



Session V

What next for SMP regulation ? Is phase-out an option ?

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The case for a symmetric regulation of FttH networks in France

- ▶ Starting point: credible **intention of several operators** to roll out and/or operate FttH access networks
 - Including alternative operators
 - Including local operators backed by local authorities' funding
 - ⇒ Balanced investment profiles expected from the incumbent vs. alternative operators

- ▶ Strong **local presence** of fixed alternative operators, inherited from LLU regulation
 - Copper local loop unbundling covers close to 90% of the population
 - Basis to build infrastructure competition for NGA networks (e.g. backhauling infrastructure in place)
 - ⇒ Existing ability to compete locally

- ▶ Market consensus in France that **only passive access can allow for sustainable competition and innovation on the long run**
 - Copper LLU triggered innovation on the retail market for broadband: triple play offers, new services
 - Strong skepticism in the French market about the possibility for virtual access products (like VULA) to provide functionalities equivalent to passive access products
 - ⇒ Need to guarantee openness of NGA networks by specifying conditions on network architectures ahead of roll out

FttH symmetric regulation in practice (1/2)

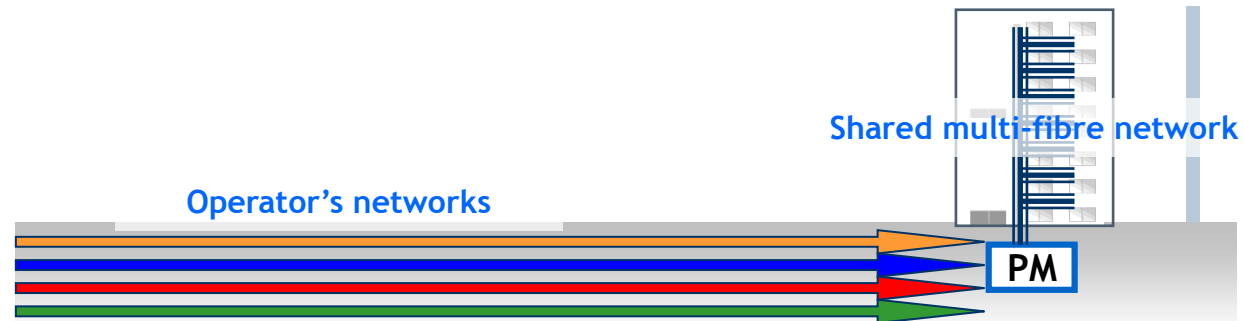
- ▶ Set of obligations imposed on the operator deploying the last segment of the network
 - Provision of **passive access** at a concentration point
 - Publication of an access offer including **co-investment & line rental** options
 - **Access prices** based on principles of non-discrimination, objectivity, relevance and efficiency
 - Structured exchanges of **technical information** with commercial operators

- ▶ Obligations **geographically differentiated** in order to strike the right balance between infrastructure-based competition, efficient investments and technological neutrality (PON vs. P2P)
 - Location of the access point closer to the customer in very dense areas (up to the building's base) than in less dense areas (more upstream in the network)
 - Minimum sizes of access points defined consequently in order to **ensure passive access in viable economic and technical conditions**

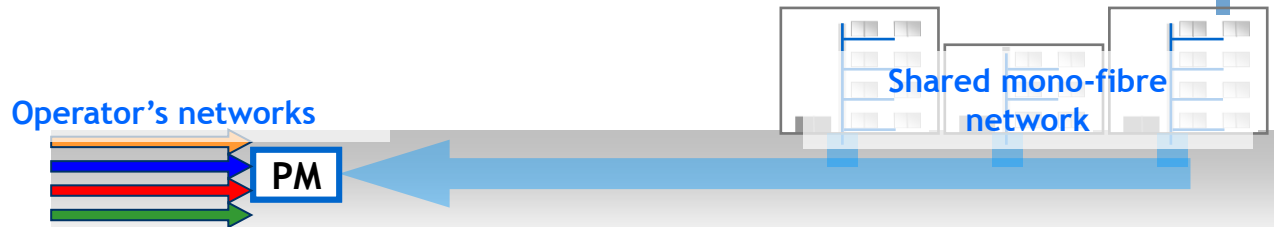
- ▶ **Flexible setting** fit for a variety of fibre local loop operators
 - Structured framework allowing local authorities to invest in open networks and organizing cost sharing between operators
 - Minimal harmonization (pricing models, technical conditions on network infrastructure) to ensure homogeneity of a wholesale market driven by heterogeneous market players

FttH symmetric regulation in practice (2/2)

- ▶ In very high-density areas, lower deployment costs make it possible for several operators to deploy end-to-end networks. This model leads to long term infrastructure based competition ;
 - The shared terminal part of the network counts for approximately 60% of the cost per line.



