28 March 2013: The data transport market

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The Autorité de la concurrence issues a favourable opinion relating to ARCEP's proposition to extend by one year the current regulation of the wholesale market of "leased lines".
This extension will enable the telecom regulator to analyse simultaneously (mid-2014) several markets, which prove to be complementary: leased lines, local loop access and high-speed network access.

> Version française

The Autorité de la concurrence issued today an opinion favouring ARCEP's[1] regulatory proposition, relating to the "*leased lines markets*". Leased lines, which may be provided via France Télécom's copper local loop or via optical fibre networks, are data transmission capacities used by a professional customer (from a company or an administration) to link its various sites and to connect to the Internet. These services may also be used by telecommunications operators for their own purposes, in order to link various parts of their networks, notably mobile telephony antennas.

One-year extension of the obligations imposed on the incumbent operator for wholesale packages

In a decision issued on 8 April 2010 in the context of the markets analysis cycle, ARCEP designated France Télécom as an "*operator exerting significant influence*" in the leased lines markets and it particularly adopted *ex-ante* regulatory measures on wholesale package prices. Moreover, ARCEP had abolished regulation in the retail market (covering the sale of data transport packages for companies), while subjecting France Télécom's tailor-made commercial bids to

supervision.

In its request for opinion sent to the Autorité de la concurrence, ARCEP proposed extending for a further year the application of the decision of 8 April 2010 "*concerning the definition of the relevant markets for leased lines, the identification of an operator exerting a significant influence in these markets and the obligations imposed in this respect*", in order to simultaneously analyse the leased lines market (called "market 6") and, on the one hand, the wholesale high speed network market ("market 5") and the wholesale market for access to local loop infrastructures ("market 4"), on the other hand.

An analysis of these other two markets is scheduled for the summer of 2014 at the latest. Therefore, a one-year extension of the application of the decision taken in April 2010 would make it possible to simultaneously analyse the three wholesale markets by that deadline, including the leased lines market (the so-called "market 6").

Towards a comprehensive regulation of the various wholesale markets – the local loop, high speed network access and leased lines

The Autorité de la concurrence believes, just like ARCEP, that a simultaneous analysis of the three markets is a legitimate approach that is consistent with the development of the market, insofar as the various wholesale products are linked ever more closely. This synchronisation of the analyses will make it possible to adopt coherent remedies for all three markets. Furthermore, the one-year extension of the obligations currently imposed on the incumbent operator – by the decision of April 2010 – is justified by the significant influence that this operator continues to exert at a national level.

Finally, the Autorité considers that the decision, even though an exceptional one, to extend, until 1 July 2014, the applicability of the market analysis decision of April 2010, meets the need for stability in the regulatory framework that is expected by the market players, while remaining compatible with the smooth operation of the leased lines market.

(1) Autorité de regulation des communications électroniques et des postes (French Telecommunications and Posts Regulator – hereinafter ARCEP)

> Full text of opinion no. 13-A-10 of 28 March 2013 a request for opinion from ARCEP, relating to the extension of the regulation of capacity services markets (in French)

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