

Press release

FIXED BROADBAND AND SUPERFAST BROADBAND MARKET REGULATION

Regulatory changes for the 2024 to 2028 period: Arcep publishes a second version of its draft decision for public consultation and submits it to the Competition authority for an opinion

Paris, 29 June 2023

After having published its “Scorecard and Outlook” document for public consultation in July 2022¹, followed by a public consultation on the first version of its draft market analysis decisions² in February 2023, Arcep continues the process of reviewing fixed broadband and superfast broadband market regulation.

Today, it is publishing:

- the contributions it received to this previous public consultation;
- a new version of the draft analysis decisions on fixed broadband and superfast broadband markets, concerning the separate civil engineering market, market “1” for passive solutions, market “2” for dedicated activated solutions for businesses.

Arcep is publishing these three draft decisions today for public consultation. At the same time, it is transmitting the three draft decisions to the Competition authority for an opinion.

The work on Market “3b” for generalist active solutions is proceeding according to a different timetable, to be able to measure and factor in the ongoing changes taking place in this market over the past year.

Goal for the 2024 – 2028 regulatory period: supporting the switchover from copper to fibre

In the draft decisions being published today for public consultation, Arcep sets out broadband and superfast broadband market regulation, which includes the supply of fixed internet access for consumers and businesses for the period running from 2024 to 2028. This new regulatory period will be marked by the commercial closure of the copper network, at a time when fibre subscribers have outnumbered copper subscribers for over a year.

The main changes for this regulatory period (outlined in the topic briefing attached to this press release) seek to achieve four key objectives:

1. Provide a framework for the copper network switch-off

The measures planned by Arcep seek above all to achieve the successful coordination of copper switch-off and fibre deployment timetables. The aim is to ensure that FttH network deployment is complete before the copper network is switched off, by requiring copper switch-off operations to have notice periods that factor in the status of fibre network rollouts in the areas in question.

An additional measure would be to strengthen data sharing obligations imposed on Orange, to guarantee the clarity that all stakeholders require on plans for the legacy copper network switch-off.

¹ [Arcep press release of 13 July 2022](#)

² [Arcep press release of 20 February 2023](#)

2. Maintain a satisfactory quality of service level on the copper network

Arcep believes it is crucial that Orange maintain a satisfactory quality of service level on the copper network right up to switch-off, and particularly in those areas that are not yet covered with fibre access.

3. Facilitate the completion of fibre rollouts while ensuring effective access to civil engineering infrastructures (poles, underground ducts)

The aim is to support the final stages of fibre deployment, and subsequently the life of the networks deployed thanks to these infrastructures. Here, Arcep has identified a need to adapt the obligations imposed on Orange, particularly regarding the use of infrastructures for last mile connection. The goal is to reduce the turnaround time on rehabilitation work, and so the waiting time for users wanting to be connected to the network.

4. Bolster the competition dynamic in the business market

Competition in the fibre market for businesses has improved over the past several years, but not sufficiently enough. Arcep's regulation will thus follow through on the previous period of market analysis, to encourage the development of fibre access products tailored to the needs of businesses, and particularly micro, small and medium enterprises. Arcep plans, in particular, on maintaining the obligation incumbent on Orange to provide passive shared local loop access solutions designed to satisfy the needs of business market operators. The Authority also plans on maintaining the obligation to perform a price reproducibility test as is currently in effect on the dedicated optical local loop.

In addition to working to achieve its objectives, Arcep is adapting pricing obligations to changes in the market

The accelerated pace of the copper switch-off between now and 2028 will substantially alter the competition landscape by steadily reducing third-party operators' dependence on the legacy copper network. As a result, Arcep plans on **relaxing the price caps imposed on Orange in those areas where it can be justified**, over the course of the coming period.

In practice, this relaxation would concern those municipalities where fibre coverage stands at over 95%. In these municipalities, Orange proposes committing to complying with price caps for 2024 and 2025³. Stakeholders are invited to comment on this proposed commitment as part of the public consultation.

To consider the feedback received during the public consultation that ran from 20 February to 3 April 2023, as well as the European Commission's draft Gigabit Connectivity Recommendation submitted to BEREC for an opinion on 23 February 2023, Arcep plans on making the lifting of price obligations conditional not only on the copper network's switch-off in the municipality, but also the technical switch-off in under two years.

Market analysis decisions will now be adopted for a period of five years

Market analysis decisions define so-called "asymmetric" obligations that are imposed on any operator that enjoys significant power in the relevant market in question, aka the SMP operator, to remedy any identified competition imbalances. In fixed markets, the SMP operator is incumbent carrier, Orange. Up until now, fixed market regulation has been framed by Arcep decisions that apply for a period of three years, with the decisions currently effect terminating at the end of 2023. In accordance with the European framework, decisions on the next regulatory period for fixed markets will apply for a period of five years (2024 – 2028).

³ The recurring monthly rate per fully unbundled line excluding IFR, cannot exceed €9.95 in 2024 and €10.70 in 2025

Next stages before adoption in late 2023

This public consultation will run until 18 September 2023.

After analysing the contributions received to this consultation, the draft market analysis decisions on the fixed market will be notified to the European Commission.

The review process will be brought to completion by the end of 2023, the target date for adopting the new Decisions. Publication of these decisions will be accompanied by unbundling price caps for which an *ad hoc* draft decision will be published for public consultation in the coming weeks.

Associated documents

- [The public consultation](#)
- [Summary of the main changes to regulatory texts compared to 2020](#)
- [Draft analysis decision on the Market for the wholesale provision of access to physical civil engineering infrastructures for the deployment of electronic communications networks](#)
- [Draft analysis decision on Market 1: wholesale local access provided at a fixed location](#)
- [Draft analysis decision on Market 2: provision of high-quality wholesale access](#)
- [Orange draft commitment on price caps for the recurring monthly full LLU rate in areas subject to an obligation of non-excessive pricing \(pdf - 350Ko\)](#)
- [Contributions to the first public consultation on the draft decision on fixed markets](#)

Background info:

- [Table recapping every fixed market analysis period](#)






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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