- ▶ Outside very high-density areas, it is necessary to share a larger part of the network. Operators will still have a passive access to the local loop.
 - Minimum size for concentration point: 1000 lines
 - The shared terminal part of the network counts for approximately 90% of the cost per line.



FttH wholesale market segment: growing co-investment rates, translating gradually into effective passive sharing

▶ In very high-density areas :

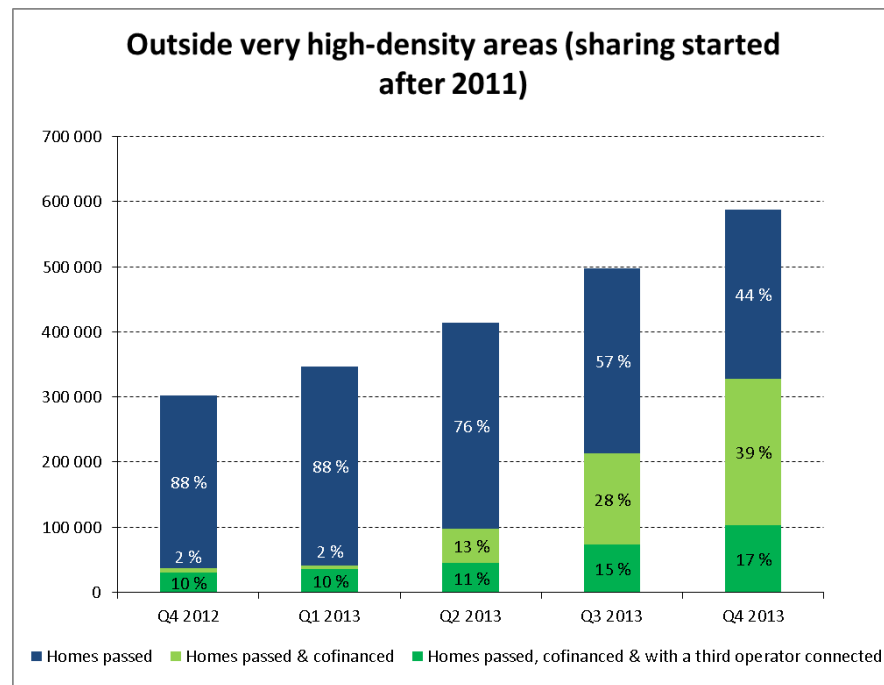
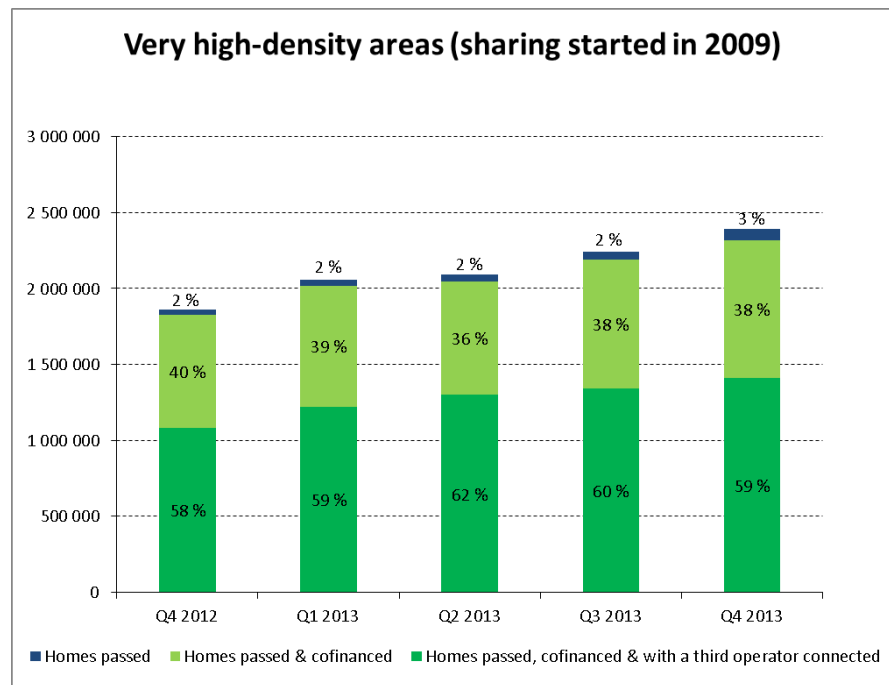
- Steady growth of deployments (between 100 000 to 150 000 new homes passed per quarter)
- More than 95% of homes passed are cofinanced
- Around 60% of homes passed are cofinanced and connected to the networks of at least 2 operators

