RÉPUBLIQUE FRANÇAISE

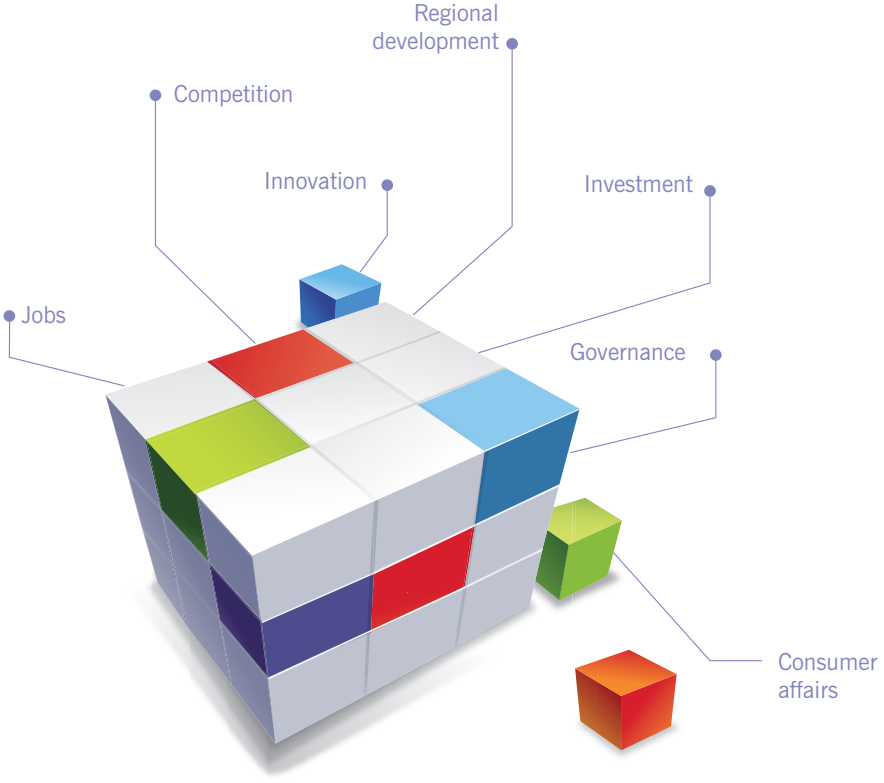
June 2014

# ARCEP

## Electronic communications and postal regulatory authority

## Background, key data and main areas of focus

EDITION 2013/2014




ARCEP
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Autorité de régulation des communications électroniques et des postes

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# 1. REGULATED MARKETS: HIGHLIGHTS OF 2013

At a time when the digital society continues to evolve at a tremendous pace, in France, in Europe and around the world, 2013 was marked by four major developments in areas that fall under ARCEP's regulatory purview.
First, an acceleration in the transition to superfast broadband on both fixed and mobile networks, as much in terms of coverage as subscription numbers. This trend went hand in hand with demands from users for a greater transparency on the quality of the services being sold by operators.

The second trend in France, and in a great many other countries for that matter, was the start of a growing reconfiguration of the sector, brought about in particular by Vivendi's decision in late 2013 to sell off SFR. As a backdrop is the work being performed at the European level to create a single market for telecommunications. ARCEP contributed to reflections on these matters in 2013, and will continue to do so in 2014, notably through the opinions it will be called upon to issue.

The year was also marked by a growing imbalance of economic power between the top internet companies and internet service providers (ISP), which is one of the central issues of today's net neutrality debates.

And, finally, 2013 saw an increased rate of decline for postal traffic, along with a need for postal operators, and La Poste in particular, to define a new business model.

In light of these developments, it is now more important than ever that regulation be constructed and put into effect by taking the expectations of economic stakeholders into consideration, while meeting the different objectives assigned to the regulator by Law: i.e. to enable users (individual consumers, public services and businesses) to benefit from fixed and mobile service offerings at a reasonable price, thanks to fair and balanced competition; to facilitate the development of the market and the economy as a whole, through innovation and investment and, as a result, job creation; to stimulate a balanced digital regional development.

## A fast-changing electronic communications market

For the past ten years or so, the electronic communications sector throughout the world has been shaped by two major technical and economic developments: the convergence of fixed and mobile networks and services, due to the growing ubiquity of IP, and the accelerated shift from voice to data as the core parameter of operators' business model. During the transitional period that is now coming to an end, moving from the old model to the new has resulted in a decrease in prices, despite a swift rise in traffic.

The volume of activity in the sector increased sharply in 2013, in terms of both traffic and subscription numbers. Traffic on both fixed and mobile networks continues to increase: by around 3% for calling traffic – resulting from a decrease in fixed calling traffic and an increase in mobile calling traffic – by 6% for SMS traffic and by more than 60% for mobile data traffic. There has also been a tremendous upsurge in fixed internet traffic. This reflects consumers' unflagging interest in the innovative services enabled by 4G and fibre. Meanwhile, the number of fixed broadband and superfast broadband subscribers rose by 4% during the year, and mobile customers by 5%.

Wholesale and retail electronic communications markets in France generated €46.6 billion in revenue, which marks the third consecutive annual decrease, dropping by 6.4% (on a comparable basis) compared to 2012. This can be attributed to the drop in retail prices (-10.3% according to national statistics office, INSEE), which has only been partially offset by the rise in volume.

This downturn in revenue was accompanied by a decrease in gross margins, although the average EBITDA in the sector remained unchanged from 2012 (around 30% on average for the five biggest operators in 2013), which can be attributed chiefly to a drop in costs enabled by sizeable productivity gains in this "service industry". Having acquired no licenses in 2013, operators were able to maintain their essential physical investments at the record high levels reached in 2011 and 2012: €7.1 billion, which allowed them to finance the

deployment of new generation fixed and mobile superfast networks, in addition to upgrading their existing systems.

Although the number of direct jobs provided by electronic communications operators declined by around 3% in 2013, due primarily to the decrease in Orange staff, the number is still higher than it was in 2009. Looking at the digital industry as a whole – of which ISPs are central players, as recently underscored by Secretary of State for digital affairs, Axelle Lemaire – some 180,000 new jobs have been created over the past five years.

### Mobile market: swift rollout of 4G

In a world where, more and more, users want a mobile connection to their devices both at home and at work, the rapid, large-scale commercial rollout of 4G has stimulated retail market growth, and replaced the advent of the fourth mobile operator in early 2012 as the key source of competition in the marketplace. After having increased by 6.6% in 2012, the number of mobile subscriptions rose by a further 5% in 2013, which sets France apart from Europe's other large markets. In late 2013, Bouygues Telecom was reporting 4G coverage of 63% of the population, Orange of 50% and SFR of more than 40%, which is allowing an ever-increasing number of users to benefit from superfast mobile broadband, and for 4G rollouts to become increasingly systematised.

This momentum has been stimulated by ARCEP granting Bouygues Telecom permission in March 2013 to refarm its 1800 MHz frequencies to deploy 4G. Part of an ongoing trend to have a more efficient use of spectrum resources, this authorisation went into effect on 1 October 2013.

Another key event in 2013 was the mobile network sharing agreement signed by SFR and Bouygues Telecom, which aims to achieve a better balance between infrastructure-based competition and infrastructure sharing between these two operators.

In 2013, ARCEP took part in national discussions on the timetable and possible conditions for freeing up the 700 MHz frequency band, paving the way for a second digital dividend for future generations of mobile networks and services.

Working in collaboration with the Government, ARCEP also began to prepare the call for applications that will enable the allocation of frequencies, and the rapid deployment of 4G in France's overseas departments and territories.

Lastly, in summer 2014, ARCEP will perform a detailed verification of operators' compliance with their rollout obligations, notably for Free Mobile, as well as the accuracy of the operators' coverage maps and the quality of service of their offers.

