



ICLG

The International Comparative Legal Guide to:

Telecoms, Media and Internet Laws and Regulations 2013

6th Edition

A practical cross-border insight into telecoms, media and internet laws and regulations

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1 Overview

1.1 Please describe the: (a) telecoms; (b) audio-visual media distribution; and (c) internet infrastructure sectors in France, in particular by reference to each sector's: (i) importance (e.g. measured by annual revenue); (ii) 3-5 most important companies; (iii) whether they have been liberalised and are open to competition; and (iv) whether they are open to foreign investment.

In France, revenues from the digital economy are estimated to be €97 billion, or 5% of the GDP. Within this economy, electronic communications services represent a turnover on the final market of nearly 45.1 billion, or 2.3% of the GDP. Electronic communications operators invest around €6.5 billion per year and, in 2011, provided 125,000 direct jobs.

The following French companies are international leaders in their respective sectors: Alcatel-Lucent (telecoms and network equipment manufacturer); France Télécom (telecommunications); Gemalto (global leader in the production and marketing of smart cards); Vivendi (communication and entertainment); Cap Gemini; and Atos Origin (IT consulting).

Since 1 January 1998, the telecommunications market has been fully liberalised in France, as in most of the European Union countries.

Since the introduction of the 2004 Electronic Communications Act, there is no limitation on foreign participation in the capital of public network operators. Nationality is not one of the grounds on which Arcep can refuse a licence to use the radio frequency spectrum. The Minister of Electronic Communications and Arcep ensure that:

- equality of treatment is given to operators authorised to route international traffic from or to public networks in French territories;
- non-EU operators grant operators who are authorised in France, equivalent rights (including interconnection and access rights) to those they have in France; and
- authorisation is subject to applicable international agreements.

1.2 List the most important legislation which applies to the: (a) telecoms; (b) audio-visual media distribution; and (c) internet, sectors in France.

In France, most of the regulatory provisions that govern the telecommunications sector are specified in the French Postal and Electronic Communications Code, known as CPCE (*Code des postes et des communications électroniques*).

The CPCE, which formalises the national legal framework, was created by the transposition of European Telecom Package Directives of 2002 into French national law and stems from the adoption of three laws:

- the Law of 31 December 2003 transposing the “Universal Service” Directive;
- the Law of 21 June 2004 concerning confidence in the digital economy which, in particular, authorises local authorities to become telecom operators; and
- the Law of 9 July 2004, which fundamentally altered the legislative framework that applies to electronic communications, one of the main changes being the implementation of a new system of declaration for operators. In addition to many changes made to the CPCE, the law largely amends the Act of 30 September 1986 on audio-visual communication.

France transposed the revised EU regulatory framework in August 2012.

1.3 List the government ministries, regulators, other agencies and major industry self-regulatory bodies which have a role in the regulation of the: (a) telecoms; (b) audio-visual media distribution; and (c) internet, sectors in France.

There are several public and semi-public entities in France that apply different forms of regulation in this arena. Their areas of responsibility are nevertheless quite clearly identified and their reciprocal means of intervention ensure the cohesion of their actions. In addition to the courts, the main bodies are as follows:

- The Electronic Communications and Postal Regulatory Authority, or Arcep, is in charge of the sector-specific regulation of electronic communications markets, and also of internet service providers (ISPs), particularly regarding their relationship (e.g. via interconnection) with other links in the internet value chain, regardless of the type of network (fixed or mobile) or the content being transported.
- Arcep has shared powers with the Minister responsible for telecommunications. The Minister is responsible for drafting laws and decrees, but requests the opinion of the regulator in these areas. The Minister is also responsible for attribution of licences, but the verification process is undertaken by the regulator who provides a recommendation to the Minister.
- The broadcasting authority, or CSA (*Conseil supérieur de l'audiovisuel*), is responsible for regulating audio-visual content, regardless of distribution network. This, in practice, now includes new services such as video on demand and catch-up TV, grouped together under the name of “on-demand audio-visual media services”.

