

Press release

FIXED MARKET REGULATION

Arcep sets the regulatory framework governing fixed networks for the coming years, to prepare for the transition from copper to fibre and accelerate the pace of businesses' digital transition

Paris, 17 December 2020

Arcep adopts new market analysis decisions on fixed broadband and superfast broadband, after having received the European Commission's written observations

These decisions mark the completion of a more than one-year work cycle, punctuated by dialogue with operators, the Competition Authority's opinion and written observations from the European Commission, all of which Arcep has taken into account. Arcep extends its thanks to all of the stakeholders who contributed to the different stages of the process, notably the public consultations.

These decisions define, first, "asymmetric" regulation – i.e. which applies only to the SMP operator, Orange – governing fixed broadband and superfast broadband for the coming years (2021 to 2023), namely:

- A separate civil engineering market;
- Market "3a": passive solutions;
- Market "3b": generalist active solutions; and
- Market "4": dedicated active solutions for businesses.

Second, Arcep is adopting a decision to complete "symmetric" optical fibre regulation, which applies equally to all FttH network operators, as well as a recommendation that provides additional details on this framework's application. The Decision has been submitted to the Government for approval, before coming into effect.

Lastly, Arcep is adopting a decision setting the maximum tariffs that Orange can charge for accessing its copper local loop, from 2021 to 2023. This decision comes to complete the decisions on markets "3a" and "3b," and was also the subject of a public consultation and notified to the European Commission.

There are three main objectives underpinning the regulatory changes for the period running from 2021 to 2023, which Arcep details below: facilitating the transition from the legacy copper network to fibre, maintaining pro-investment regulation to make fibre the fixed infrastructure of reference, and energising the business market.

Maintain pro-investment regulation to make fibre the fixed infrastructure of reference

As the new infrastructure that will outfit the entire country for several decades to come, fibre is a central focus of this new round of regulation. Optical fibre network rollouts represent an unprecedented undertaking, in terms of both scale and form – combining operators' investments, regional and local initiatives, and the government's solidarity. Regulation has a vital role to play in creating the right incentives, and enabling the market to harness its full investment power. Arcep's pro-investment regulation has thus served as a real market catalyst over the past several years: driving a rise in spending (unique in Europe) of close to 50% rise in five years, which in 2019 resulted in an unprecedented addition of 4.8 million lines deployed in a single year by infrastructure operators, along with an increase of 7.3 million lines in locations where at least three commercial operators are present at the shared access point.

The purpose of the regulation established for 2017 to 2020 was to encourage all operators to participate in the investment effort, in areas where Orange stood far too alone. This goal has now been achieved. This healthy momentum also exists in the retail market, with more than 40% of the premises covered for FttH subscribing to a fibre plan, and exceptional progress made in Q3 2020 with the additional of close to one million FttH subscribers. Arcep once again hails the efforts that operators have made keep pace with highly ambitious targets over the course of 2020, despite the public health crisis.

Arcep has ascertained that healthy competition now exists in the fibre market. To ensure that this momentum becomes well entrenched, Arcep is proposing to consolidate “symmetric” fibre regulation, which applies equally to all operators. The challenge now is to draw up the guidelines for a fully-fibre France, and so lay the groundwork for an eventually complete transition from the legacy copper network to fibre. To this end, Arcep is requiring fibre quality of service guarantees from all operators, to ensure the technology is able to keep all of its promises to every user, both consumers and businesses, and this across the whole of France.

Facilitating the transition from the legacy copper network to fibre, with a view to completing the switchover within ten years

The target now is to achieve a complete switchover from the legacy copper network to fibre, within the next ten years. Here, Arcep welcomes Orange’s commitment to this unprecedented effort to migrate away from copper. Within the public sector, Arcep intends to act as the guarantor of this transition, to ensure that it proceeds at the right pace, to protect both users’ interests and healthy competition. It is crucial that no user be left behind, and the Covid-19 crisis only served to confirm how vital fibre is to future prospects.

Now that these consultations are complete, Arcep has confirmed its initial proposals, which include supporting Orange in phasing out the copper network and, in the process, encouraging operators to switch over to fibre where available, while taking a non-discriminatory approach and remaining clear and transparent. In particular, Arcep is opening up the possibility of a precocious commercial switch-off of the copper network, prior to its technical switch-off, and provides details on the terms and conditions for doing so. Orange has already indicated that it will begin to switch off its copper network in 2021.