### Fixed market: accelerated transition to superfast broadband

The fixed market is following the same path towards superfast access, which this year was spurred by a large increase in the number of homes eligible for both fibre-to-the-home (FttH) and superfast access in general, i.e. including cable and VDSL2.

On the matter of FttH, the number of homes passed increased by 38% during the year, up to around 3 million, with private sector operators and public initiative networks deployed in both very high density and more sparsely populated parts of the country. Meanwhile, VDSL2 became available in October 2013, which enabled a sizeable number of lines, particularly in areas where the network was re-engineered, to upgrade to superfast access.

As a result, at the end of 2013, more than 11 million households – or around a third of all households in France – had access to a superfast service, which is 24% more than in 2012.

Alongside this increased coverage, there was a close to 30% rise in the number of fixed superfast broadband subscriptions, which overstepped the 2 million mark for the first time. FttH subscriptions alone increased by 72%. This has translated into

a sizeable increase in superfast broadband penetration, with 20% of eligible households now subscribing to an offer – which is a good indication that superfast access, and FttH in particular, satisfies a real demand amongst the population.

It was within this environment that ARCEP began to review of broadband and superfast broadband market analysis, a process that is the cornerstone of what is referred to as asymmetrical regulation, in other words which applies specifically to the incumbent carrier. This review included a re-examination of symmetrical obligations as well, i.e. which apply equally to all operators deploying fibre to the home. It resulted in a substantial increase in the scale of network sharing, by reducing the size of the area considered to be "very high density" and specifying the terms for connecting small buildings.

Furthermore, aware of the stakes attached to the transition from the copper network to new generation networks, ARCEP took part in a series of initiatives at the request of market stakeholders. This included support for the "100% fibre in Palaiseau" trials, and making an active contribution to the work being done by the Champsaur task force on the transition to superfast access networks and the copper switch-off.

And, finally, the Authority began a forward-looking exploration of Fibre to the Distribution Point (FttDP) architecture in 2013, which consists of reusing existing copper or cable in the last metres to connect households to an optical fibre network.

### Net neutrality and quality of service: freedom and user information

ARCEP began to tackle the issue of net neutrality back in 2009, kicking off a series of discussions and consultations with all of the sector's stakeholders. This led to the publication of 10 proposals and recommendations in 2010, then to the publication in September 2012 of a report requested by Parliament and the Government, which included an analysis of the technical and economic facets of net neutrality. Once this work was complete, ARCEP identified several aspects of net neutrality that warranted further exploration: transparency, quality of internet access services, traffic management practices, interconnection and relaying traffic and, lastly, an analysis of the ecosystem and the relationship between stakeholders.

ARCEP continues to devote itself to this work, notably through its active participation in the Body of European Regulators for Electronic Communications (BEREC), which has adopted a similar position to ARCEP's – based on complying with certain set principles rather than, at this stage, introducing overly specific regulation that would quickly fail to keep pace with technical developments. Net neutrality is also one of the topics addressed in the European Commission's proposed "Connected Continent" regulation for a single market for electronic communications, which was presented in September 2013 and adopted by the European Parliament in March 2014 – in a substantially altered version from the initial proposal.

The principle of net neutrality needs to be implemented in such a way as to reach the right balance between, on the one hand, respecting users' fundamental freedoms on the internet, notably the freedom to send and receive any content and, on the other, ensuring the internet runs smoothly and innovative services are able to develop, which requires investments in network rollouts and upgrades.

From a practical standpoint, the decision made by ARCEP in 2012 on regular gathering of information on the technical and pricing terms of interconnection between ISPs and internet companies – a decision that was confirmed by the Conseil d'Etat in 2013 in response to an appeal filed by AT&T and Verizon – allows the Authority to deepen its understanding of the market's inner workings. In 2013, ARCEP made a second decision, this time on measuring the quality of internet access services. The first findings will be made public in summer 2014.

In addition to the quality of internet access, it is increasingly crucial to provide users with information on coverage and quality of service, whether fixed or mobile. As new products make their way to the marketplace, it is public authorities' job to ensure that users are able to make informed choices, not only on the price but also the quality of the services, which is largely contingent on economic stakeholders' investments.

To this end, the Order of 3 December 2013 on providing consumers with prior information on internet access services on fixed networks, drafted by the Government and its departments alongside with ARCEP and the market's operators, indicates the path to take to ensure an ever higher degree of transparency for operators' retail market plans, both fixed and mobile. By the same token, every year ARCEP tests the quality of mobile services and, in 2013, added measurements for 4G networks, with the first results due to be published in summer 2014.

### Postal services: a new business model?

France's postal market is now populated by 33 operators. Among them, the incumbent La Poste needs to find a way to respond to the roughly 4% annual decrease in the volume of mail items that has occurred since 2008. In 2013, however, the letter market suffered a twofold decrease: in both revenue (-4.2%) and volume (-5.8%).

ARCEP is keeping a close eye on these developments, particularly as cost savings enabled by the decrease in volume are not, at this stage, offsetting the drop in revenue, which is thus destabilising the traditional postal model.

The development of online shopping is nevertheless creating new requirements in terms of speed and format, and even in the variety of shipping and distribution modes. These developments are opening up new prospects for postal operators who are working to offer products tailored to the delivery of small parcels.

ARCEP is also endeavouring to provide La Poste with clarity on its future pricing, thanks to a multi-annual price cap for the universal postal service. It allows La Poste to adapt and anticipate its medium and long-term strategy in an environment where the volume of mail continues to shrink year on year.

The regulator is also working to ensure that new postal operators can enter the marketplace and develop their business, in most instances in specialised postal markets, even if the competitive landscape is by no means comparable to the electronic communications market.

And, finally, since 2010 postal users have been able to appeal to ARCEP as a last resort to resolve their complaints, which has allowed the Authority's departments to elicit improvements to postal products, in concert with La Poste. ARCEP also notes significant progress in the quality of the registered mail service, as more than 95% of registered letters are now delivered by D+2. Although the targets set by public authorities have been exceeded, delivery times must continue to be monitored closely: delivery time for first class letters (D+1) increased slightly in 2013, after having decreased steadily for years.

## Conclusion

More than 15 years since its creation, ARCEP plays a more vital role than ever in the sectors it regulates, evolving alongside them to keep pace with changes in the marketplace, as the scale and diversity of the work performed in 2013 reflects. Its actions complete the broad range of public policies that fall under the Government's jurisdiction.

It does so by keeping its finger on the pulse of the sectors – listening to economic stakeholders through consultations, hearings, working groups, etc. but also to Parliament, the Government and local authorities. ARCEP's Executive board and its entire staff devote themselves every day to building a framework tailored to the "networks of the future," while working to protect incentives for stakeholders to invest and innovate.

Jean-Ludovic Silicani
Presidente dell'ARCEP

# 2. THE AUTHORITY

## Who we are: missions and organisation

### Facilitating the creation of a sustainable market for operators and users alike

ARCEP was created by the Law of 26 July 1996 to accompany the French telecommunications sector as it was opened up to competition, and to monitor the supply and financing of the universal telecommunications service. In May 2005, the Law on postal regulation expanded the Authority's purview to include the postal sector. Operators in these two sectors generated a combined revenue of more than €60 billion in 2013.
Opening initially monopolistic sectors to competition requires regulation, particularly when there are significant barriers to entering the market. This means taking measures to create a sustainable market, while ensuring a balance between user (individuals, public services and businesses) satisfaction, thanks to affordable prices and a high quality of service, and the long-term development of production and jobs, through investment, innovation and digital regional development.

