

ART's Annual Report

2004

In its drafting, modified by Law n°2004-669, dated 9 July 2004, on electronic communications and audiovisual communication services, Article L.36-14 of the Post and Telecommunications Code provides that:

"The telecommunications regulatory authority shall draw up and publish an annual report on the performance of its functions and application of the legislative and regulatory provisions for telecommunications before 30 June each year. It will provide an analysis of the principal decisions taken by the electronic communications regulatory authorities in the European Community Member States during the previous year, in view of establishing a comparison of the different types of control being exercised, and of their impact on the markets. This report shall be submitted to the government and the Parliament. It shall also be submitted to the CSSPPT (public service commission for posts and telecommunications). In the report, the telecommunications regulatory authority may suggest legislative or regulatory amendments which appear to be called for due to changes in the telecommunications sector and the development of competition."

Pursuant to this provision, the French Telecommunications Regulatory Authority (ART) has prepared this annual report for 2004, which comprises six parts. The first part presents the Authority, its powers and responsibilities, and provides both market indicators and indicators of ART's actions. The second part is devoted to analysing the different market segments, and to highlighting the decisions made by the regulator. The third part focuses on the electronic communications sector's new legal and institutional framework. The fourth part explains the market analysis process, supplies an inventory of the current status of market analysis in Europe, and of the milestones reached in France. The fifth part addresses the priority areas of regulation. The sixth part is devoted to postal sector regulation, the new mandate assigned to ART by the legislator.

2004, A YEAR OF TRANSITION

2004 will be remembered as a year of transition: from regulation that enabled the market's opening up to competition, to a system aimed at strengthening and developing that competition. The legislative and regulatory framework's evolution, which included the adoption of laws for transposing European directives into French national law, endowed the sector with a legal framework entirely coherent with European texts. The regulator's power and independence were thus reaffirmed and consolidated.

ART now has the proper mechanisms in place for implementing more dynamic regulation in the sector, based on forward-thinking market analysis. Retail market regulation comes into play only when wholesale market regulation proves insufficient for ensuring lasting competition. This regulatory methodology must allow the marketplace to evolve gradually towards a state of effective and durable competition whereby, ultimately, general competition laws will suffice to correct any eventual problems that arise.

All of the market analyses were engaged in 2004, with the process for some being more advanced than for others. ART fully intends to be among the first regulators to notify the European Commission on its analyses of the largest markets - which will subsequently allow us to play a role in shaping European laws on the matter. This is why ART is committed to maintaining the pace of notifying the Commission on its decisions.

These market analyses will enable ART to define the rules of the game for the medium term, in other words for at least the next three years: up to the end of 2007. The sector's regulation therefore depends on the quality of the analyses performed - a quality which derives a great deal from the regulator's consultation with the sector's players. Public consultations, the Competition Council's recommendations and the Commission's control are guarantors of the regulator's transparency and fairness.

The year 2004 was also a time of transition in many other respects, both for consumers who adopted new ways to communicate and for operators themselves.

As in the previous year, the market's growth in value of close to 3% in 2004 was driven by mobiles and broadband, while fixed telephony fell by 5.4%. In a situation of dropping prices, particularly in the broadband market, increases in volume were significantly higher than increases in turnover.

Mobile sustained the healthy momentum begun in the last months of 2003. France was home to 44.5 M cellular phone customers at the end of 2004, or close to three million more than the previous year. Turnover for mobile services for the entire year exceeded fixed telephony revenues. Measured in minutes of use, mobile consumption rose by 13% to account for 42% of total voice calling traffic in 2004.

The younger generation's eagerness for new ways to use their mobile shows no signs of waning. In addition to sending SMS and MMS, and downloading ringtones and screensavers, came photography. The popularity of this new mobile phone application points optimistically to the future success of UMTS, which was launched commercially late in the year by SFR and Orange France. The arrival of new MVNO players in 2005 is also expected to stimulate innovation, and the prospects of convergent fixed-mobile offerings.

As to broadband, it has won over more than half of all Internet users, with a base now totalling 6.5 million subscriptions, chiefly via ADSL - putting France amongst Europe's leading countries, in terms of both number of ADSL connections and penetration rates. A sign of lively competition in the retail market, at the end of 2004 alternative operators had a roughly 52 % share of the ADSL user base, compared to 45 % at the start of the year, and were operating 1.6 million unbundled lines, versus 270,000 at the beginning of the year.

Several underlying trends shaped 2004: first, ADSL retail tariffs have dropped overall by 2.5 times over the past two years, making the French market among the most competitive in Europe, while bitrates have increased under the same flat rate prices. And, second, thanks to the use of ADSL, consumer demand for the multimedia services being offered by operators and Internet service providers is rising. Through the use of the various bundled service devices (e.g. Freebox, Livebox and 9box), they are gaining access to service packages which, in addition to broadband Internet, include telephony, videophony, TV and video on demand.

On the operator side of things, France Telecom continued to reintegrate its subsidiaries. After regaining control of its mobile subsidiary (Orange), the incumbent carrier bought up the minority shares in its ISP subsidiary, Wanadoo, in 2004, and in its corporate global services arm, Equant, in early 2005 - bringing the State's share of France Telecom down to 41 %. ART will be careful to ensure that this vertical integration does not have an adverse effect on competition. Meanwhile, new entrants, and particularly ISPs and unbundled operators, have announced major investments and have increased development funding, with some turning to the marketplace itself by launching IPOs. Mergers have been announced by operators both in the fixed sector and in the broadband Internet sector.