These terms and conditions are being stipulated even though, aside from these first switch-offs, Orange’s plans are far from fully established. Arcep has not yet received a detailed timetable for the switch-off or the procedure for doing so from Orange. The Authority is thus urging the incumbent carrier to provide some clarity on its plans, as soon as possible. This detailed plan will give Arcep the ability to examine possible supplementary adjustments, such as shorter timelines. To incentivise the market, Arcep has also introduced a review clause in the pricing framework governing unbundling, which would make it possible to increase unbundling prices if the future plan includes guarantees of an ambitious switch-off plan and timetable.

To determine these maximum prices, Arcep relied for the first time on a new cost assessment method based on modelling of a shared optical local loop, to take the technological transition to ultrafast access into account. Because the transition away from the copper network is occurring at an increasingly accelerated pace, the method based on regulatory cost accounting no longer makes it possible to deliver a stable and predictable price signal. For this next round of price caps, Arcep therefore made the choice of relying on the model it developed, which creates the ability to introduce a long-term signal into the tariffs, to keep pace with this transition.

Providing enterprises with fibre access, and create a truly competitive business market

Having products designed specifically for businesses is another major issue. The aim is to democratise fibre access products for SMEs, both by opening the way for less expensive solutions and by diversifying the quality of service tiers that can be marketed. For both generalist access products and specific high-end products, this requires a dynamic wholesale market for active solutions that can rely on several suppliers, and makes room for wholesale-only operators, to help foster a large ecosystem of business operators.

Progress has been made on creating a competitive wholesale market for active FttH product – with a rate of availability for these products that has climbed from 11% in 2017 to close to 88% in Q2 2020 – but there is still some way to go. Arcep will therefore continue to work on fostering its development. It is requiring all FttH networks to introduce a passive solution with increased quality of service (guaranteed fault repair times of 10 hours and four hours) to guarantee that every enterprise, regardless of where they are located in the country, has access to a fibre plan tailored to their needs, and to adjust the regulation of pioneer fibre networks (dedicated optical local loop) to take the gradual emergence of these products carrying higher QoS guarantees on FttH networks into account.

Arcep is committed to ensuring the proper implementation of these decisions, and will provide all the concerned stakeholders with the needed support. It will be especially attentive to the work done to prepare for the copper switch-off, notably within the working groups that it chairs.

To find out more

Arcep's market analysis is a process of in-depth consultation with the sector, which has been ongoing for more than a year:

- Publication of a "Scorecard and Outlook" document (1);
- First public consultation on draft symmetric and asymmetric regulation decisions (2);
- Soliciting an opinion from the Competition Authority (3);
- Second public consultation on draft symmetric and asymmetric regulation decisions (4);
- A public consultation on the draft decision on price supervision (5);
- European Commission written observations on the "asymmetric" (6), "symmetric" (7) and price supervision (8) decisions.

(1) [Press release of 11 July 2019](#)

(2) [Press release of 6 February 2020.](#)

(3) [Opinion No. 20-A-07 of 15 September 2020](#)

(4) [Press release of 7 July 2020.](#)

(5) [Press release of 11 September 2020](#)

(6) [European Commission written observations of 26 November on the market analyses \(Cases FR/2020/2277-2278-2279-2280\).](#)

(7) [European Commission written observations on the "symmetric" regulation \(Case FR/2020/2281\)](#)

(8) [European Commission written observations on price supervision \(Case FR/2020/2284\)](#)

Associated documents :

→ [Decision No. 2020-1445 on analysis of the wholesale infrastructure access market](#)

→ [Decision No. 2020-1446 on analysis of market "3a" – wholesale access provided at a fixed location](#)

→ [Decision No. 2020-1447 on analysis of market "3b" – wholesale central access provided at a fixed location](#)

→ [Decision No. 2020-1448 on analysis of market "4" –wholesale quality access provided at a fixed location](#)

→ [Decision No. 2020-1493 setting maximum prices for accessing the copper local loop from 2021 to 2023](#)

→ [Decision No. 2020-1432 setting forth the rules governing access to optical fibre electronic communication lines](#)

→ [Annexes pertaining to accounting reports \(.xlsx\)](#)

→ [Recommendation on the rules governing access to ultrafast optical fibre electronic communication lines, date 8 December 2020](#)

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