In tandem with other administrations, specifically those responsible for consumer protection, ARCEP works to ensure that end users – both individuals and businesses – have access to quality electronic communications and postal services that are transparent in terms of both their content and price. ARCEP actions to this end concern number portability, tariff supervision for value-added telephone services, and the publication of price and quality of service indicators. In the case of postal services, the Authority also acts as the mediator of last resort between La Poste and its users.

### LARCEP, a State administration, independent from the Government and the stakeholders it regulates

ARCEP ensures regulation of the electronic communications and postal sectors on behalf of the State and under the supervision of Parliament and the judiciary. Its independence from the Government results, on the one hand, from EU legislation and, on the other, from the need to create a distinction within the State between government shareholding and tutelage over companies that are partially or entirely public (Orange, La Poste), and the role of a regulator that is neutral with respect to all undertakings.

In adhering to the principles of impartiality, continuity and efficiency, ARCEP ensures the implementation of the universal service, imposes requirements upon operators that enjoy significant market power (SMP) as determined by market analyses, participates in defining the regulatory framework, allocates scare resources (radio spectrum and numbers), resolves disputes, delivers authorisations, works to ensure that all operators comply with the regulatory framework and, when necessary, exercises its power to impose penalties.

Working alongside the Government, ARCEP is involved in defining and implementing the European Community framework. This was particularly so in December 2009 when adopting the texts that redefined the legal framework governing electronic communications, and transposing them into French Law in 2011.

ARCEP is also an active member of the Body of European Regulators for Electronic Communications (BEREC). The Body's work programme for 2013 was structured around three courses of action: deploying new generation access (NGA) networks, consumer protection and promoting the EU single market. In the postal sector, ARCEP contributes to the work being done by the European Regulators Group for Postal Services (ERGP), of which it was the chair when the Group was first created in 2010.

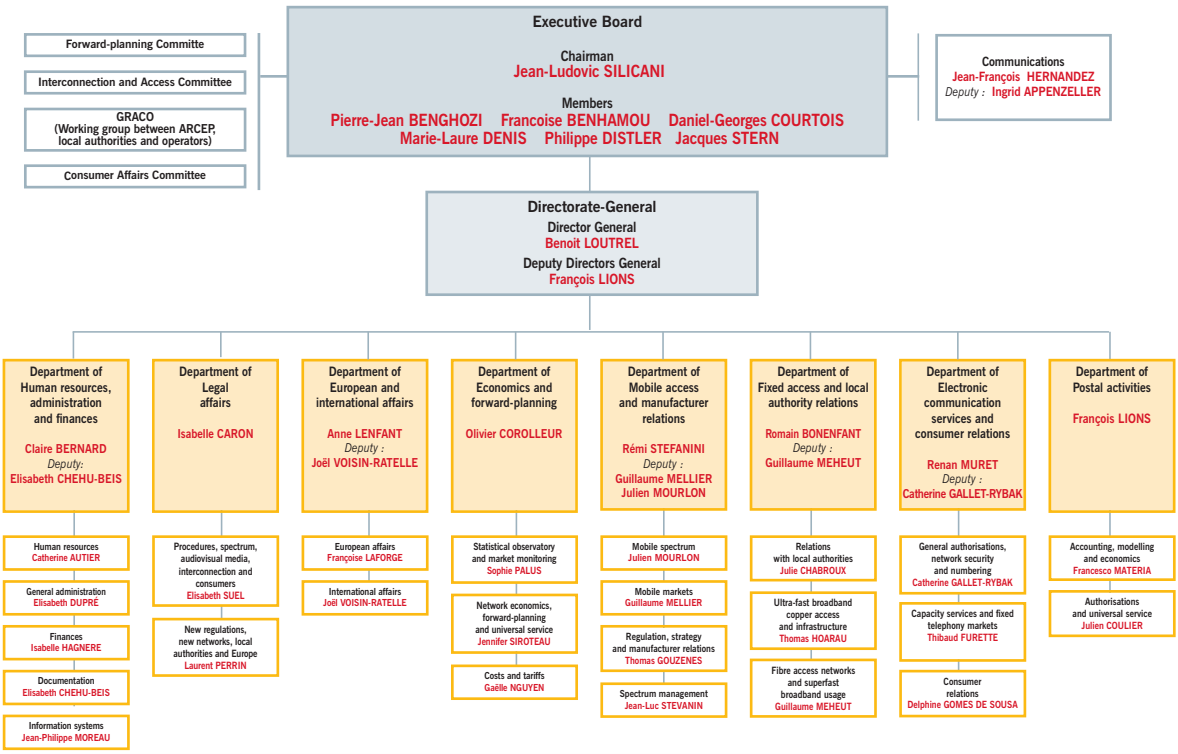
*From left to right: Pierre-Jean Benghozi, Daniel-Georges Courtois, Françoise Benhamou, Jean-Ludovic Silicani (Chairman), Marie-Laure Denis, Jacques Stern, Philippe Distler*

## The Executive Board, a decision-making body

ARCEP decisions are made by a Board of seven members, chaired by Jean-Ludovic Silicani. The Chairman also has authority over ARCEP departments (171 staff members) which are managed by Director-General, Benoit Loutrel.
Since March 2014, in accordance with Article L. 130 of the French Postal and electronic communications code (CPCE), three distinct bodies have exercised ARCEP's different powers:

- **the plenary body**, composed of the seven members of the Executive Board, which deliberate on all decisions and opinions, except for decisions where the Law expressly assigns that power to one of the other bodies[1] ;
- **the body responsible for settling disputes, legal proceedings and investigations** (referred to in French as "RDPI"), is composed of four Board members, including the ARCEP Chairman. It adopts decisions on investigations, inquiries and dispute settlements, as well as decisions on proceedings carried out as part of a penalty procedure (initiating the procedure, issuing formal notices, notifying the statement of objections)[2] ;
- **the restricted body**, composed of the three most recently appointed members of the ARCEP Board, excluding the Chairman, which deliberates on decisions to impose or not impose penalties[3].

# Organisation chart as of 1 June 2014




*1 - Decisions adopted by virtue of CPCE Articles L. 5-3, L. 5-4, L. 5-5, L.5-9, L. 32-4, L. 36-8 and L. 36-11*
*2 - Decisions adopted by virtue of sections I and II CPCE Article L. 5-3, Articles L. 5-4, L. 5-5, L. 5 9, L. 32-4 and L. 36-8 and sections I, II and IV of CPCE Article L. 36-11*
*3 - Decisions adopted by virtue of sections III and V of CPCE Article L. 5-3 and sections III and VI of CPCE Article L. 36-11*

# How we work

## Listen and explain

ARCEP maintains ongoing, in-depth discussions with all of the sector's stakeholders (operators, equipment manufacturers, other State administrations, local authorities and consumer associations), though public consultations (21 in 2013) and the advisory committees it has created: Consumer Committee, Interconnection and Access Committee and the forum for discussions between ARCEP, local authorities and operators (GRACO). It holds hearings through the Executive Board, as well as bilateral and multilateral technical meetings. The Chairman and the members of the ARCEP Board are regularly called upon to appear before Parliament (on 10 occasions in 2013), added to which ARCEP staff members travel frequently to meet with stakeholders in the field.

In addition to its annual report, ARCEP is also regularly asked to produce reports for Parliament or the Government, which in 2012 included a report on net neutrality.