- The Competition Authority (*Autorité de la concurrence*) oversees all players' (content, network, etc.) compliance with competition law.
- The Data protection commission, or CNIL (*Commission nationale de l'informatique et des libertés*) protects privacy and freedom in the digital world.
- The High authority for the distribution of creative works and protection of rights on the internet (*Hadopi*) is in charge of protecting the interests of the parties who control the rights to literary and artistic works.
- The general directorate for fair trade, consumer affairs and fraud control, or DGCCRF, oversees any issues which concern consumers in particular.
- The French Association for internet domain naming in cooperation, or Afnic is the registry of the database of .fr (France) and .re (Reunion Island) internet domain names.
- Finally, the internet rights forum (*Forum des droits de l'internet*) is an association that brings together different internet players to fulfil a public service mission. It has set itself the task of promoting co-regulation of internet usage.

1.4 Are there any restrictions on foreign ownership or investment in the: (a) telecoms; (b) audio-visual media distribution; and (c) internet, sectors in France?

Without a reciprocity clause, nationals of OECD countries that are not members of the EU or the European Economic Area may not hold, directly or indirectly, more than 20% of the equity capital or voting rights of a company licensed to provide terrestrial hertzian television or radio broadcasting services in the French language (Law of 30 September 1986).

2 Telecoms

General

2.1 Is France a member of the World Trade Organisation? Has France made commitments under the GATS/GATT regarding telecommunications and has France adopted and implemented the telecoms reference paper?

All EU Member States are WTO members, as is the EU in its own right. The EU has submitted schedules on basic telecommunications including commitments on regulatory disciplines. These commitments relate to such matters as competition safeguards, interconnection guarantees, licensing and the independence of regulators. Restrictions include foreign equity limits by France (20% are: radio-based services; and direct investment only).

2.2 How is the provision of telecoms (or electronic communications) networks or services regulated?

Arcep views regulation as having been through three phases. The first phase lasted between 1997 and 2001 and concentrated on liberalisation and opening the market to competition. Phase two ran from 2001 until 2004, and is described by Arcep as the "turning point" when ART, Arcep's predecessor, began to concentrate its efforts on unbundling in the local loop and promoting broadband. The third and current phase, which Arcep calls "New Regulation", and follows the implementation of the NRF, is dominated by mobile and broadband.

2.3 Who are the regulatory and competition law authorities in France? How are their roles differentiated? Are they independent from the government?

Arcep has close institutional ties with the Competition Authority, and can solicit its opinion when it believes that an SMP operator (operator with significant market power) is abusing its dominant position, or in the event of practices that are preventing competition from being exercised freely in the electronic communications sector, or in the area of postal activities.

In return, the Competition Authority informs Arcep of any incoming matters concerning the electronic communications and postal sectors that it is called upon to regulate.

Moreover, when it performs an analysis of electronic communications markets to determine whether or not any operator enjoys significant power in a relevant market, Arcep must hold public consultations on its draft decisions and solicit the opinion of the Competition Authority and, if applicable, that of the CSA on the market definition and the SMP operator analysis.

Arcep must obtain CSA's opinion when making decisions that will have a significant impact on the broadcast of radio and television services. In exchange, CSA must obtain Arcep's opinion on any decision it makes that concerns electronic communications.

Arcep, CSA and Competition Authority ensure regulation on behalf of the State and under the supervision of Parliament and the judiciary. Their independences *vis-à-vis* the Government results from EU texts and the need to distinguish, within the State, between government shareholding and tutelage over companies that are partially or entirely public (e.g. France Télécom) and the role of neutral regulators *vis-à-vis* the various operators.

2.4 Are decisions of the national regulatory authority able to be appealed? If so, to which court or body, and on what basis?

In its capacity of independent administrative authority, Arcep makes decisions which can be appealed to administrative courts either to: the Conseil d'État for Executive Board decisions; or the Tribunal Administratif (Administrative court) for decisions made by the Chairman or the Director General. Decisions concerning dispute settlements fall under the jurisdiction of the Cour d'Appel de Paris (Paris Court of Appeal).

Licences and Authorisations

2.5 What types of general and individual authorisations are used in France?

Under the general authorisation system, public networks installed or used and electronic communications services provided to the public are usually notified rather than licensed. A notification must be filed with Arcep previously.

