

Press release

OPTICAL FIBRE

Arcep settles a dispute between Bouygues Telecom and Orange concerning fibre to the home (FttH) end-point connection set-up fees in very high-density areas

Paris, 28 April 2022

In October 2021, Bouygues Telecom seized the Arcep Executive Board body responsible for settling disputes, legal proceedings and investigations (RDPI), requesting that it settle a dispute it was having with Orange over the rules governing the refund of contributions to FttH end-point connection set-up fees in very high-density areas (see Annex for details). Today, the Arcep body responsible for settling disputes is making its decision public.

Bouygues Telecom asked Arcep to alter Orange's contractual mechanism for refunding contributions to end-point connection set-up fees in very high-density areas

More specifically, Bouygues Telecom requested that Arcep enjoin Orange to amend its contract such that:

- First, the refund of contributions to set-up fees occur when the “outgoing” FttH commercial operator's line is cancelled, and not when the FttH line is taken over by the next commercial operator;
- Second and in essence, that the method used to calculate the amount of the refund be consistent with the new refund triggering mechanism. Bouygues Telecom requested the implementation of a method with the associated parameters and values.

Arcep has granted the first Bouygues Telecom request, for the refund of its contributions to depend on the FttH line's cancellation by the “outgoing” commercial operator

Arcep concluded that the current mechanism whereby the refund occurs when the line is taken over by the next commercial operator is neither justified, nor fair, and has granted Bouygues Telecom's request to change the event that triggers the refund of contributions.

Arcep also specified that this change in triggering event must be accompanied by a change in the method used to calculate the amount of the associated refund.

Arcep did not, however, accede to the specific calculation method requested by Bouygues Telecom

The Authority concluded that it was unable to assess its justified and proportionate nature. The calculation method will need to be determined at the outcome of good faith negotiations between the parties.

In addition, Arcep concluded that changing the triggering event for the refund of contributions to set-up fees to the date when the FttH line is cancelled by Bouygues Telecom also applies to lines that were cancelled by Bouygues Telecom between 23 July 2021 and the date of the Arcep Decision, as Bouygues Telecom requested. The Authority considers that this change in triggering event entails necessary changes to enable calculation of the amount of the refunds due on the lines in question, and refers it back to the parties for good faith negotiation.

ANNEX

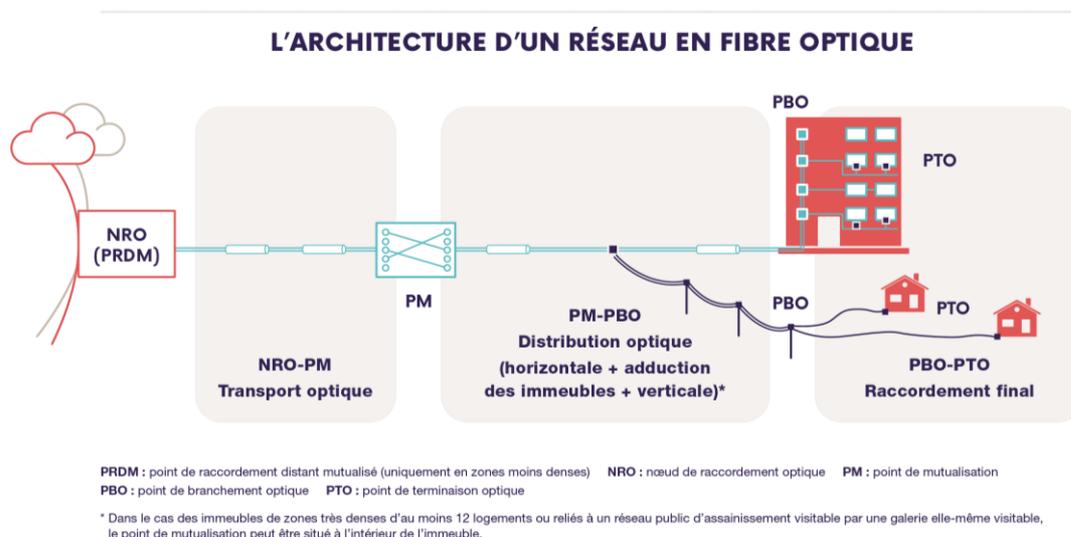
Reminder of the rules governing the construction and use of end-point connection

The construction of the Fibre to the Home (FttH) local loop infrastructure is based on the principle of sharing the last mile of the network and is, in practice, structured into several stages.

To make a premises eligible for fibre connection, the infrastructure operator begins by deploying shared access point (SAP) or distribution node infrastructures up to the optical connection node (OCN).

Then, when a user subscribes to an FttH plan in a given location for the first time, the optical connection point (OCP) is installed inside the user's premises, and connected to the associated OCN, which is typically located on each floor of multiple dwelling units, or outdoors close to the premises when it is a single-family dwelling: this is what is known as end-point connection.

Later, when a user switches to a different FttH plan (switches operator, moves...) the **new "incoming" commercial operator** takes over the end-point connection relinquished by the previous **"outgoing" commercial operator**.



Rules governing the financing of end-point connection in very high-density areas in the Orange contract

In its contract for accessing FttH lines in very high-density areas, Orange includes a mechanism for financing end-point connections based on a system of contributions and refunds. The commercial operator that requests access to an end-point connection must pay Orange a contribution to the set-up fees for the line in question. Under the terms of the Orange contract, when the commercial operator loses their customer and cancels the line in question, it can then obtain a refund, which will be paid out when the line is taken over by an "incoming" commercial operator.

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How the Arcep Executive Board works

Arcep's different competencies are exercised within three distinct Executive Board bodies:

- The Plenary Body which is composed of all seven Board members;
- **The body responsible for settling disputes, legal proceedings and investigations (RDPI)** which is composed of four of the seven Board members, including the Chair, and which is responsible for opening prior examination procedures, issuing formal notices and notifying grievances;
- The restricted (sanctioning) body, which is composed of the three remaining Board members, and responsible for imposing (or not imposing) penalties.

Associated document

- [Arcep decision n° 2022-0682-RDPI](#) (*in French only*)

Arcep at a glance

The Regulatory Authority for Electronic Communications, Postal Affairs and Print Media Distribution (Arcep), a neutral and expert arbitrator with the status of independent administrative authority (IAA), is the architect and guardian of internet, fixed and mobile communications and postal networks in France.

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