ARCEP decisions are motivated not only by a legal obligation, but also an evident need for the affected stakeholders to understand these decisions, and so for their proper application. This is why the Authority has implemented a set of information tools over the years. ARCEP gives stakeholders a chance to express their views in the "*Cahiers de l'ARCEP*," a regular publication whose latest issue was devoted to 4G. The Authority has also been sending out a weekly e-newsletter since September 2010. And, finally, ARCEP can act as a mediator, either formally or informally, for elected officials and consumers who request it, and created a website dedicated entirely to informing consumers *(www.telecominfoconso.fr).*

Jean-Ludovic Silicani and René Souchon,
President of the Regional Council of Auvergne
Visit to Auvergne, 22 July 2011

Philippe Distler and Pierre-Jean Benghozi
Visit to Seine-et-Marne, 15 April 2013

## Discuss and anticipate

In 2009 ARCEP created the Forward-planning committee to better identify and understand the medium and long-term developments that could affect matters within its remit. The committee allows ARCEP to better meet its responsibility to monitor stakeholders and provide information. Reappointed by and large in June 2013, the committee is made up of the seven members of the ARCEP Board and outside experts from various backgrounds.

The committee began a new cycle of discussions in June 2013, dedicated to the new technical, economic, legal and societal factors that may affect the digital ecosystem, and so capable of changing the scope of electronic communications regulation and/or regulatory methods themselves. The culmination of this round of study and reflection was ARCEP's annual conference, which took place on 17 October 2013, devoted to the topic of "*Creating and sharing new revenue streams: what does the future hold for telecoms?*".

Annual conference, 17 October 2013

## Decision making

Finally, ARCEP issues decisions and opinions that are adopted at the Executive Board's bi-weekly meetings: 1,521 decisions and opinions were thus adopted in 2013, including decisions on the use of the 1800 MHz band for 4G mobile services, on measuring the quality of internet access services, on value-added services and on optical fibre rollouts.

# 3. KEY DATA

## ELECTRONIC COMMUNICATIONS

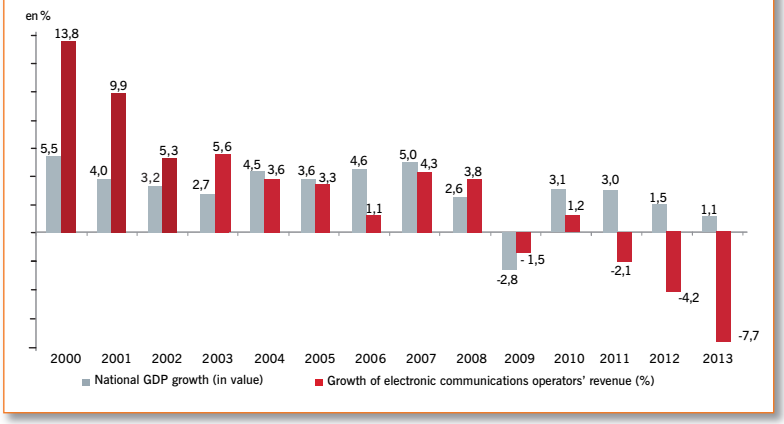
### • The sector's activity

In 2013, businesses producing information and communication technologies (ICT) goods and services, which include computing, the internet and electronic communications, generated €95 billion* in revenue.

This document focuses on the retail market for electronic communication services in the strictest sense of the term, in other words services that make it possible to relay (transmit or receive sign, text, images, sounds, etc.) over any electromagnetic channel (fixed or mobile telecommunications, broadcast, etc.).

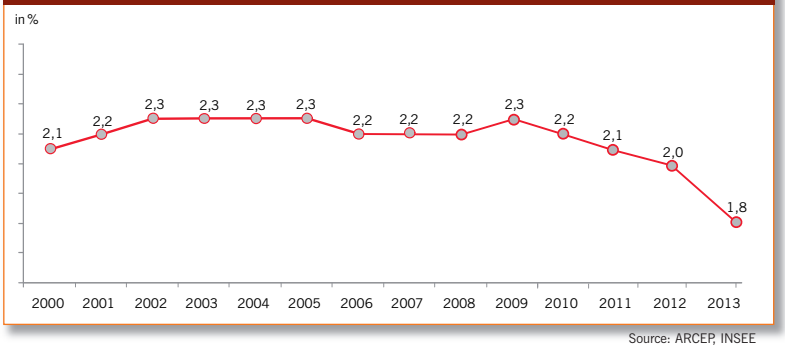
In France, these services generated €35.1** billion in revenue in 2013 which, on a comparable basis***, marks a 7.9% decrease over 2012.

**Annual growth of GDP and electronic communications ** operators revenue - at current prices**




Source: ARCEP, INSEE

**Electronic communications operators' revenue** as a percentage of GDP**




Source: ARCEP, INSEE

*Source: IDATE*

*** €38 billion in revenue, which is 7.7% below 2012, on a comparable basis, while also taking into account revenue from device and equipment sales and rentals, hosting, call centre management, print directories, advertising and file sales*

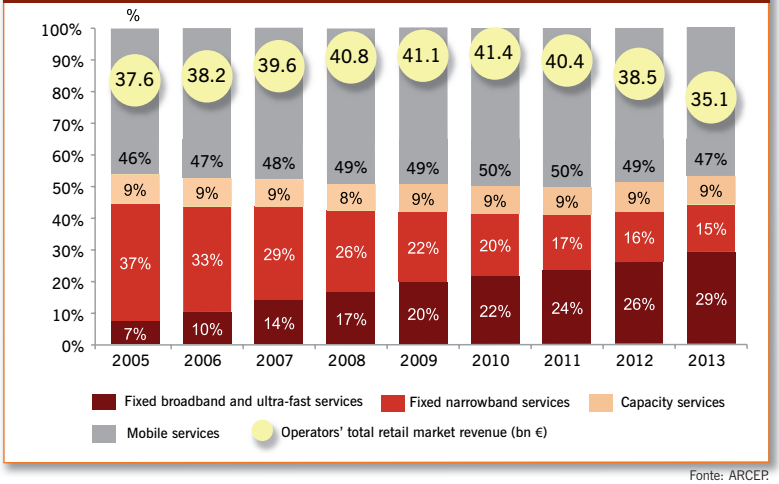
**** i.e. excluding the impact of the merger of France Telecom and Orange France in June 2013 that put an end to financial transactions between the two undertakings, and which primarily affected the wholesale market between carriers, but also a portion of the capacity services retail market.*

## Revenue

This total €35.1 billion in revenue is broken down as follows:

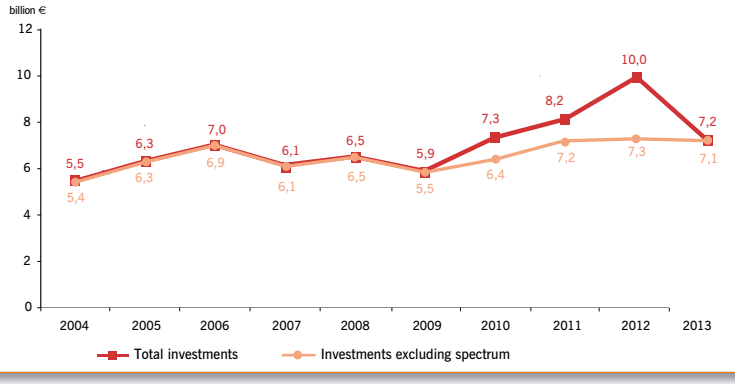
- **fixed broadband and ultra-fast broadband services which generated €10.3 billion**, or 2.1% more than in 2012;
- **fixed narrowband services which generated €5.3 billion** , or 13.9% less than in 2012;
- **fixed capacity services** (leased lines and data transport) which generated **€3.1 billion**, or 1.5% less than in 2012 on a comparable basis;
- **mobile services** (including value-added services) **which generated €16.4 billion**, which marks a 12.6% decrease compared to 2012.

**Electronic communications services' retail sales revenue and breakdown by segment between 2005 and 2013**




Fonte: ARCEP.

**Evolution of electronic communications operators' personnel numbers between 2003 and 2013**




Fonte: ARCEP.

