

Introduction

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ART's responsibilities

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In 2004, the new regulatory framework, come from the transposition of the European directives known as the “telecoms package,” confirmed the principle of sector-specific regulation. Article L. 32-1 of the Post and Electronic Communications Code (CPCE) defines the regulator’s primary responsibilities, which must be carried out in an objective and transparent fashion:

- To foster real and fair competition to the benefit of users.

Competition is not an end in itself; rather, its aim is to provide consumers, be they individuals or businesses, with the choice of a wide range of services. Only a competitive market can provide services that can be distinguished in terms of quality of service and price.

- To monitor the provision and funding of universal service as part of the public telecommunications service.

The public electronic communications service includes universal service which is comprised of four components: an affordable high-quality service, including social tariff reduction; a directory enquiry service and a subscriber directory; access to public payphones deployed in the public domain; special measures to accommodate disabled users.

- To monitor the development of employment, innovation and competitiveness in the telecommunications sector.

In its recommendations and decisions, ART seeks to encourage employment and innovation in the sector’s companies, while maintaining an environment that fosters their competitiveness.

- To take into account the interests of regions and users, in terms of access to services and equipment.

Regional development is a constant concern for ART, both in terms of expanding broadband into sparsely populated regions and of national mobile coverage.

The Act on postal operations regulation, dated 20 May 2005, entrusts ART – which thereby becomes ARCEP (Autorité de régulation des communications électroniques et des postes/Electronic Communications and Postal Regulatory Authority) – with a mandate to monitor the opening up to competition and proper operation of the postal market, notably in granting licences to exercise a postal activity, and by issuing public recommendations on tariffs and universal service quality objectives which it is in charge of overseeing, and by approving tariffs in the reserved sector.

ART's resources

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I. Budgetary resources

ART's annual budget is set by the Minister responsible for Economy, Finance and Industry as part of the Finance Bill. For 2004, the budget allocated to ART was set at 17.75 million euros, of which 9.93 million euros for payroll expenses, and 7.82 million euros for routine operating expenses (excluding carry-over).

For 2005, funding, allocated to ART under the initial Finance Act, is contained in a single chapter of the Economy, Finance and Industry budget. Funding has been increased to 18.71 million euros, with 10.77 million euros for payroll expenses, and 7.94 million euros for routine operating expenses. Additional funding of 955,000 euros and six jobs have been allocated for financing the takeover of postal regulation in 2005.

In 2004, the budget for market studies totalled 1,042,286 euros. Some twenty studies were undertaken, at an average cost of 49,600 euros each, and taking an average 5 months to complete.

II. Human resources

In 2004, ART's human resources management was focused on a policy aimed at enhancing expertise, and economic expertise in particular.

On 31 December 2004, the personnel was composed of 152 staff members (66 women, 86 men), compared to 146 staff members on 31 December 2003. The breakdown between tenured staff (civil servants) and contracted agents has changed: 65 civil servants and 87 contracted agents as of 31 December 2004 versus 69 civil servants and 77 contracted agents one year earlier. The number of Category A positions rose from 99 to 114, or 75% of employees. The structure in terms of employment category at the end of 2004 is as follows: 114 Category A positions, 36 Category B and 2 Category C.

The average age of the agents as of 31 December 2004 is 41.5 years (45.15 years of age for civil servants, and 37.16 years of age for contracted agents).

Operational indicators

I. ART's operational indicators

- 1) Recommendations and decisions
- 2) Number of declared operators
- 3) Number of disputes
- 4) Traffic on ART's website www.art-telecom.fr

II. 2004 market and growth indicators

- 1) Fixed telephony
- 2) Mobile telephony
- 3) Internet and Broadband

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1) Article L. 36-5 of the Post and Electronic Communications Code.

2) Article L. 36-10 of the Post and Electronic Communications Code.

3) Article L. 44 of the Post and Electronic Communications Code.

4) Article L. 42-1 of the Post and Electronic Communications Code.

I. - ART's operational indicators

1) Les avis et décisions

ART has been given various powers in order to fulfil its responsibilities. It exercises these powers by issuing recommendations and decisions.

For instance, ART's advisory opinion is sought on draft laws, orders and regulations concerning the telecommunications sector and it participates in implementing these instruments¹. ART may also receive requests from the Competition Council for opinion².