▶ At the end of 2012, outside very high density areas:

- Only 12 % of FttH deployments were co-financed
- 10 % were shared by 2 operators at least

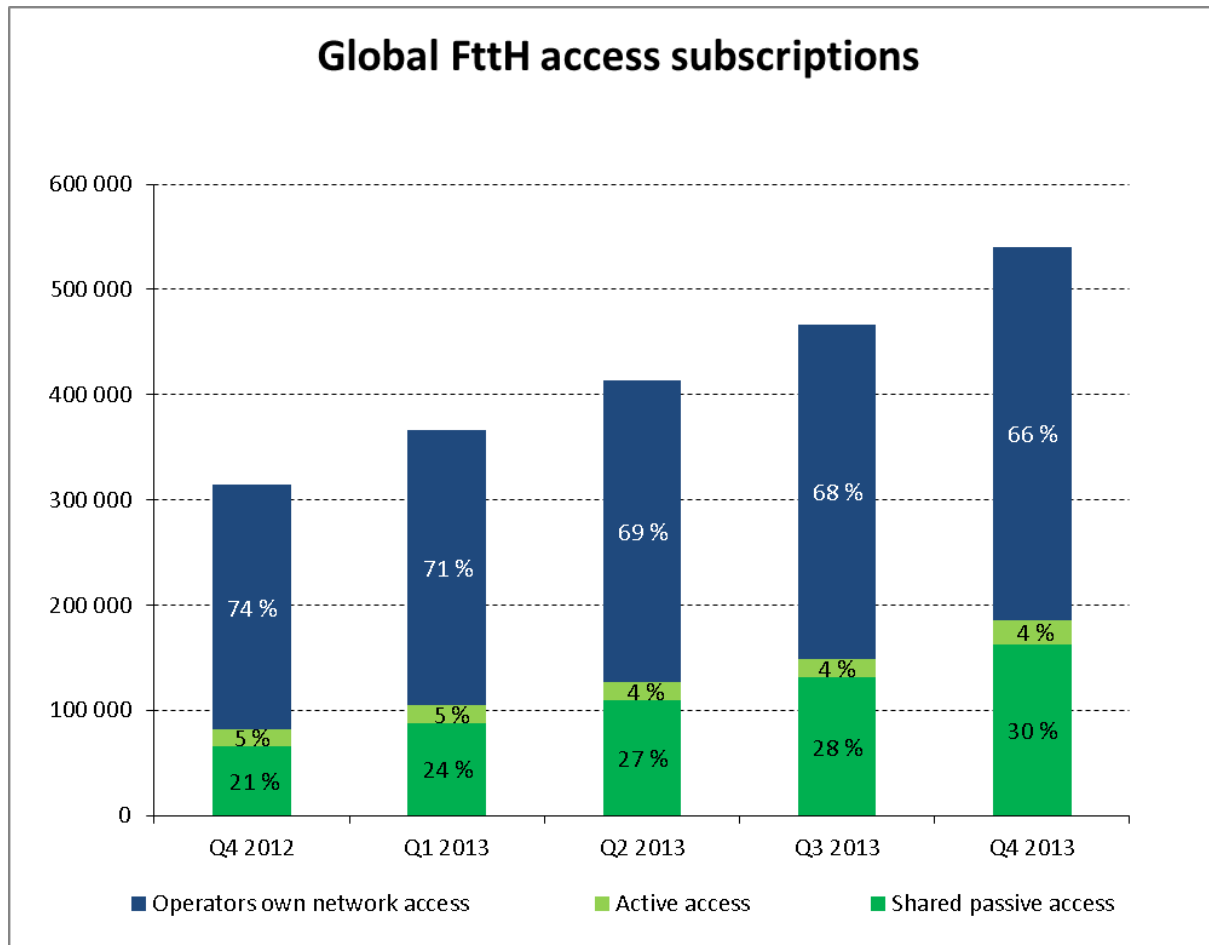
▶ At the end of 2013, whereas FttH deployments have doubled:

- More than 55% of homes passed are cofinanced
- Around 17% of homes passed are cofinanced and connected to the networks of at least 2 operators



FttH retail market segment: growing share of subscriptions based on wholesale access

- ▶ At the end of 2012, 21 % of FttH subscriptions were built on a passive wholesale access
- ▶ At the end of 2013, around 30 % of FttH subscriptions are built on a passive wholesale access



A symmetric regulation resting on durable asymmetric foundations

- ▶ ARCEP's approach to NGA regulation based on **two complementary pillars**:
 - 1/ A **symmetric framework** applying to all operators deploying a fibre local loop
 - 2/ **SMP regulation** applying to Orange (market 4), enabling the reuse of existing infrastructures

- ▶ SMP regulation is essential to **avoid unnecessary duplication** of network elements/services
 - Civil engineering (up to 80% of total cost)
 - Co-location of network equipment for fibre in local exchanges
 - Backhauling NGA traffic between local exchanges/ODF, esp. in rural areas

- ⇒ Symmetric and asymmetric regulations are **not mutually exclusive**
 - A “core” of asymmetric measures is necessary for symmetric measures to be effective
 - SMP regulation takes into account the expected effects of symmetric measures (modified greenfield approach)
 - A **consistent approach** is needed between the two instruments: ARCEP therefore engaged in July 2013 a joint review of markets 4, 5 and 6 and examined at the same time the effectiveness of the FttH symmetric regulation, leading to (1) proposals for new markets analysis decisions and (2) adjustments to the symmetric framework

Emerging SMP regulation issue: how to shutdown legacy networks/phase out associated regulation?

- ▶ Palaiseau “100% fibre”
 - **Experiment** to cover a whole city with a fibre network and migrate all users from copper to fibre
 - Initial objective to phase out wholesale access to copper products (LLU, fixed telephony, business products...) challenged – at this stage - by lack of consensus from access seekers on technical and economic conditions for migration
 - Identification of some critical services dependant from the copper network specificities (elevator emergency systems, home assistance services...)
 - Need to design new wholesale fibre products for small / medium-sized business users, matching the prices allowed by wholesale copper products
 - ⇒ This experiment will provide a first “todo list” of issues to be solved before envisaging the switch-off of the copper network

- ▶ Former ARCEP’s President Paul Champsaur entrusted by French government with a report on the transition from copper to fibre, including the possible switch-off of the copper network, conclusions expected by end 2014

- ⇒ Need to explore the regulatory consequences of shutting down a legacy network, and before that of phasing out the provision of associated wholesale products (e.g. on fixed telephony markets): adequate transitional period? conditions to be met by the fibre network? captive users?

The evolution of premium rate services regulation towards a purely symmetrical framework