## Invest

- **The electronic communications sector invested €7.2 billion**, which represents 1.5% of total national spending (GFCF) in 2013.
- Expenditures not including spectrum acquisitions totalled €7.1 billion.
- Total spending (networks, spectrum, etc.) on high-speed mobile (3G and 4G) in 2012 are estimated at around €1.7 billion in 2013.

## Employment

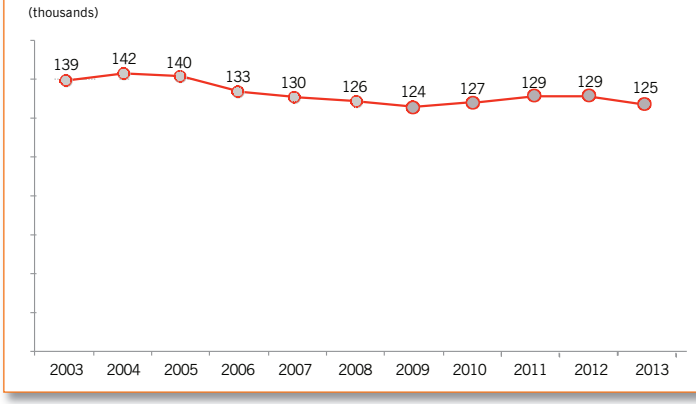
- **The electronic communications sector represents 125.900 direct jobs**
- After decreasing steadily since the late 2000s, followed by an uptick from 2010 to 2012, operators' staff numbers shrank by 3.3% in 2013..

**Employment figures for the top five operators in France at the end of 2013***

| | Direct jobs | Change 2013/2012 |
|---|---|---|
| Orange Group | 102 072 | -2,8% |
| SFR Group | 9 432 | -5,6% |
| Bouygues Telecom | 9 092 | -5,9% |
| Iliad Group | 5 266 | 13,3% |
| Numericable | 2 182 | 10,3% |

** These figures include employees of French subsidiaries.*
*Source: operators' publications.*

**Evolution of electronic communications operators' personnel numbers between 2003 and 2013**




Source: ARCEP.

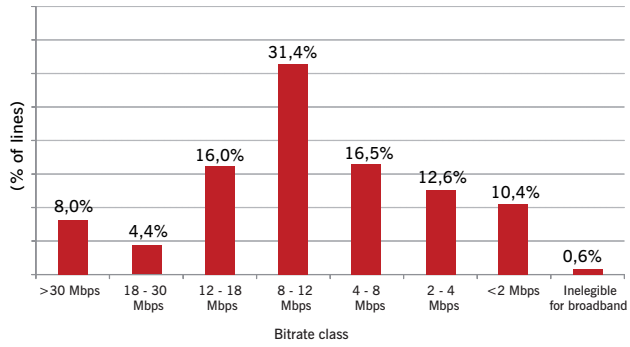
This decrease is due primarily to operators transferring business and employees to their subsidiaries, or outsourcing them to other vendors, combined with a decrease in Orange personnel (see table). Job losses and new hires at the other operators balanced each other out.

# • User services (consumers, public services, businesses)

## Attrezzature

As of 31 December 2013 in France, there were:
• 35.7 million fixed lines supplying a telephone service
• 24.9 million broadband and superfast broadband internet subscriptions, of which 2.1 million are superfast broadband accounts;
• 79% of households with a computer;
• 73.9 million active mobile subscribers, which represents a penetration rate of 113% of the population.

**Breakdown of the national DSL base by advertised speed**




Fonte: ARCEP

## Coverage

### Fixed services

• 99.3% of fixed copper lines are eligible to supply broadband access to the internet;
• around 11 million homes are able to receive a superfast access service, all technologies combined.

### Mobile services: as of 31 December 2013

• 2G: Orange France, SFR and Bouygues Telecom each cover more than 99% of the population;
• 3G: SFR and Orange covered around 99% of the population, Bouygues Telecom 96.5% and Free Mobile 60%;
• 4G: as of 31 December 2013, Bouygues Telecom, Orange and SFR were reporting roughly 63%, 50% and 40% coverage of the population in 4G, respectively. Free Mobile has not released any figures on 4G coverage.

## Number portability

### Fixed services

• **2.6 million fixed numbers** were retained by customers when switching operators.

### Mobile services

• **6.2 million mobile numbers** were retained by customers when switching operators.

## Quality of service.

### Universal fixed telephone service

In 2013:
• 95% of requests for an initial connection were completed within an average 12 days in 2013 (compared to 14 days in 2012);
• the unsuccessful call ratio stands at 0.30% (the same as in 2011 and 2012) and 22% of faults were not resolved within 48 hours (versus 16.5% in 2011 and 18% in 2012).

### Mobile services

As of autumn 2012:
• The success rate for call completion and maintenance for a duration of two minutes and five minutes remains high (respectively 96.4% and 94.3% calls outdoors while walking) but down by 1% and 2%, respectively, compared to 2011;
• mobile data rates on a smartphone used outdoors reached:
- a median download speed of between 2.3 and 3.9 Mbps, depending on the operator, and more than 10.5 Mbps for the fastest connections;
- a median file transfer speed of between 0.8 and 1.2 Mbps, depending on the operator, and more than 3.7 Mbps for the fastest connections.

## Usage

**In 2013, 240 billion calling minutes consumed, of which 102 billion over fixed lines and 138 billion over mobile lines, which marks 2.8% increase over 2012.**

### Fixed services

• Voice over broadband calls from an IP box (i.e. excluding those made using VoIP software) represented 73 billion voice minutes, or 9.1% less than in 2012.
• 14.6 million subscriptions to an IPTV plus DSL access bundle (+6.6%).
• Data traffic on fixed networks is 100 times greater than data traffic on mobile networks.

### Mobile services

• Calling traffic of 138 billion minutes in 2013, which is up by 14.9% compared to 2012.
• At the end of 2013, 36.5 million mobile customers were using 3G networks in France, or 48% of mobile carriers' customers (3% more than in 2012).
• 196 billion SMS and MMS sent in 2013 compared to 185 billion in 2012 (+6.9%).
• The popularity of the mobile internet was further confirmed, with 155,114 Tb consumed in 2013 (+63.3%).

## • International benchmarks

### Equipment and consumption

The broadband penetration rate in France is among the highest in Europe.

Contrary to Europe's other major markets, the rate of mobile equipment rose significantly in France in 2013. Consumption levels also remain high for both voice calls (close to 2 hours 54 minutes a month, per subscriber) and text messaging, with customers sending an average 245 messages a month.

The mobile telephony penetration rate is the ratio of SIM cards to the population.

**Computer, broadband and mobile telephone penetration rates in Europe's largest markets in 2013**

| | France | Germany | Spain | Italy | The UK |
|---|---|---|---|---|---|
| **FIXED** | | | | | |
| % of households with a computer, end of 2013 | 79% | 83% | 73% | 63% | 80% |
| Broadband penetration rate, end of 2013 (% of households) | 79% | 72% | 69% | 53% | 72% |
| Increase in broadband penetration rate in 2013 (% points) | +4 | +2 | +2 | 0 | +5 |
| **MOBILE** | | | | | |
| Mobile telephony penetration rate, end of 2013 (tot. pop. - active users) | 113% | 143% | 107% | 163% | 155% |
| Increase in the mobile penetration rate in 2013 (% points) | +4,9 | +2,6 | -2,9 | +0,2 | -0,8 |
| Average number of calling minutes a month, per customer | 174 | 80 | 116 | 137 | 124 |

*Source: ARCEP, BNETZA, CMT, AGCOM, OFCOM*

# POSTAL SERVICES

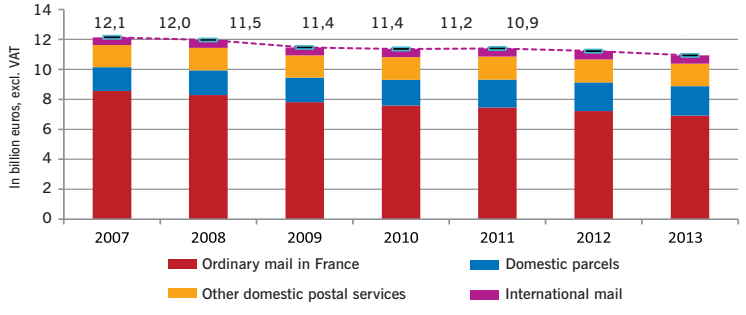
## • Revenue

The postal services market is estimated at around €10.9 billion in 2013, which is 2.5% less than in 2012.