One of the regulator's primary tasks, which gives rise to a large number of decisions (a little over half the total), involves allocating resources to operators, both numbering resources and frequencies. ART must establish a telephone numbering plan, and allocate numbers or blocks of numbers to operators who file a request, in an objective, transparent and non-discriminatory fashion³. Each number allocation gives rise to a decision. The same holds true for the authorisations awarded to operators for use of wireless frequencies, conducted under the same objective, transparent and non-discriminatory conditions⁴.

1.1. Figures in 2004

In 2004, ART issued 1,126 recommendations and decisions

	1997	1998	1999	2000	2001	2002	2003	2004
ART's recommendations and decisions	458	1,047	1,159	1,365	1,299	1,200	1,340	1,126

1.2. Breakdown of recommendations and decisions

1.2.1. Recommendations

ART issued 101 recommendations, divided up as follows:

- 19 recommendations concerned draft statutes and regulations, of which 4 on universal service;
- 75 recommendations related to France Telecom's tariff decisions;
- 7 opinions addressed to the Competition Council.

1.2.2. Decisions

Guidelines

ART issued:

- 2 decisions (one pertaining to changes to the mobile number portability guidelines adopted by ART under Decision n°. 02-549, dated 11 July 2002, and one pertaining to the sale of subscriber or user lists to universal directory and directory enquiry service providers).

Decisions taken on the basis of ART's shared jurisdiction

ART issued 10 decisions on matters falling under its shared jurisdiction with the Minister responsible for telecommunications.

These decisions fall into the following categories:

- 6 decisions pertaining to assessing the cost of universal service;
- 4 decisions submitted to the Minister for approval.

Decisions taken on the basis of ART's own authority

ART issued 985 decisions on matters falling under its own authority:

- 13 decisions with general consequences, classified according to their scope:
 - 8 decisions on numbering;
 - 4 decisions on frequency resources;
 - 1 decision on ART's organisation and operation.
- 972 individual decisions, classified according to their scope:
 - 1 decision concerning France Telecom's accounts;
 - 3 decisions establishing the list of operators with significant power in a telecommunications market;
 - 4 decisions concerning market analysis;
 - 15 decisions on settlement of disputes;
 - 203 decisions concerning day-to-day management of numbering resources. These decisions were broken down into: 151 allocation decisions, 10 reservation decisions, 20 decisions on transfers from one operator to another and 22 decisions relating to abrogation or modification of conditions of use;
 - 406 decisions concerning frequency resources, of which 218 allocation decisions, 81 decisions on changes to the initial decision, and 107 cancellation decisions;
 - 340 decisions concerning authorisations awarded to independent networks (including decisions allocating frequencies at the same time as the authorisation).

Cancellations

28 recommendations and decisions were cancelled in 2004.

1.2.3. Analysis of recommendations on France Telecom's tariff decisions

On 31 December 2004, 153 decisions on tariffs were submitted to ART by France Telecom, of which 99 for recommendation and 54 for information purposes. The 99 requests for recommendations on tariff-related decisions concerned the creation, testing and widespread deployment of new services, and price changes, notably to certain flat rates, and for marketing new tariff options such as those charged for high volume offers (e.g. unmetered calling 24/7).

More than a third of these requests related to services that fall under the heading of universal service; 93 were examined by ART, 5 were still being examined as of 31 December, and one was withdrawn by France Telecom before any recommendation was issued by the Authority.

For those issues that were examined, the Authority incorporated tariff-related decisions into the same recommendations in some cases, which led to a smaller number of recommendations than issues. ART thus issued 75 public recommendations on France Telecom's tariff decisions.

These 75 recommendations can be classified by category of service:

- 10 recommendations on xDSL services,
- 7 recommendations on fixed to mobile calls in Metropolitan France,
- 3 recommendations on calls to 087B numbers,
- 4 recommendations on high volume offers,
- 6 recommendations on data transmission and leased line services,
- 12 recommendations on flat rates,
- 14 recommendations on access and associated services,
- 19 recommendations on other tariff recommendations.

Of the 75 recommendations issued, ART issued a favourable response to 76% of them, and an unfavourable one (in part or in whole) to 24%.

