

Press release

FIXED BROADBAND AND SUPERFAST BROADBAND MARKET REGULATION

Arcep sets the framework for the regulation of fixed markets from 2024 to 2028 to support the transition from copper to fibre access

Paris, 18 December 2023

Arcep adopts new analysis decisions on fixed broadband and superfast broadband markets, which include the supply of fixed internet access services to consumers and businesses

These decisions mark the completion of a one and a half-year period of work, punctuated by several consultations with the sector, obtaining the opinion of the Competition authority and comments from the European Commission. Arcep extends its thanks to all of the stakeholders who contributed to the different stages of their drafting, particularly during the public consultations.

These decisions, which cover the years 2024 to 2028, pertain to three markets:

- the market for accessing civil engineering infrastructure for the deployment of electronic communication networks;
- Market “1” for access to local passive solutions¹;
- Market “2” for dedicated activated solutions for businesses¹.

To factor in the European Commission’s comments, **Arcep is extending its current market analysis decision on access to generalist active solutions (former “market 3B”²) by one year**, and will continue its work into 2024 to factor in ongoing changes in this market.

Goal for this new regulatory period: supporting the switchover from copper to fibre

This new regulatory period will be marked by the commercial closure of the legacy copper network, at a time when 84% of premises in Metropolitan France have already been passed for fibre, and there are twice as many fibre as copper subscribers.

Arcep has identified four key objectives for 2024 to 2028:

- provide a framework for the copper network switch-off;
- maintain a satisfactory quality of service level on the copper network;
- facilitate the completion of fibre rollouts while ensuring effective access to civil engineering infrastructures (poles, underground ducts);
- and bolster competition in the business market.

Arcep is also adapting the pricing obligations imposed on Orange to changes in the market.

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

The measures defined by Arcep in its new decisions seek to achieve the successful coordination of copper switch-off and fibre deployment timetables, and notably to ensure that FttH network deployment

¹ According to the numbering established by European Commission Recommendation No. 2020/2245 of 18 December on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation

² According to the numbering established by European Commission Recommendation No. 2014/710 of 9 October 2014

is complete before the copper network is switched off. They also impose advance notice periods that factor in the status of fibre network rollouts in the area in question. The purpose is to ensure that end users have a superfast broadband solution after the copper switch-off, and to enable alternative operators to prepare the switchover of their customer base. Data sharing obligations imposed on Orange have also been strengthened, to ensure the clarity needed by all of the parties involved in the process of switching off the legacy copper network.

Arcep will work to ensure compliance with all of the switch-off criteria, so that the entire process is carried out with end users' interests in mind, and that any change in competition levels will remain satisfactory throughout this technological transition. In particular, it will be careful to guarantee that Orange's choices of municipalities do not favour its own optical fibre networks, but are based on shared criteria that make it possible to ensure the availability of superfast broadband services that cater to all end users, both consumers and businesses, before the copper network switch-off. To this end, it will be careful to ensure that Orange considers the feedback from the sector stakeholders and local authorities affected by the process. The Authority is also committed to monitoring the system Orange uses to share data, so that every party has enough time and information to be able to factor Orange's choices regarding the legacy copper network switch-off into their strategy.

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. Quality of service obligations currently imposed on Orange will therefore be maintained during this new regulatory period.

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

The regulation of Orange civil engineering is maintained for the coming period, which makes it possible to employ these infrastructures for fibre network deployments. Enshrining this as long-term regulation provides operators deploying fibre with clarity going forward, by giving them the guarantee that Orange will continue to make these infrastructures available and maintain them, even after the copper network switch-off. New provisions emerged as necessary to support the final stages of fibre deployment, and subsequently the life of the networks deployed thanks to these infrastructures. Here, Arcep has required Orange to create a dedicated solution for accessing civil engineering 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 competition in the business market

Ensuring a broad range of fibre access products for businesses, tailored to their needs, is a major issue. Over the past several years, Arcep's regulation has worked to improve competition in the fibre market for businesses, but it remains insufficient. Arcep's regulation will thus follow through on the previous period of market analysis, to continue to encourage the development of fibre access products tailored to the needs of businesses, and particularly micro, small and medium enterprises.

Arcep is thus maintaining several of the obligations imposed on Orange, notably the obligation to provide passive shared local loop access solutions designed to satisfy the needs of business market operators, and the obligation to perform a price reproducibility test as is currently in effect on the dedicated optical local loop.