It includes:
- ordinary domestic correspondence;
- domestic parcels;
- other domestic postal services, notably registered letters and postal distribution of press items;
- international mail.

Domestic mail refers to items delivered in France.

**The postal market (billion €, excl. VAT)**




Source: ARCEP

## • Investment and employment (Estimates for 2013)

Operators authorised by ARCEP, and their subsidiaries, invested €**525 million** in their postal businesses in 2012. At the end of that year, they were providing 222,900 jobs.

## • Market operators

43 authorisations have been issued to date:
- 31 for the domestic delivery of items of correspondence;
- 10 for outbound cross-border mail;
- 2 for both of these businesses simultaneously.

The French postal market was populated by 32 operators at the end of 2012: 21 in distribution, 10 in outbound cross-border mail and one performing both.

**Domestic mail operators**
Four domestic operators do business in the whole of Metropolitan France. The 18 others are active in areas ranging from a single municipality to an entire region.

**Cross-border mail operators**
Most are the incumbent postal services in foreign countries.

## • Mail delivery times

| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|---|---|---|---|---|---|---|
| Priority letter (% delivered in D+1) | 82,5% | 83,9% | 84,7% | 83,4% | 87,3% | 87,9% | 87,4% |
| Registered letter (% delivered in D+2) | - | 90,9% | 88,7% | 85,8% | 92,5% | 94,7% | 95,2% |
| Colissimo (% delivered in D+2) | 85,8% | 85,0% | 87,7% | 84,8% | 88,7% | 89,8% | 89,4% |

*Source: La Poste.*

# GLOSSARY

**2G:** second generation mobile system (GSM).

**3G:** third generation mobile system (UMTS).

**4G:** fourth generation mobile system (LTE).

**Broadband:** On wireline networks, a technology is said to be broadband if it makes it possible to achieve data rates above those supplied by narrowband technologies, regardless of access network (DSL, cable, wireless local loop, satellite and Wi-Fi connections). Throughput ranges from 128 Kbps to 30 Mbps.

**Electronic communications:** The transmission or reception of signs or signals, writing, images or sounds over an electromagnetic channel.

**Electronic communications services:** services that consist entirely or primarily of the supply of electronic communications. This does not include services that consist of the production or distribution of communication services to the public over an electronic channel (television, etc.).

**Internet:** a group of variable-sized networks interconnected by the Internet protocol (IP) over which a wide range of electronic communications services can be provided.

**Narrowband fixed services:** services provided over the classic telephone network, with a maximum throughput of 128 Kbps.

**SMS (Short message service):** text messages which are transmitted over the GSM mobile network signalling channels and have a maximum length of 160 characters. Transmission of these messages on the GSM network is standardised.

**Superfast broadband:** internet access service whose peak downstream throughput exceeds 30 Mbps. This includes access products on fibre-to-the-home (FttH) networks, on hybrid fibre-coax (HFC) networks, of fibre to the last amplifier (FttLA) networks whose last mile is over coaxial cable, and on copper networks using VDSL2 technology when the user is close enough to the operator's active equipment to receive a throughput equal to or above 30 Mbps.

**VoBB (Voice over broadband):** technique that uses the Internet protocol to transport voice over an electronic communications network.

# 4. KEY AREAS OF FOCUS 2013-2014

## CONTENTS

# SUPERFAST FIXED BROADBAND

Fixed market regulation is evolving as superfast broadband develops. Indeed, if the broadband market was built primarily around the copper local loop, initially deployed to provide landline telephony and controlled by a single incumbent carrier, i.e. Orange, the superfast broadband market is populated by several dozen operators, working on a more local scale: some as part of private initiatives in densely populated areas, and many more others as part of public initiatives in more sparsely populated and rural areas. The regulator's underlying intervention logic thus adapts accordingly. While regulating the copper network consisted chiefly in opening up an existing network in a market dominated by the incumbent carrier, when it comes to superfast broadband, ARCEP's objective is to facilitate the deployment and use of a new network that is currently under construction, under conditions that are sufficiently homogeneous to enable the emergence of competitive and affordably priced offers across the country.

The Authority's key areas of focus in 2013 illustrate this trend that is taking hold in broadband and superfast broadband markets.

In mid-2013, ARCEP began to review its broadband and superfast broadband markets analysis. These analysis are the foundation of what is referred as asymmetrical regulation, in other words which applies only to Orange as it enjoys significant power in certain wholesale markets. The analyses are reviewed every three years and, in particular, determine the measures that will allow alternative operators to use the Orange copper local loop, and to deploy new optical fibre networks using Orange civil engineering infrastructure. The review that is currently underway must result in a new regulatory framework for mid-2014 to mid-2017. This review included a re-examination of symmetrical obligations as well, i.e. which apply equally to all operators deploying fibre to the home. It led to a substantial increase in the scale of network sharing, by reducing the size of the area considered to be "very high density" and specifying the terms for connecting small buildings.

As part of these analyses, in the first half of 2014 ARCEP began work on the pricing and processes tied to the wholesale fibre-to-the-home (FttH) market. The aim is to secure the superfast broadband market's momentum by creating common references, which are essential to prevent superfast broadband rollouts being performed by a host of local operators from resulting in a geographically fragmented retail market. Here, as elsewhere, dialogue with local authorities, within the GRACO forum for discussions between ARCEP, local authorities and operators, is essential to establishing regulation that coheres to the actions that local authorities are taking to deploy superfast broadband.

Lastly, ARCEP is taking an active part in the work being done by the "Champsaur" task force on the transition to superfast access networks and the copper switch-off. The prospect of decommissioning the copper network has been taken into account in this review of market analyses, particularly to ensure the future of the services that are currently necessary for the copper network, and will be equally so for FttH systems in future.

## Suggested legal and regulatory reforms
## CREATE A "DIGITAL REGISTER"

Work may begin on creating a "digital register" which would be useful, if not necessary, to facilitate all network rollouts, and particularly electronic communications networks. The purpose would be to establish the exact location not only every building, as is already the case, but **each housing unit such that every home has a complete address, with the street name and number and an associated geolocation**. Operators and local authorities need to have precise and exhaustive information during every stage of an optical fibre rollout project, and the lack of existing address databases is proving an obstacle to the deployment and subsequent sale of superfast broadband. During the rollout stage, such a base would help in provisioning the network and planning the work. During the marketing stage for access products, it would make it possible to accurately identify a new subscriber's home. ARCEP has already recommended that operators assign a unique number, using a standardised format, to each optical connection they install. This numbering of individual connections is a step forwards, but needs to be performed in tandem with a complete census of existing housing.

Looking to a more immediate future, to pave the way for a large-scale migration from copper to optical fibre networks, **a review of existing obligations to equip new buildings with copper network capabilities may be required, before the legacy network is decommissioned, to avoid unnecessary installations – in other words in those locations where fibre is available**. The reuse of networks that are already installed in buildings, be they copper or coaxial cable, could help accelerate superfast broadband penetration in locations where it will be difficult to deploy a new network rapidly.