Faced with this new electronic communications landscape that is taking shape, and with the support of local authorities which are working to expand broadband coverage, ART will continue to be vigilant in ensuring that competition develops under conditions that guarantee its true durability. Whether in the mobile market, with the advent of virtual operators, or the broadband market, with the geographic expansion of unbundling and the onset of full unbundling, ART's actions in 2005 will be aimed at enabling alternative operators to innovate, and at ensuring that both mobile operators and the incumbent are properly remunerated for use of their infrastructure. It is in the interest of everyone: operators, industry players and consumers alike. It is in the entire market's interest. It is in this same spirit that ART is preparing regulations for the postal market, as entrusted to it by government mandate.



Paul Champsaur
President

1st June 2005

Executive Board

President

Paul
CHAMPSAUR

Members

Jacques
DOUFFIAGUES

Michel
FENEYROL

Gabrielle
GAUTHEY

Édouard
BRIDOUX

EU framework
Implementation

Auréli
DOUTRIAUX

Director
General

Philippe
DISTLER

Deputy
Director
General

François
LIONS

Communication

Jean-François
HERNANDEZ

Deputy:
Ingrid VIOLET-
APPENZELLER

Economic & Forecasting

Coordination of economic analyses.
Universal service and directories.
Observatories and external studies.
Forecasting.

François LIONS
Deputy : François VARLOOT

Regulation of fixed & mobile
markets

Regulation of wholesale and retail markets
for fixed (switched and leased line)
and mobile services.
Tariff regulation and portability

Benoît LOUTREL
Deputy : Antoine MAUCORPS

Local authorities & regulation
of broadband markets

Regulation of wholesale and retail markets
for broadband networks and services
and broadcasting.
Relations with local authorities for regional
digital development.

Laurent LAGANIER
Deputy : Jean-Claude BEAUCHEMIN

Operators & Regulation
of Scarce Resources

Point of entry for operators (notifications,
framework for new technologies).
Planning and regulation of scarce resources
(numbers and frequencies).
Monitoring of licence obligations
(notably QoS and coverage).

Jérôme ROUSSEAU
Deputy : Olivier BLONDEAU

International

Coordination and implementation of ART's
international actions.

Anne LENFANT
Deputy : Joël VOISIN-RATELLE

Legal

Responsible for all legal aspects of ART's activity;
ensure the legal security of decisions.

Bernard MESSIAS
Deputy : Loïc TAILLANTER

Administration
and Human resources

Manages ART resources, documentation,
the intranet and consumer relations

Jean-Marc SALMON
Deputy : Elisabeth CHEHU-BEIS

Economic and Competition Analyses

Nicolas DEFFIEUX

Economy of network and services

François VARLOOT

Forecasting

Didier CHAUVÉAU

Market observatories & external
reports

Sylvie DUMARTIN

Fixed Network Retail Markets

Rémi PERTHUISOT

Fixed Network Wholesale Markets

Gweltas QUENTREC

Mobile Markets

Sébastien SORIANO

Broadband Access

Cécile GAUBERT

Broadcast Transmission & Broadband
Services

Bernard CELLI

Local authorities

Jean-Claude BEAUCHEMIN

Operators &
Resource planning

Anne HUGUET

Mobile operators

Fabrice ALVES

Frequencies

Olivier BLONDEAU

Numbering

Jacques LOUESDON

European Affairs

Françoise LAFORGE

International Affairs

Joël VOISIN-RATELLE

ITU Coordination & International
Standardisation

Marie-Thérèse ALAJOUANINE

Information System & Office Support
Services

Pierre-Jean DARMANIN

Programming, Budget & Management,
Audit

Bernard THOUVIGNON

Documentation

Elisabeth CHEHU-BEIS

Consumers

Stéphane KUNA

Human resources & labour relations

Catherine AUTIER

The Executive Board

Organisation chart, as of 1 June 2005



Gabrielle
GAUTHEY

Édouard
BRIDOUX

Paul
CHAMPSAUR

Michel
FENEYROL

Jacques
DOUFFIAGUES

As a guarantee of ART's independence, the members of the Executive Board may not be dismissed nor may their six-year term be renewed. This independence is strengthened by the fact that the Board members are appointed by several high-level elected officials. Three of them are appointed by the President of the Republic, while two others are appointed, respectively, by the President of the National Assembly and the President of the Senate.

Three members of the Board were appointed by order of the President of the Republic:

- as Chairman, **Paul CHAMPSAUR**, Inspector General of INSEE, on 3 January 2003;
- as members, **Michel FENEYROL**, telecommunications engineer, on 3 January 2001, and **Edouard BRIDOUX**, Doctor of Science, university professor, on 4 January 2005.

The President of the Senate appointed former minister **Jacques DOUFFIAGUES** as member of the Board on 4 January 2001.

The President of the National Assembly appointed **Gabrielle GAUTHEY**, telecommunications engineer, as member of the Board on 31 December 2002.

These five members make up ART's Executive Board. It defines the major guidelines for action and issues the decisions and recommendations that structure ART's overall action.

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