**MEDIA RELEASE**

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<td>Investigation Ref:</td>
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**DECISION OF COMMISSIONERS ON UNDERTAKINGS PROPOSED BY MAURITIUS TELECOM LTD TO ADDRESS ALLEGED CONCERNS FROM INVESTIGATION ON MY.T OFFER**

On 26 October 2012 the Commissioners of the Competition Commission (CCM) have accepted undertakings proposed by Mauritius Telecom Ltd (MT) in relation to the Investigation INV 009 into alleged concerns in the offer and pricing of My.T. The decision will be published shortly.

The Competition Commission (CCM) launched an investigation, under Section 51(1) of the Competition Act 2007 (the Act), on the 21st February 2011, following MT’s offer and pricing of My.T and the allegation that MT was compelling users to subscribe to bundled offers while leveraging its market power in one market to gain market share in other markets. Such practices could have been in breach of Monopoly Situations provisions under Section 46(2)(a) of the Act.

As a result of the investigation and so as to mitigate the concerns of the CCM, MT replicated all My.T offers on stand-alone fixed line broadband ADSL offers. Consequently, the public was offered a choice between ADSL and My.T offers at same bandwidth.

MT cooperated throughout the investigation. In a proactive and positive effort to address the concerns of the CCM, on the 06th August 2012, MT offered the CCM undertakings in relation to their My.T offer pursuant to Section 63 of the Act.

Section 63 of the Act provides enterprises the opportunity to offer the CCM undertakings and if, after taking cognizance of the report of the Executive Director on the matter, the Commissioners conclude that the undertakings resolve the competition concerns of the investigation, the Commissioners may accept the undertakings and publish them in the form of a decision of the Commission that is legally binding on the enterprises.
On the 03rd September 2012, the Executive Director produced his Report pursuant to Section 63 of the Act and forwarded the Report and the Undertakings to the Commissioners for their decision, recommending the Commission to accept the undertakings.

In a decision dated the 26 October 2012, the Commissioners accepted the Undertakings offered by MT.

**MT offered the following undertakings (amongst others) with respect to its My.T offer:**

- MT undertakes to replicate My.T offers on a stand-alone fixed line broadband internet access basis.

- MT undertakes to maintain the same quality of service and other related determining aspects as are currently offered. These aspects include but are not limited to noise margin, contention ratio and fair usage policies.

- MT undertakes to provide stand-alone broadband ADSL offer based on the tariffs as approved by the Sector Regulator with a price differential of at least Rs 150 representing the rights’ acquisition fees of the core TV channels in the My.T bouquet.

- MT undertakes to submit the costing elements for stand-alone ADSL broadband offers in the same manner and form as provided for under the current ‘Guidelines for submission of Tariff applications for information and communication services’ issued by the Information and Communication Technologies Authority on the 15th May 2012.

- MT undertakes to report to the CCM any change in the TV channels of the core TV bouquet of the My.T offer including content rights’ acquisition fees.

The summarized undertakings for MT above should be read in conjunction with the important clauses and conditions set within the full version of these undertakings which is available on our website: [www.ccm.mu](http://www.ccm.mu)

Dr. Sean Ennis, Executive Director of the CCM said: ‘The undertakings offered by Mauritius Telecom effectively address the concerns of the CCM regarding this investigation. As a result of this investigation, Mauritius Telecom replicated all My.T offers on stand-alone fixed line broadband ADSL offers with a price differential reflecting the cost of the My.T Core TV Bouquet. We believe the undertakings offered by Mauritius Telecom will solve concerns that consumers may have had regarding the provision of broadband internet access products such as My.T and ADSL.

We thank consumers for cooperating with the CCM by submitting their views and opinions on the My.T package. Mauritius Telecom cooperated fully with the CCM throughout the investigation and, in the spirit of this cooperation, offering undertakings that effectively resolved the concerns of the CCM.’
In their decision the Commission stipulated that:

1) They are satisfied with the recommendations of the Executive Director of the CCM,

2) In their opinion, the Undertakings given by MT would indeed satisfactorily address the concerns that the Commission has about any prevention, restriction distortion of competition,

3) The Commission shall keep under review the compliance with this direction and the performance of Undertakings given by MT, and

4) Notwithstanding paragraph 9 of the Undertakings offered by MT, whereby the duration of the Undertakings is set for a period of three (3) years as from the date of decision of the Commissioners, MT has a continuing obligation to comply with the Competition Act 2007.

After exclusion of confidential information, a copy of the Report of the Executive Director will be made available for consultation on the website by interested parties such as stakeholders, businesses and consumers and the public at large.

End of media release.

Background for editors:

The Competition Act

The Competition Commission of Mauritius is a statutory body established in 2009 to enforce the Competition Act 2007. This Act established a competition regime in Mauritius, under which the CCM can investigate possible anticompetitive behavior by businesses.

Undertakings

Section 63 in Part VI of the Competition Act states that an enterprise may offer a written undertaking to the Commission to address any concern that has arisen, or is likely to arise, during an investigation into a restrictive agreement. If an undertaking is accepted by the Commission, it is published in the form of a decision of the Commission, and the enterprise must comply with its terms. The undertaking then operates like a direction issued by the Commission under section 60. If the enterprise does not comply with the undertaking (without reasonable excuse), Section 65 of the Competition Act permits the Commission to apply to a Judge in Chambers for a mandatory order requiring the enterprise to make good its default.

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 Act, enterprises which hold monopoly positions may be in breach of an 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 or otherwise exploiting the monopoly situation.

Abuse of monopoly situation can be grouped in two broad categories, namely (i) exclusive abuse and; (b) exploitative abuse. CCM’s Guidelines on monopoly situations and non-collusive agreements (CCM 4) deal with these two types of abuses at para 3.1 – 3.36 and 4.1 – 4.14, respectively.

There are two broad categories of exploitative abuse: unilateral market power and tacit collusion.

Excessive pricing, reduced quality, choice or service when exercised by dominant enterprises that would not be possible for an enterprise facing competition would show unilateral market power. Reduced rivalry between dominant enterprises that becomes aware of their mutual dependence to maintain profits or simply in the interest of a quieter life is termed as ‘tacit collusion’.

**Further information**

For further information see the CCM’s website, 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 website.