# SUPERFAST MOBILE BROADBAND

In late 2011, ARCEP allocated mobile operators the frequencies they needed to launch 4G. They corresponded in particular to the digital dividend created by switch-off of analogue TV broadcasting (referred to as the 800 MHz band). Furthermore, in response to a request from Bouygues Telecom, in April 2013 ARCEP authorised the operator to refarm a portion of its 2G spectrum in the 1800 MHz band to deploy 4G, starting on 1 October 2013.

After a series of trials and experimental rollouts, operators where thus able to deploy 4G on a large scale over the course of 2013.

The fourth quarter of the year was particularly rife with 4G announcements. On 1 October 2013, Bouygues Telecom opened its "national" 4G network, reporting 63% coverage of the population. Meanwhile Orange and SFR were reporting 50% and 40% 4G coverage of the population, respectively, at the end of 2013, while Free Mobile had achieved a significantly lower rate of 4G coverage by that point. As a result, five mobile operators were selling 4G offers at the end of the year: the four mobile network operators – Orange, SFR, Bouygues Telecom and Free Mobile – and one virtual network operator (MVNO): EI Telecom (under the brands NRJ mobile, Credit Mutuel mobile and CIC mobile), using the Orange network. A second MVNO (Oméa Telecom via Virgin Mobile) introduced a 4G "compatible" plan, thanks to an agreement with Bouygues Telecom, which is due to give customers access to 4G services starting in spring 2014.

4G enables significantly higher throughput than 3G, which improves the quality of experience for smartphone users. In mid-2014 ARCEP will publish the first quality of service indicators for 4G services, which will help to quantify this selling point of increased QoS. It will also verify the different operators' 4G coverage levels.

ARCEP takes great care to ensure that operators are meeting their 4G rollout obligations. Orange, SFR and Bouygues Telecom must cover 40% of the population in priority rollout areas – which correspond to the more sparsely populated parts of France (18% of the population and 63% of the land mass) – by January 2017.

ARCEP will also make a careful verification of Free Mobile's obligation to cover 75% of the population with 3G by January 2015, in accordance with the terms of its frequency licence.
At the same time, the Authority is preparing 4G rollouts in France's overseas departments and territories. To this end, it held a public consultation with the Government in summer 2013. As a follow-up to the consultation, ARCEP is preparing a call for applications that will enable the allocation of 4G frequencies, to then be able to launch 4G services as quickly as possible in French overseas markets.

## Suggested legal and regulatory reforms
## IMPROVE USER INFORMATION

Users' needs can vary. Some want their plans to be very affordable, and will accept the trade-off of a lesser quality of service. Others, on the contrary, want higher quality services with a fast and stable internet connection, along with broader coverage, in exchange for which they are willing to pay a higher price. ARCEP has noted that customers do not have access to sufficiently clear and verified information that would allow them to choose the plan best suited to their needs. Because of this lack of clear information, **there is a risk that users will only choose the cheapest plans, at the expense of high quality offers**.

Following the proposals made by members of Parliament (see, for instance, the report published by Deputies Corinne Erhel and Laure de La Raudière on 6 February 2013[4]), **operators' obligations in the area of user information need to be strengthened**: more regular publication of more detailed information on mobile network coverage, more accurate coverage and quality of service measurements (obligation to finance surveys whose specifications will be defined by ARCEP rather than operators) and encouraging the development of testing by users themselves (given that smartphones can already serve to measure a range of indicators). Some of these recommendations require legislative amendments. Others can be introduced under existing laws.

*4 - Report on telecom regulation's impact on the telecom sector*

# BUSINESS SERVICES OFFERS

The availability of offers that are tailored to the various and varying needs of businesses, both technical and in terms of price, and those of all economic stakeholders[5] nationwide, is vital to the competitiveness of the French economy and the attractiveness of the different regions. This is why ARCEP is particularly vigilant about and actively devoted to the development of a rich, competitive and future-proof range of products in all of these markets and regions.

This enterprise market includes two sub-sets: the general market and special high value-added markets. The first satisfies the needs of most businesses that require a higher quality of service than the general public, but not necessarily ultra high availability. The second satisfy the needs of certain enterprises for which the size of their sites or the critical nature of their business creates very strong demands in terms of availability and reactivity of customer service, a guarantee of minimal downtime, guaranteed connection speeds, secured access, etc.

To strengthen the effectiveness of market regulation, in 2013 all high availability services were grouped together[6] into the same market (market 6), referred to as capacity services, for which a draft analysis decision is due to be adopted in summer 2014, after having been reviewed by the European Commission. This draft decision introduces provisions on the technical reproducibility of Orange retail offers, the quality of its active wholesale products and the accompanying measures to put into effect when the technology evolves. It also plans for a partial and progressive relaxation of the pricing obligations imposed on Orange in those parts of the country where lasting competition exists. Finally, the draft decision underscores the need for consistency in the approach to Orange wholesale and retail pricing on the optical local loop dedicated to enterprises.

As a parallel measure, ARCEP elicited and took the lead on a range of operational initiatives aimed at improving quality of service and enterprise market liquidity. The Authority worked on fine tuning the process for cancelling an active line that will prevent interruptions of service when businesses are switching operators, strengthening the obligations imposed on the old operator when processing a fixed number portability request, and changes to Orange wholesale processes to enable a revival of bundled offers under commercially acceptable conditions.

Moreover, to maximise the efficiency of its actions in the business market, ARCEP has created a “business division”. A forum for discussions between enterprise market stakeholders will be created in the near future. The format could take its lead from the GRACO contact group, created with local authorities and operators, and from the consumer affairs committee.

Together, these actions have made it possible to pinpoint certain legal and contractual obstacles to the smooth running of the enterprise market, which could be lifted thanks to legislative amendments.

## Suggested legal and regulatory reforms
## SECURE THE QUALITY OF BUSINESS OFFERS

Very small businesses and SMEs are not protected by any special provisions in the consumer protection code when subscribing to electronic communications supply contracts (particularly in the areas of contract length, tacit renewal and cancellation fees). A number of contracts for businesses contain clauses that limit their ability to switch operators (short cancellation period, tacit renewal clauses with no obligation to inform the enterprise beforehand, excessive cancellation fees, contractual commitments that differ line by line or service by service).

New legislative provisions could thus be adopted to:

- **extend the provisions contained in the consumer protection code relating to electronic communications service contracts to the smallest enterprises, i.e. SoHos and SMEs;**
- require all operators to systematically provide SoHo and SME customers with a reminder, at least six months prior to the expiry of their contract, of the consequences of the tacit renewal of their contract, and include a term to ensure that it can be cancelled at any time without penalty or cancellation fee;
- ensure that, when and enterprise customer changes operators, the supply of services by the new operator supersedes termination of the contract signed with the old operator.

*5 - “Enterprise” or “non-residential” customers refers to all private sector enterprises, regardless of their field of activity. By extension, these terms also cover public sector organisations and associations whose needs in terms of electronic communications are comparable to those of private businesses.*

*6 - Resulting base: around 500,900 connections on the copper local loop and 65,900 on the dedicated optical fibre local loo*

# NET NEUTRALITY

Net neutrality must be implemented in a concrete, progressive and pragmatic fashion, moving beyond schematic, diametrically opposed positions of principle: the aim is to ensure that the right balance is struck between, on the one hand, respecting users' fundamental freedoms on the internet, notably the freedom to send and receive any content and, on the other, ensuring the internet runs smoothly and innovative services are able to develop, which requires investments in network rollouts and upgrades.

ARCEP began a period of reflection and broad consultation with the sector's stakeholders and the general public back in 2009. This work culminated in the publication in September 2010 of "Ten proposals and recommendations" – setting out the core guiding principles for internet service providers (ISP). This was followed in September 2012 by the publication of a report to Parliament and the Government that set out the technical and economic facets of net neutrality. ARCEP identified several aspects of net neutrality that warranted further exploration: transparency, quality of internet access services, traffic management practices, interconnection and relaying traffic and, lastly, an analysis of the ecosystem and the relationship between stakeholders.