2.6 Please summarise the main requirements of France's general authorisation.

After the notification is filed (see question 2.5), Arcep sends a receipt to the applicant granting rights (such as interconnection and a right of way) and imposing obligations (such as paying fees and contributing to the universal service).

2.7 In relation to individual authorisations, please identify their subject matter, duration and ability to be transferred or traded.

Under the “authorisation” directive, frequency and numbering resources may be allocated using an individual authorisation and may be subject to a fee.

The CPCE limits the possible duration for a spectrum usage licence to a maximum of 20 years. A lifespan of 15 to 20 years is generally deemed relevant for licences relating to the deployment of mobile networks as it offers the operator sufficient visibility and a long enough period of time to earn a return on investments.

GSM mobile operators’ licences were initially awarded for a period of 15 years, and have been, or will be, renewed for the same length of time. The lifespan for UMTS licences was set at 20 years.

The CPCE allows for the implementation of a system for trading spectrum usage licences in the frequency bands identified by ministerial order.

Public and Private Works

2.8 Are there specific legal or administrative provisions dealing with access and/or securing or enforcing rights to public and private land in order to install telecommunications infrastructure?

Public network operators have a right of way on public roads and hold an easement over private properties. The scope of this easement includes the installation of network equipment in jointly used parts of apartment buildings.

The municipal governments have jurisdiction to grant the necessary authorisations, which can only be delivered at the expiry of a three-month period, during which, the owner is entitled to submit comments on the project.

The operator’s employees are granted access under an agreement with the owner. Failing agreement, authorisation can be sought from the President of the Court of First Instance (*Tribunal de Grande Instance*). The operator is liable for any damage stemming from network equipment.

Special rules apply to the roll out of optical fibre.

Access and Interconnection

2.9 How is network-to-network interconnection and access mandated?

French legislation implemented the Access Directive by requiring network providers to make facilities and services available to other undertakings for the purpose of providing electronic communications services. The French legislation’s definition of access includes providing access to fixed and mobile networks (in particular, for the purpose of roaming).

The receipt issued by Arcep entitles an operator to interconnection (see question 2.6). A foreign public network operator without a notification receipt can request interconnection from a French public network operator, provided that the applicant does not use a public network or provide services in France.

The technical and financial conditions of this access are agreed between the parties. However, to ensure that the CPCE’s objectives are followed (including the objective of free communication among

all users), Arcep can impose conditions for access on objective, transparent, non-discriminatory and proportionate grounds.

2.10 How are interconnection or access disputes resolved?

Arcep possesses the statutory power to settle disputes that may arise “in cases where access or interconnection is denied, commercial negotiations fail, or where there is disagreement over the conclusion or execution of a contract granting access or interconnection to an electronic communications network”.

2.11 Which operators are required to publish their standard interconnection contracts and/or prices?

Operators that are designated as having significant market power (SMP) on a specific market must disclose information relating to interconnection or access.

2.12 Looking at fixed, mobile and other services, are charges for interconnection (e.g. switched services) and/or network access (e.g. wholesale leased lines) subject to price or cost regulation and, if so, how?

The Access Directive places other particular obligations on SMP operators: for example, fixed operators must offer cost-orientated charges. There are also obligations relating to cost recovery and price controls, including obligations for cost orientation of prices and obligations concerning cost accounting systems.

2.13 Are any operators subject to: (a) accounting separation; (b) functional separation; and/or (c) legal separation?

France Télécom is subject to the obligation of accounting separation in relation to specified activities concerning interconnection or access.

According to the circumstances, Arcep could also impose the obligations relating to functional separation on SMP operators.

In the case of persisting market failures despite the implementation of these obligations, Arcep may impose an obligation on an undertaking to place activities related to provision and services in an independently operating business entity. In the case of undertakings considered to be in a dominant position in one or many markets, they may transfer their local access network assets to another undertaking. They must inform Arcep of their intention so that Arcep can assess the effect of the transfer.