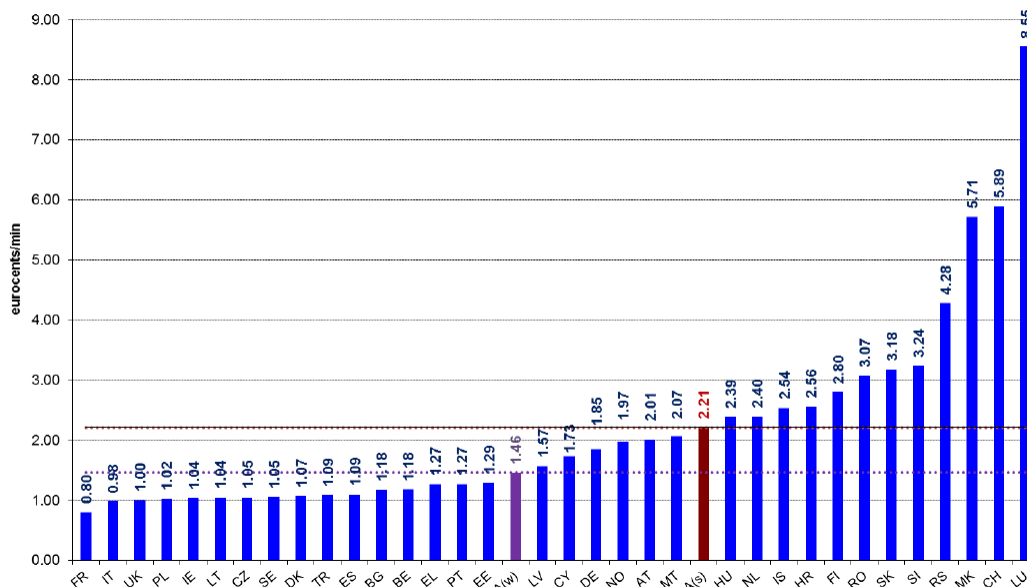
- ▶ All originating operators providing PRS are in a natural monopoly situation on their individual network and the purchasers' countervailing market power is low.
- ⇒ To deal with this market failure, ARCEP introduced a **regulation of premium rate services (PRS)** based on two complementary elements:
 - A symmetrical framework (from 2007) applying to all operators
 - An asymmetrical regulation (from 2008 and reviewed every 3 years as part of the market analysis process) applying to the call origination of the incumbent operator
- ▶ The **symmetric regulation** covers all operators, both fixed and mobile, regardless of their market power. It introduced two main obligations :
 - Granting of reasonable requests for access to PRS numbers under objective, transparent and non-discriminatory conditions
 - Granting of reasonable repayment requests of part of the amounts invoiced to users, under objective and non-discriminatory conditions
- ▶ The **asymmetric regulation** was introduced to deal with the particular position (market share of access, ...) of the incumbent operator. It prohibits excessive pricing for the PRS call origination.
- ▶ Due to the improvement of competition on telephony retail markets, ARCEP intends to **lift the asymmetric regulation** imposed on the SMP operator for its call origination to PRS numbers during the next review of markets 1 and 2. PRS regulation will then rely solely on the symmetrical framework.

Possible evolution of call termination regulation

- ▶ The markets for call termination (markets 3 and 7 of the 2007 recommendation on relevant markets) are currently regulated **on a SMP regulation basis**
 - On this basis, ARCEP is currently regulating 150 fixed operators and 15 mobile operators
- ▶ However, the analysis of call termination markets always leads to the same conclusion that each operator has a monopoly position on its local loop
- ⇒ A simplified regulation of termination rate (without undertaking the whole process of markets' analysis every three years) could be introduced : **symmetric regulation** for all operators

- ▶ The **substantial heterogeneity** of termination rates in Europe results in different treatments between operators
- ▶ There seems to be **no significant differences in incremental costs** between Member States
- ⇒ Termination rates could be set **at the European level**

Average MTR per country – July 2013



Some considerations for framework review

- ▶ As a complement to SMP regulation, **symmetric regulation** can enable to reach a level playing field between operators through a lighter – but wider in scope - set of obligations :
 - Symmetric measures could be included in NRA's toolbox as part of the market analysis process => improved consistency between symmetric and asymmetric regulation
 - Need to define criteria that could trigger symmetric regulation in the course of this process: whereas asymmetric regulation is based on SMP finding, the case for symmetric regulation is essentially linked to the type of infrastructure under scrutiny and requires balancing promotion of competition/promotion of efficient investments

- ▶ With the migration of PSTN users to VoB offers and the roll-out of NGA networks, **the progressive shut down of services** on legacy network (before the shut down of the network itself) will be a major issue in the coming years. The framework review will be an opportunity to give inputs to NRAs on how to deal with it.

- ▶ Despite their ever growing role in the electronic communication sector, OTT are not included in the telecommunication framework and have thus fewer obligations than operators (e.g. for the protection of personal data, consumer protection...).
 - To ensure a level playing field between all electronic communications actors, the scope of different regulations and directives may require a review, as well as the definition of these obligations (framework, cybersecurity, privacy...)