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ARCEP's Annual Report

2006



Article L.135 of the code governing electronic and postal communications, as modified by Law No. 2005-516 of 20 May 2005 concerning the regulation of postal activities, requires that:

“the Authority for the regulation of electronic and postal communications shall draw up a public report on the performance of its functions and the application of the legislative and regulatory provisions concerning electronic communications and postal activities before 30 June of each year. It will provide an analysis of the principal decisions taken by the electronics communications and postal regulatory authorities in the European Community Member States during the previous year with a view to establishing a comparison of the different types of control being exercised and their impact on the markets. This report shall be submitted to the government and to the Parliament. It shall also be submitted to the Commission supérieure du service public des postes et des communications électroniques (public service commission for posts and electronic communications). In this report, the Authority may suggest any legislative and regulatory amendments it deems necessary in light of changes in the electronic communications and postal sectors and the development of competition.

At the request of the permanent parliamentary committees concerned, the Authority shall report on its activity and in particular on progress concerning the objectives mentioned in Article L.32-1. These committees may consult the Authority on any question within the scope of its jurisdiction.

The Authority may carry out assessments, conduct studies, gather data, and undertake all informational actions concerning the electronic communications and postal sectors. To that end, the provider of universal postal service, Article L.3 authorisation holders and operators having made a declaration as provided for in Article L.33-1 are required to provide the Authority with statistical information concerning the use and coverage area of their services and the means by which their services are accessed. The ministers concerned are to be kept informed of the results of this work”.

Editorial

Ten years on: positive results for the national economy and for consumers

1997-2007: although it cannot be said that the regulatory process over the past ten years has been all smooth sailing – having been marked by a series of conflicts and disputes with stakeholders – it has nevertheless been carried out with a certain serenity thanks to a solid foundation of high quality texts at both the European and national level, and to a reasoned and professional approach. Of course it would be presumptuous for ARCEP to take sole credit for the very positive strides made during the past decade, but its contribution remains undeniable.

Track record thus far

The first point to be made is how well the legal framework has worked and how successful the process of opening the markets up to competition – on the impetus of the European Commission – has proven, particularly in France where broadband offers are now among the highest quality and least expensive in Europe.

Naturally, this is due first and foremost to the dynamism of the players – whether France Telecom or its competitors – to their innovation and their investment. What better example to illustrate this than the introduction of the service boxes which have helped spur France to the top of the ranking in Europe, with the lowest prices (and among the lowest in the world) and the highest bitrates (now reaching 20 Mbps), not to mention the highest levels of IPTV and VoIP usage of anywhere in the globe.

But this success is also the fruit of pragmatic and efficient regulation based on a solid regulatory and institutional framework. Thanks to well-defined European directives, which were transposed faithfully by the Parliament into national law, and to successive governments which provided the regulator with the necessary means to carry out its tasks, the Authority has managed to create a healthy competitive environment which has encouraged investment, innovation and regional development, all of which have served the public interest.

Of particular importance is the fact that this success story has proven beneficial to consumers: between 1998 and 2005, retail prices decreased by just over 30%, on average, while consumption increased by close to two and a half times, which translated into a consumer surplus of more than 10 billion euros over that seven-year period.

The next steps

1/ Easing retail market regulation

If the Law of 1996 created a framework that was geared essentially to opening the classic telephone network up to competition, the current framework, which was put into place in 2004, has introduced a great deal more flexibility and reactivity. This flexibility has allowed the regulator to adapt its actions to the true state of competition in a given market, particularly thanks to the market analysis process.

The prospect of the gradual eradication of sector-specific regulation and its replacement by competition law is no longer a utopian view. It does, however, require close collaboration between ARCEP and the competition authority, something which has been well underway for several years now.

Achieving progressively lighter regulation began in summer 2006: regulation has already been lifted for several France Telecom retail fixed telephony offers, as the focus has shifted to regulating wholesale markets, in other words the relationships between operators.

But easing regulation does not mean no regulation at all! In addition to postal sector regulation – a task that the Parliament assigned to ARCEP in May 2005 – the Authority has a number of other responsibilities: managing frequency and numbering resources, overseeing universal service, regional development and consumer protection.

Generally speaking, ARCEP actions will be devoted more and more to achieving symmetrical regulation, in other words a situation where the same rules are applied in the same fashion to all market players, and no longer to only the incumbent carrier or the dominant players in a given segment. Once healthy competition has taken hold, the task for ARCEP is to focus on those elements that will allow consumers to exercise their freedom of choice, regardless of the type of operator, in a lasting and efficient way – elements which include consumer information, terms of contract cancellation, number portability, terms for accessing value-added services, quality of service guarantees, etc.

2/ Fibre

The tremendous success of broadband in this country needs to be consolidated and further amplified by the next stage of market development, namely ultra-broadband and the deployment of fibre optic networks to the premises. Several players have already announced forthcoming investments in this area. Fibre is a new technological disruption, and one that will require massive investments. As a result, the sharing of passive infrastructure will play a critical role in the shape of things to come.

Public authorities – and local authorities in particular – as well as ARCEP have a central part to play in creating a framework that is propitious to the deployment of this new local loop, while remaining mindful of fostering competition between national players. In particular, Authorities will need to prevent the creation of a new monopoly over the fibre loop and, ultimately, enable the development of an alternative local loop.

3/ The digital dividend

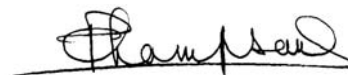
The digital dividend is the third major issue facing not only France but also Europe as a whole. The emergence of new mobile technologies engenders a growing need for frequencies, to enable the development of wireless broadband and mobile TV. The phasing out of analogue television and its replacement by digital broadcasting, which consumes fewer radio resources, will free up much-coveted low frequency bands that boast particularly good propagation and indoor penetration capabilities, and which are therefore essential to achieving broad coverage across the nation.

As a result, there is now a pressing need to identify the quantity of frequencies liberated by the end of analogue broadcasting – as has already been done in several countries around the globe (the United States, Japan, South Korea) – and to examine the options for reassigning these frequencies and prepare the technical roadmap for implementing the digital dividend. It goes without saying that the reuse of these frequencies will require that particular attention be given to harmonisation at the European level.

Clearly, a number of challenges lie ahead for ARCEP in this rapidly evolving regulatory environment. Having blown out its tenth-birthday candles, the Authority is now looking to the future. Armed with experience and recognised by its peers inside the European Union and beyond, it is ready to forge ahead – continuing to uphold its responsibilities and to work for the common good.

Paul Champsaur

Chairman



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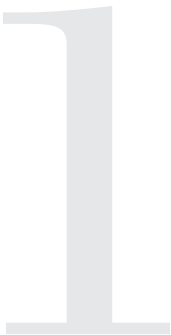
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