

The new regulatory framework in France .
Hot topics : convergence and local authorities

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Presentation

- *The implementation of the new EU framework*
- *Convergence*
- *Local Authorities*

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Part One: the implementation of the new framework

- **Objectives of the new framework and adopted texts :**
 - To take into account the growing competition
 - To take into account the technological convergence
- **Draft laws on Electronic Communications and confidence in digital economy**



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Main principles

- **Confirmation of the principle of sectoral regulation**
- **Transition to general authorisations**, obligations stated in a decree
- **Resource management** : frequencies and numbers subject to individual authorisation
- **Market regulation** : market analysis, SMP, obligations and remedies
- **Evolution of regulatory tools**
- **Reinforcement of the Commission's harmonising role**
- **Convergence**

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Definitions

- The term « *electronic communications* » replaces that of « *telecommunications* »
- A common definition for all networks
- New definitions of radio and TV services (to settle the CSA competency)
- A definition of public on-line communication as a part of audiovisual communication, but distinct from TV and radio and not subject to any sectorial regulation.

The authorisation regime

- Individual licenses are only requested for the use of frequencies and numbers
- Obligations will be stated in a decree
- The information that may be requested from operators to check their compliance with obligations will be stated in a decree
- The set-up fee is abolished



main simplification for CATV networks

role of local authorities as possible network and service providers

Resource management

- **Frequencies**
 - The use of frequencies is subject to individual authorisation, except in certain cases provided for by the draft law
 - The processing time will be reduced to six weeks by decree
 - The possibility of spectrum trading will be opened by the law (subject to prior notification to the ART)
 - ART may decide, after public consultation, in case of limited frequency availability to launch a call for applications. The processing time may not exceed eight months (set by decree)
- **Numbers**
 - Numbers remain subject to individual authorisation
 - Processing time will be reduced to three weeks by decree
 - The portability of mobile numbers and non-geographic numbers is enforced

Market regulation

- ART, independent electronic communications regulator will carry out the tasks provided for by the Framework and Access directives
- Public consultations will take place at each step
- A sound co-operation system will be set up, where the competition authority ("Conseil de la Concurrence") will be systematically consulted
- ART will be empowered:
 - to define the relevant markets (after consultation of competition authority)
 - to determine SMP operators
 - to impose the appropriate remedies

Obligations for SMP operators

- **ART will choose the right instruments in the "toolbox" provided by the Access and Universal Service Directives (proportionality of remedies)**
- **ART has the right to impose changes to a reference offer**

Universal service

• Definition

- The universal service has three components
 - A high-quality telephone service at an affordable price, including social tariffs and specific conditions for the disabled
 - A universal enquiry service and a universal directory
 - Access to public payphones
- The scope of universal service is not modified
- Connection to the telephone network must offer sufficient bandwidth for functional access to the Internet

• Supply

- The supply of each component of universal service over the whole of the national territory is subject to a call for applications organised by the ministry in charge of electronic communications
- If there is no candidates to the call for applications, the minister may designate one or more operators to supply the universal service

• Financing

- When the cost of universal service represents an excessive expense, its cost is shared between operators, via the universal service fund (calculation and sharing principles are changed according to ECCJ decision of 2001)
- The contributions of operators are proportional to their turnover, excluding interconnection and access services

Regulatory tools

In addition to ex-ante obligations according to the directives' provisions, ART will be enabled:

- **To settle disputes (a major instrument for regulating new situations) in all domains covered by the Act. It will be competent to settle cross-border disputes**
- **Extended competencies to impose penalties, including provisional measures in case of emergency**
- **To investigate with extended powers**
- **To carry out extensive consultations**
- **To collect all necessary data**

Part Two : Convergence

• Definitions

- **Harmonised regime for electronic communications networks**
- **Distribution of radio and TV services**
- **Broadcasting**
- **Respective competencies of ART and CSA**

Definitions

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Convergence (1)

- Communications network and services will be uniformly regulated, whatever the content : "electronic communications" replaces "telecommunications" in the PT code that will become the P & EC code
- Broadcasting activities come under the scope of market regulation by ART (market 18), and ART has possibility to impose on SMP broadcast operators revision of their current contracts
- The legal regime for non terrestrial broadcasting of radio and television services has been simplified (declaration to CSA) and harmonised (applicable to all media)
- Satellite broadcasting of radio and television services is covered by a specific "must carry" regime
- For other types of broadcasting, CSA draws up an annual list of broadcasters subject to "must carry" obligations

Convergence (2) : respective competencies of CSA and ART

- ART, independent administrative authority will continue to be in charge of implementing sector specific-rules
- CSA is competent for all questions concerning publishing and distribution of radio and TV services, and to settle disputes between producers and broadcasters of radio and television services
- A few shared competencies :
 - Electronic communication services using frequencies allocated by CSA allowed after ART's agreement
 - Certain dispute settlements decided by CSA after ART's opinion (when they might restrict the offer of electronic communication services)
 - Certain ART decisions adopted after CSA decision:
 - General decisions (when they have a significant effect on radio and TV services broadcasting activities)
 - Dispute settlements (when they might restrict the offer of audiovisual services)
 - Certain market definitions and SMP designations

Convergence : questions at stake

Multimedia /telecom/internet convergence in a fixed line environment

- allowed by growing independence of services (ISP, ASP, IP tphony..) towards infrastructures
- ISP moving to telephony (Freebox)
- TV on ADSL
- Cable operators developing broadband internet services
- Emergence of « triple play » offers (Fastweb)

Convergence

- **Industrial challenge :**
 - Who is the technical / commercial operator : telco, IAP, cable operator?
- **Economical challenge : dramatic shifts in established market equations and value chains :**
 - Telcos look for a substitute to decreasing telephony revenues
 - IAP look for additional revenue with telephony (Fastweb) or new customers (Freebox)
 - TV on ADSL : competition problems (compatible with local loop unbundling?, open to all broadcasters?cable?)

Part Three : local authorities

Convergence in a mobile environment

- **Mobile operators revenue still massively based on voice**
 - 83% today,
 - revenue projections 3G 2007 : 73% voice, 12% messages (SMS, MMS..), 15% internet access (machine to person, person to machine)
- **Nevertheless, mobile internet may generate new economic models** : up till now, mobile operators have succeeded in preserving important part of the value generated by new services through strict control of access-subscription-traffic
- **Risk of dominant models** integrating different activities : telco, IAP, portal provider..
- **ART promotes standardisation, interoperability and open systems**

Convergence in a mobile environment

- **Regulatory issues :**
 - SMP operators must answer any reasonable access requiry of service providers (currently and enhanced relulatory tools under new framework)
 - ART published « guidelines for the developpement of mobile Internet » (nov.2000)
 - No technical or economical discrimination between service providers
 - Easy reprogramming of terminals on access or service providers
 - No discrimination between the conditions offered to service providers for the use of id. or localisation data
 - 3G licences include various obligations :
 - Obligation to offer a number of services (internet access, visophony, localisation services, VHE..)
 - Guidelines principles
 - MVNO offer of SFR

Conclusion

In this changing environment, the principles of regulation remain

to develop the market

to allow different actors to act in an open and competitive environment, at all levels of the value chain,

without reducing the incentive for efficient investment.