In 2013, ARCEP continued to work on each of these issues, stressing the preventive approach, while not excluding the adoption of more coercive measures should the need arise. Combined with actions to stimulate market competition, this preventive approach to net neutrality has already made it possible to reduce certain blocking and throttling practices, such as with mobile VoIP. By the same token, the preventive process of gathering a host of data on interconnection, which was introduced by the ARCEP decision of 29 March 2012, has made it possible to obtain a detailed view of the technical and pricing relationship between market players. The Administrative inquiry conducted in 2013, on the terms and conditions of relaying traffic between Free and Google, demonstrated the relevance of collecting data on interconnection and traffic relay. Moreover, working in collaboration with operators, the Government and its departments, ARCEP helped draft the order on providing consumers with prior information on internet access offers on fixed networks. The Authority also managed the implementation of a mechanism for measuring the quality of fixed internet access services, whose first results will be published in 2014.

In addition, ARCEP is working with fellow European NRAs on the approach that regulators should take at the European level, within the Body of European Regulators for Electronic Communications (BEREC). ARCEP co-chairs the BEREC Net Neutrality Expert Working Group, so has naturally been heavily involved in the work being done on this issue: performing an inventory of traffic management practices across Europe; researching and monitoring interconnection relationships between market players; harmonising the methods used to measure quality of service.

On 10 September 2013, the European Commission presented a proposal for regulation that would help create a single market in Europe for electronic communications. Several provisions concern net neutrality, including the definition of an internet access service and specialised services, the restrictions imposed on operators with respect to specialised services, and acceptable traffic management practices for ISPs. The European Parliament adopted a substantially amended version of this proposed regulation on 18 March 2014. The text is currently being reviewed by the Council of the European Union, which is due to adopt a position on the entire proposal in the second half of 2014. ARCEP is lending its technical and economic expertise to the process by contributing to French authorities' position, and to the BEREC position at the European level.

## Suggested legal and regulatory reforms
## ENSURE COMPLIANCE WITH DISPUTE SETTLEMENTS

In accordance with the changes brought to the French Postal and electronic communications code (CPCE), resulting from the transposition of the European Telecoms Package of 2009, ARCEP is authorised to settle disputes not only between two electronic communications operators, but also between an electronic communications operator and providers of public online communication services (PPOCS1) , at the request of either party. However, although ARCEP can impose a penalty on an electronic communications operator that fails to comply with a dispute settlement decision, the same is not true of a PPOCS. The Law must therefore put an end to the unequal treatment of ISPs' and PPOCSs' rights and obligations in relation to ARCEP.

7 - *e.g.: Dailymotion, Google, Vidéo Futur, France Télévision,...*

# POSTAL REGULATION

Since assuming its mandate to regulate the postal sector back in 2005, ARCEP has devoted its efforts both to lifting barriers to entry for new operators, and overseeing the universal service provided by La Poste.

## Lifting barriers

ARCEP has been particularly concerned with the practical aspects of legislative provisions that require all postal operators to have equal access to users' letter boxes: at ARCEP's request, La Poste thus accepted to share the "VIGIK" access code (a building access system developed by La Poste) that it employs for its postal activities, with other operators.

In this context, the consultations conducted with operators and users identified two important legislative amendments to guaranteeing legal certainty for users regardless of the postal provider conveying their items. These legislative proposals, which were laid out in ARCEP's Annual report for 2012, concern the evidential value and definition of the postmark and the equal legal weight of registered letters handled by authorised postal operators (see inset).

## The universal service offer

At the same time, ARCEP has worked to ensure that La Poste provide its users with a universal service that fully meets its legal obligations, and improve its products in general. The Authority also sought to provide La Poste with a predictable economic outlook, by introducing a multi-annual price cap.

Among the progress that has been made over the past several years, particularly noteworthy is the significant improvement in the mechanical processes for registered letters, with items now being scanned systematically when they enter the postal network and, as a corollary, a very clear improvement in quality, with a delivery rate for registered letters of more than 95% in D+2. Also worth mentioning is the completion of a longstanding request from ARCEP for a product for sending small items of little value: in accordance with the principle of content-neutral (correspondence or merchandise) terms of transit, a simpler and clearer pricing system, based on the sole criteria of weight and format, will enter into force on 1 January 2015, which will include an affordable basic rate.

Also in response to a request from ARCEP, La Poste is providing users with more detailed information, thanks to a regularly updated "indicator table" that is available on the operator's website.

Lastly, ARCEP's processing of postal users' unresolved complaints as a last resort measure (a new power assigned to the Authority by Law in 2010) has often proven an opportunity to pinpoint areas for improvement for La Poste products – improvements which the operator has made in most instances.

## Outlook

Today, even if there is still room for improvement, such as better monitoring of transit times for advices of receipt, the La Poste universal service and user information both appear satisfactory. La Poste has also made significant improvements to the quality of service at the post office, and has implemented a new organisation that has been met positively by the public.

The structural decline in postal traffic is nevertheless undermining the traditional postal model. At the same time, the growing popularity of online shopping is creating new demands in terms of delivery speed and reliability, and for a greater variety of shipping products. These developments are by no means unique to France: all of Europe's postal operators are facing these changes in their economic environment to some degree. In France, La Poste enjoys certain advantages, thanks to its proximity to users and the trust it has been able to establish with them over time. An ambitious plan has been set out for the period running up to 2020. ARCEP will work to provide La Poste with the clarity it needs to help bring this strategic plan to fruition.

As the traditional postal model begins to change, public authorities and users will need to think about how the universal service will also need to change over the long term – being careful to take account of the new needs of French society, and to assess existing obligations. The Government and Parliament will be ultimately responsible for answering these questions. ARCEP remains on hand to provide them with its technical expertise.

# Suggested legal and regulatory reforms
# SECURING THE POSTMARK AND THE REGISTERED LETTER

## Postmark

Given the many legal texts which designate the postmark as confirmation of authenticity, the information stamped by postal operators on postal items constitutes a method of proof. Consequently, numerous commercial, administrative and legal procedures are dependent on the evidential value of the postmark, and this means it must contain certain information necessary for settling any disputes.

In France, however, there is no legal obligation for postal providers to affix a postmark on the items they convey. Similarly, no legal text defines the concept of the "postmark" or specifies the data it must feature so as to provide adequate legal certainty.

**In this context, it seems vital to improve the legal security of the concept of the postmark by making it mandatory for postal providers to affix it and specifying its content in order to:**

- permanently establish the practice of affixing the postmark on postal items, thereby guaranteeing the effectiveness of provisions referring to it and legal certainty for users;
- recognise the equal legal weight, in a totally liberalised postal market, of the postmark used by all postal operators.

## The registered letter

Numerous legislative and regulatory provisions call for mandatory use of a registered letter service, in particular in the context of legal proceedings or disputes and in relations between private individuals. The use in these provisions of the expression "registered letter with advice of receipt", which is the name under which La Poste markets this product, may lead to the assumption that similar services provided by alternative operators do not have the same legal weight as the service provided by the incumbent operator.

However, pursuant to CPCE Article L. 3, the registered letter service, like all other postal services, may be operated by any postal-service provider authorised by ARCEP.

Given the importance of registered letters in business and in administrative and judicial procedures, **it is necessary to provide legal security about recourse to the registered-letter services offered by alternative operators.**

ARCEP therefore suggests introducing a legislative provision in the Civil Code to set out the registered letter's characteristics and to explicitly state that recourse to the registered services offered by alternative postal operators provides the same legal certainty as those offered by La Poste.

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des communications
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