2.14 Are owners of existing copper local loop access infrastructure required to unbundle their facilities and if so, on what terms and subject to what regulatory controls? Are cable TV operators also so required?

In 2000, the European Union opted for Local Loop Unbundling regulation (LLU), i.e. a series of regulatory measures aimed at providing access to the incumbent’s local network. Such measures ranged from full unbundling (i.e. the incumbent providing access to its copper lines), to bitstream access (the incumbent simply leasing access to its high bandwidth architecture), and resale (where the incumbent provides its broadband retail services to new entrants on a wholesale basis).

In France, Arcep decided in 2000, to favour full unbundling over bitstream access by setting low prices on local loop access and enforcing price floors on bitstream access.

Cable operators are not obligated to propose unbundling on their own networks.

2.15 How are existing interconnection and access regulatory conditions to be applied to next generation (IP-based) networks? Are there any regulations or proposals for regulations relating to next-generation access (fibre to the home, or fibre to the cabinet)? Are any 'regulatory holidays' or other incentives to build fibre access networks proposed? Are there any requirements to share passive infrastructure such as ducts or poles?

The law on the modernisation of the economy of 4 August 2008 was intended to achieve widespread deployment of fibre to the x (FTTx) Next Generation Access (NGA) networks and includes a chapter on electronic communications, aimed *inter alia*, at regulating the in-building sharing of the terminating segments of fibre networks.

The conditions of installation, management and replacement of optical fibre transmission lines are subject to agreement between the owner and the relevant operator.

Arcep has issued regulations of NGA in order to implement the enforcement of provisions introduced by the LME (i.e. the principle of shared access to the last "drop" of the network). Arcep decisions detail the general terms and conditions of sharing the last "drop", as well as specific provisions applicable in dense areas.

The leading operators chose FTTH, which Arcep also favours, because the distance between the street cabinet and the consumer is relatively long in most French areas. In many other European countries, operators have chosen fibre to the curb (FTTC).

In addition, Arcep has stated that access to land is necessary to that roll out. Due to its dominant position, France Télécom is required to provide access to its ducts everywhere and under transparent and non-discriminatory conditions and at cost-oriented tariffs.

Price and Consumer Regulation

2.16 Are retail price controls imposed on any operator in relation to fixed, mobile, or other services?

Retail pricing controls are imposed on universal service operators. Arcep can issue a price framework to cover a certain number of years. When no framework has been set out, all prices of the universal service must be submitted to Arcep's approval, one month before being brought into force. France Télécom is the only operator that provides the universal service.

Moreover, France Télécom, having SMP in retail fixed-line telephony, must communicate its retail prices to Arcep prior to their implementation so that Arcep can adjust its regulation of the wholesale markets. Arcep cannot object to these prices.

The EU Roaming regulation, adopted in 2007, has introduced caps on retail roaming prices (Eurotariff) and imposed certain information obligations on operators, ensuring that mobile phone subscribers pay affordable and transparent retail roaming prices when they are travelling across the EU.

2.17 Is the provision of electronic communications services to consumers subject to any special rules and if so, in what principal respects?

Special attention has been paid to consumer protection this year as evidenced by several pieces of user-oriented legislation. A law on competition and consumer protection, known as loi Chatel, with

specific provisions on mobile, fixed and broadband services, was adopted in 2008.

Under those provisions, calls to hotlines (technical assistance and customer care services) may not be premium-rated and the waiting time for connect-calls to those services should be free-of-charge. Regarding contractual conditions, the notice of termination by users was reduced to ten days, and the maximum duration of a contract to 24 months. Terminating the contract after 12 months is permissible against payment of a limited termination fee. While this law could improve transparency, its effective impact remains to be seen, for instance on the number of complaints.

Numbering

2.18 How are telephone numbers and network identifying codes allocated and by whom?

Arcep is responsible for allocating prefixes and numbers. The process for allocating resources is detailed in a decision of 15 December 2005. An allocation decision must be notified within three weeks from Arcep receiving a complete application.