In all, 18 unfavourable recommendations were issued on 19 of France Telecom's tariff decisions, which can be broken down as follows:

- 7 tariff decisions were not approved by the Ministers, who refused France Telecom's proposals on the basis of ART's recommendations;
- 2 tariff decisions had their approval deadline suspended by the Ministers;
- 9 tariff decisions were adjusted by France Telecom to comply with ART's recommendations, and subsequently approved by the Ministers;
- 1 tariff decision was withdrawn by France Telecom.

2) Number of declared operators

Number of declared operators in 2004: 165 fixed telephony operators and 60 wireless local area network operators (WLAN).

Number of new declarations, or changes to declarations in 2004: 120 changes made to declarations.

Of the 165 declared fixed telephony operators, 33 are new, of which 9 are electronic communications network and services operators, 15 are telephone service suppliers and 9 supply electronic communications services.

3) Number of disputes

Nature of the proceedings	Submitted to ART	Decisions issued by ART	Pending	Remedies at law	Judgements rendered	Cases pending, end of 2004
Dispute settlement	8 and 2 conservatory measures	8 and 2 conservatory measure decisions	0	3	3	0
Sanctions	5	2	3	0	0	0

Subject	Number of appeals	Number of decisions issued		Number of cases pending	
		Administrative court	Conseil d'Etat**	Administrative court	Conseil d'Etat
Décisions de l'Autorité	2	3*	13*	1	1
Taxes et redevances	5	1*	0	5	0

*Requests filed before 2004

** France's highest administrative court

4) Traffic on ART's website www.art-telecom.fr

Number of unique visitors* (traffic indicator)

2000	2001	2002	2003	2004
273,129	315,762	421,061	962,546	1,700,763

* Unique visitor: each different IP address connected to the site is counted, regardless of the number of visits from this same address, contrary to the notion of multiple visits whereby several connections can correspond to the same visitor, who will then be counted several times.

Most viewed pages excluding the home page (as of April 2005)

- 1 – Local loop unbundling
- 2 – FAQ on unbundling
- 3 – Search engine
- 4 – Map of unbundling's geographic deployment
- 5 – "Telecom Panorama" section
- 6 – "Main Areas of Work" section
- 7 – "What's New?" section
- 8 – "Observatories" section
- 9 – Unbundling Observatory

Number of mailing list subscribers

French: 12,500, English: 750

II. 2004 market and growth indicators

1) Fixed telephony

Market growth:

- in value: 12.78 bn euros (-5.4 %)
- in volume: 106.84 bn minutes (-1.9 %)

Growth of competition:

- 7.93 M carrier selection subscribers (+5.1 %)

Change in prices:

Average monthly invoice per customer (including subscription and access fees): 30.20 euros, excl. VAT (-4.6 %)

Average MoU per customer, calling from a fixed line: 4h16 (-1.3 %)

2) Mobile telephony

Market growth:

- in value: 14.66 bn euros (+10.7 %)
- in volume: 74.34 bn minutes (+17.1 %)
- number of customers: 44.55 million customers (+6.9 %)
- penetration rate: 73.9 % (+6.9 %)

Growth of competition:

- number of ported numbers: 250,700, or 0.6 % of the customer base

Change in prices:

Average monthly invoice⁵: 29.4 euros, excl. VAT (+7 %)

Average MoU: 149 minutes (+27.6 %).

Note: ART is preparing the implementation of a price indicator which will be available for the next annual report

3) Internet and Broadband

Market growth:

Number of subscribers: 11.9 million

- of which narrowband: 5.41 million (-23.3 %)
- of which broadband: 6.53 million (+82.9 %)

Internet TO: 2.43 bn euros

- of which narrowband: 0.78 bn euros
- of which broadband: 1.65 bn euros

5) The average monthly invoice per customer is calculated based on mobile telephony turnover, including data transport related to the average annual base. Not included are revenues generated by interconnection, i.e. inbound calls.

Growth of competition:

Total unbundled lines:	1,590,707 (+ 482 %)
• of which partial unbundling:	1,495,517 (+ 455 %)
• of which full unbundling:	95,190 (+2,408 %)

Change in prices:

Average broadband tariff (8 Mbit/s): 20 euros for Internet access, 30 euros when bundled with telephony.

On the whole, prices have dropped by 2.5 times in the residential market over the past two years.