Arcep is adapting pricing obligations to changes in the market

The accelerated pace of the copper switch-off, and the ongoing deployment of competing infrastructures between now and 2028 will substantially alter the competition landscape by steadily reducing third-party operators' dependence on the Orange legacy copper network. As a result, Arcep has decided to relax then lift the wholesale market price caps imposed on Orange over the course of the coming period, in those areas where it can be justified.

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In practice, this relaxation will concern those municipalities where fibre coverage stands at over 95%, where copper access services will be subject to an obligation of non-excessive pricing. Orange has proposed committing to complying with price caps for 2024 and 2025 in these municipalities. Arcep has accepted this proposal and is making it legally binding. Arcep will nevertheless continue to keep a close watch on changes in competition conditions and on the clear communications with operators on changes to copper network access fees. If needed, over the course of this period, the Authority could reassess the criteria resulting in the application of a remedy of non-excessive pricing, or amend this remedy.

The lifting of price obligations will be conditional not only on the copper network's switch-off in the municipality for more than six months, but also on the announced technical switch-off taking place in under two years.

Arcep is also adopting a supplementary decision setting the cap on Orange copper local loop access prices subject to cost-based pricing, which will apply in 2024 and 2025.

Lastly, now that fibre access lines represent two thirds of all fibre and copper³ subscriptions, while maintaining the pricing principles governing access to civil engineering infrastructures which have been in effect since 2017, Arcep is adapting the cost allocation method between copper and fibre civil engineering used to calculate pricing. It plans gradually introducing the consequences of these changes on prices over the course of 2024 and 2025. To provide stakeholders with clarity over the longer term, Arcep is also publishing a summary of changes to the pricing of solutions for accessing Orange civil engineering during the copper-to-fibre transition.

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The Authority is already committed to the proper implementation of the adopted decisions and, to this end, will support all of the concerned stakeholders. It will be particularly attentive to the successful completion of the work being done to prepare for the copper switch-off, notably within the working groups that it leads.

³ Arcep's Broadband and superfast broadband market Observatory : <https://www.arcep.fr/cartes-et-donnees/nos-publications-chiffrees/observatoire-des-abonnements-et-deploiements-du-haut-et-tres-haut-debit/derniers-chiffres.html>

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Arcep market analyses, a process of increased consultation with the sector, for the past year and a half:

- publication of a “Scorecard and Outlook” document (1);
- first public consultation on draft (2);
- second public consultation on draft decisions (3);
- Competition Authority’s Opinion (4);
- European Commission comments on draft decisions (5).

(1) [Press release of 13 July 2022.](#)

(2) [Press release of 20 February 2023.](#)

(3) [Press release of 29 June 2023.](#)

(4) [Opinion No. 23-A-14 of 5 October 2023.](#)

(5) [European Commission comments dated 27 November 2023 on market analysis decisions \(cases FR/2023/2465 2466 2467\);](#)

[European Commission comments dated 21 September 2023 regarding corrective measures in the wholesale market for access to physical infrastructures in France \(Case FR/2023/2454\);](#)

[European Commission comments dated 24 November 2023 on prices caps for unbundled access to the copper local loop \(Case/2023/2468\)](#)

Associated documents:

→ [Decision No. 2023-2801 on analysis of the market for wholesale **provision of access to physical civil engineering infrastructures**](#)

→ [Decision No. 2023-2802 on analysis of **Market 1**: wholesale local access provided at a fixed location](#)

→ [Decision No. 2023-2803 on analysis of **Market 2**: provision of high-quality wholesale access](#)

→ [Decision No. 2023-2821 on **price caps for LLU access subject to an obligation of cost-based pricing for 2024 – 2025**](#)

→ [Decision No. 2023-2804 on prolonging analysis of **Market 3B**](#)






→ [Decision No. 2023-2820 amending the economic terms and conditions governing **access to Orange local loop civil engineering**](#)

→ [Summary of changes to the pricing of solutions for **accessing Orange civil engineering during the copper-to-fibre transition**](#)

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Annex: Price caps for 2024 and 2025 for fully unbundled access to the copper local loop (LLU)

Price caps, per pair and per month, excluding the monthly flat rate tax on network businesses (IFER)	2024	2025
Recurring monthly wholesale fee for LLU access subject to a cost-based pricing obligation	€9.20	€9.20
Recurring monthly wholesale fee for LLU access subject to an obligation of non-excessive pricing	€9.95	€10.70

[Wholesale price caps on recurring monthly fees for LLU access that are subject to an obligation of non-excessive pricing are based on a proposed commitment from Orange, made legally binding by Arcep Decision No. 2023-2802.]

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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