2.19 Are there any special rules which govern the use of telephone numbers?

Arcep establishes, manages and controls the national numbering scheme. The scheme applies to both fixed-line and mobile telephone numbers. The document is regularly updated and describes the structure of the scheme, indicating the status of the allocated numbers and the resources that are reserved.

2.20 What are the basic rules applicable to the 'porting' (i.e. transfer) of telephone numbers (fixed and mobile)?

The Arcep's decisions allocating numbers must determine the terms and conditions of portability.

The operator must offer portability services to its subscribers at a reasonable price. The new operator bears the portability costs. This operator can then have its subscriber contribute to that cost, as long as that contribution is reasonable.

The CPCE stipulates consumers' right to keep their telephone number when switching operators, within a maximum 10 days. On 7 November 2011, the period decreases from 10 days to 3 working days maximum for mobile operators.

3 Radio Spectrum

3.1 Is the use of radio spectrum specifically regulated and if so, by which authority?

France has a two-tier system of spectrum management. ANFr, the French National Frequency Agency, (*Agence Nationale des Fréquences*), is responsible for frequency allocation (deciding on the use for each frequency band). Frequency assignment (deciding who gets the right to use the frequencies within those bands), is the responsibility of Arcep for: spectrum used for telecommunications and feeder links to broadcasting; of CSA for spectrum used for broadcasting; and of Ministries for spectrum for their own use.

3.2 How is the use of radio spectrum authorised in France? What procedures are used to allocate spectrum between candidates - i.e. spectrum auctions, comparative 'beauty parades', etc.?

Like other countries, France allocates frequencies on the basis of "first come first served". However, when frequencies are rare resources, Arcep selects the winning candidates based on criteria listed in the call for applications. 3G and 4G spectrums were allocated using public tenders (beauty parades).

3.3 Are distinctions made between mobile, fixed and satellite usage in the grant of spectrum rights?

The CPCE regulates satellite service equipment and frequencies. When satellite frequencies are used for audio-visual communication, the Law of 30 September 1986 applies.

3.4 How is the installation of satellite earth stations and their use for up-linking and down-linking regulated?

The equipment and infrastructure of satellite earth stations must comply with certain standards (protection of health and safety, electromagnetic compatibility, and efficient use of the spectrum).

Any request for the assignment of satellite system frequencies must be made to the ANFr, which then communicates the request to the International Telecommunications Union and also seeks an authorisation from the minister responsible for electronic communications.

The minister can refuse an authorisation for specific reasons (public order, national defence, public security, France's radio-communications commitments, existing or foreseeable usages of the radio spectrum, or the applicant has been sanctioned for certain conduct in the past).

3.5 Can the use of spectrum be made licence-exempt? If so, under what conditions?

Arcep has competency to establish the cases in which the use of frequencies is subject to official authorisation, the conditions of use for radio installations not using frequencies specifically assigned to their user and the technical conditions for use of these frequencies.

3.6 If licence or other authorisation fees are payable for the use of radio frequency spectrum, how are these applied and calculated?

The use of frequencies requires payment of an annual domain licence fee for the provision of radio frequencies and an annual administration fee intended to cover the administration costs of the radio frequency spectrum and the utilisation authorisations.

The provision fee is calculated on the basis, notably, of the width of the band attributed and the surface area of the territory covered. The administration fee is calculated by reference to the surface area of the territory covered as a ratio of the surface area of the metropolitan territory.

3.7 Are spectrum licences able to be traded or sub-licensed and if so on what conditions?

Licence holders can trade allocated radio frequencies. The assignment must be notified to Arcep. A Decree of 11 August 2006

sets out the terms and conditions for assignments, in particular, the list of documents required in the notification. Arcep has six weeks to oppose the notified assignment.

Arcep's authorisation is only required when the frequency either was allocated through a selection process, or is intended to be used for public services purposes.

Arcep will make its decision within three months of the request for authorisation. If Arcep does not make a decision within the deadline, assignments for which approval is required are deemed to be rejected.

4 Data Retention and Interception

4.1 Are operators obliged to retain any call data? If so who is obliged to retain what and for how long?

Operators must retain data regarding information allowing user's identification, and regarding the localisation of communication equipment at the time of terminating communication. The retention period is set at one year from the day the communication ends.

