviour, to remedy the situation.

***Further information:***

For further information see the CCM's website at [www.ccm.mu](http://www.ccm.mu), and the CCM's Procedural Rules and Guidelines: 'CCM 1 - Procedural Rules', 'CCM 4 - Monopoly situations and non-collusive agreements' and 'CCM 6 - Remedies and Penalties', all available on the web site.