4.2 Are operators obliged to maintain call interception (wire-tap) capabilities?

Operators are subject to the terms of the legally sanctioned official access to private communications, such as, but not limited to, telephone calls or email messages, and are therefore able to give law enforcement officials access to the communications of private individuals or organisations using their network.

5 Distribution of Audio-Visual Media

5.1 How is the distribution of audio-visual media regulated in France?

All television and radio operations (terrestrial, cable and satellite) fall under the regulatory jurisdiction of the CSA. The main authority of the CSA is to apply the laws and decrees that are developed by the national government and to issue opinions to the national government about media law and policy. It is important to note that the CSA has the authority only to interpret and apply existing regulations, but not to develop new regulations (which is the prerogative only of the national government).

CSA regulations cover three central arenas: renewing broadcast licences for television and radio stations; issuing new licences for television and radio stations; and disciplining radio and television stations for violating regulations.

In addition, the wholesale markets for audio-visual broadcasting services in France, which are referred to collectively as "market 18" by the European Commission, include broadcasting services designed to deliver radio and television content to end users. It comprises two segments:

- downstream, the services offered by broadcasters to channel producers or multiplex operators for digital terrestrial television; and
- upstream, the services offered by one broadcaster to another, representing an "access" market (hosting on existing pylons, for example).

Market 18 is currently subject to scrutiny by two regulators. The CSA has the power to regulate (notably by settling disputes *ex post*) the downstream part of the market (relations between channel

producers/multiplexes and broadcasters/distributors). Meanwhile, the upstream part of the market (relations between broadcasters) falls within the competence of Arcep.

5.2 Is there a distinction between the linear and non-linear content and/or content distributed over different platforms?

In France, the video on demand and catch-up TV (AMS) have been regulated by the media syndicates then the law of 5 March 2009 that has transposed Regulation 2007/65/EC.

This Regulation has set some rules to regulate on-demand media services compelling to promote access and production of European works by funding or by quota systems.

The Regulation covers all services with audio-visual content irrespective of the technology used to deliver the content. The rules apply whether you watch news or other audio-visual content on TV, on the internet or on your mobile phone. However, taking into account the degree of choice and user control over services, the Regulation makes a distinction between linear (television broadcasts) and non-linear (on-demand) services.

The distinction between linear and on-demand services is the basis for a graduated regulatory approach. In a two-tier system of rules, the Directive acknowledges a set of core societal values applicable to all audio-visual media services, but provides lighter regulation to on-demand services where the users have a more active, “lean-forward” approach and decide on both the content and the time of viewing.

According to the French law, “on-demand audio-visual media services” mean “an audio-visual media service provided by a media service provider for the displaying of programmes at the moment chosen by the user and at his individual request on the basis of a catalogue of programmes selected by the media service provider”. This definition refers to all kind of AMS.

Now, those services are regulated by the CSA and are subject to the same obligations as other communication services: dignity and respect; pluralism; childhood and youth protection; national audio-visual production development; quality programming; and French language use. Nevertheless, advertising settlement for AMS is lighter than other communications services. Despite this regulation, the AMS regulation is unfinished as of yet.

5.3 Describe the different types of licences for the distribution of audio-visual media and their key obligations.

The licensing of media in France is mixed. Private broadcast media are licensed by the CSA. Radio stations are licensed for five years, while television stations are licensed for ten years. The licensing process is used to ensure that private broadcasters comply with public service obligations as interpreted by the CSA. However, public radio and television stations are not licensed because of the government position that broadcast frequencies are owned by the State, which means that it is not possible to license them or sell them.

However, in exchange for use of the frequencies, both public and private radio and television stations have obligations to the State in terms of content. The Ministry of Culture regulates those obligations by issuing decrees. Most of those regulations have to do with promoting culture.

6 Internet Infrastructure

6.1 Are conveyance services over the internet regulated in any different way to other electronic communications services? Which rules, if any, govern access to the internet at a wholesale (i.e. peering or transit) and/or retail (i.e. broadband access) level? Are internet service providers subject to telecommunications regulation?

The CPCE governs the allocation of domain names. Publishers of websites must identify themselves on their website. Websites which include personal data must comply with the necessary formalities provided by the CNIL. Two recent Acts regulate certain aspects of internet activities in relation to copyright: the law on authors’ rights and related rights in the information society of 30 June 2006, known as DADVSI Act; and the Hadopi Act.

Moreover, in a decision of 29 March 2012, Arcep, in consideration of the authority’s need to have deep and regularly updated knowledge of the conditions of internet peering and transit agreements and practices which might have an effect on the French territory, has set up a semestrial collection of information regarding the technical and pricing terms governing data conveyance and interconnection.

6.2 How have the courts interpreted and applied any defences (e.g. ‘mere conduit’ or ‘common carrier’) available to protect telecommunications operators and/or internet service providers from liability for content carried over their networks?

ISPs can only be held liable for illegal content on websites where they played an active role in creating or publishing that content. ISPs are not required to monitor content. However, a judicial authority can ask ISPs to monitor specific content on a temporary basis.

A judicial authority can bring an injunction to prevent or put an end to prejudicial content. This can apply to ISPs when web hosting services cannot be targeted.

ISPs and hosting providers must store data relevant to the identification of authors that create content using their service. A judicial authority can request this information.

6.3 Are telecommunications operators and/or internet service providers under any obligations (i.e. provide information, inform customers, disconnect customers) to assist content owners whose rights may be infringed by means of file-sharing or other activities?

ISPs must provide information relating to the quality of service in their contracts with subscribers. At a minimum, this information must include:

- the ISP’s identity and address;
- the duration of the contract and conditions of renewal;
- time taken for installation;
- the minimum guaranteed quality of service;
- the time taken to restore service; and
- the time taken to handle claims.

ISPs must include notices in their contracts with subscribers:

- about the legal consequences of IP infringement;
- of the subscriber’s obligation to monitor his internet access so that it is not used for IP infringement purposes; and

- about legal cultural services that are available (for example, download platforms that comply with copyright laws), and technical mechanisms designed to secure the subscriber's access to prevent IP infringements. ISPs must mention and provide at least one technical means of access restriction (for example, parental control).

6.4 Are telecommunications operators and/or internet service providers able to differentially charge and/or block different types of traffic over their networks? Are there any 'net neutrality' requirements?

In general, network service providers are forbidden from discrimination on the principle of neutrality. Neutrality is not always observed (e.g. some network service providers have not made VoIP available on mobile telephony).

6.5 Are telecommunications operators and/or internet service providers under any obligations to block access to certain sites or content?

The E-Commerce Directive 2000/31 provides that ISP cannot be subject to any general monitoring obligation. Courts can only impose temporary monitoring obligations in specific cases.

However, all French ISPs must prevent customers from accessing online gambling services that offer online gambling without a licence from Arjel (French Online Gambling Authority). All service providers must filter access to certain domains in order to prevent French residents from gambling on blacklisted sites. The French government will reimburse ISPs for any additional costs incurred when implementing such Domain Name System restrictions.

6.6 How are 'voice over IP' services regulated?

VoIP is included in the fixed telephony market for regulatory purposes. VoIP providers must comply with basic obligations (including notification to the telecommunications regulator, maintaining a reliable service, free emergency calls, privacy protection and portability of numbers).

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Frédéric was legal counsel for eighteen years for one of the world's leading telecommunications operators (SFR, French subsidiary of Vivendi and Vodafone groups), providing legal and regulatory assistance to the company's development both within, and outside of France.

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The firm was founded in 1978 by Alain Bensoussan, a French lawyer.

The firm offers a full range of legal services based on a practical approach that combines the legal knowledge of a specific domain or technology-with the corresponding technical concepts. Since its foundation, the firm has opened several offices in France, as well as abroad.

In January 2012, Alain Bensoussan law firm created Lexing®, the first French speaking international network of tech-savvy lawyers dedicated to the law of advanced technologies.

Lexing® allows global companies to benefit from the assistance of lawyers whose expertise in the law of new technologies is recognised in their respective countries.

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