

---

# Geographical aspects of markets analysis: market definition and remedies

## ARCEP experience

Vienna 20th of June 2008

# Market definition: principles of the framework

---

- “Relevant Market” definition:
  - supply-side and demand-side substitutability analysis
  - Geographical scope of the market
  
- According to established case-law, the relevant geographic market comprises an area:
  - in which the undertakings concerned are involved in the supply and demand of the relevant products or services,
  - in which area the conditions of competition are similar or sufficiently homogeneous and which can be distinguished from neighbouring areas in which the prevailing conditions of competition are appreciably different.
  
- In the electronic communications sector, the geographical scope of the relevant market has traditionally been determined by reference to two main criteria:
  - Area covered by the network
  - Existence of legal and other regulatory instruments

# Market definition: French specificities

## ■ France is a multi-territories country

- Metropolitan France
- Overseas territories (Réunion, Guadeloupe, Martinique, Guyane, Mayotte, Saint Martin, Saint Barthélemy and Saint Pierre et Miquelon)

## ■ Cable operators are almost not ( yet ? ) present

- Retail fixed Telephony: less than à 0,5 million vs. 40 millions.
- Retail broadband Internet access: less than a million vs. 15 millions with –DSL.

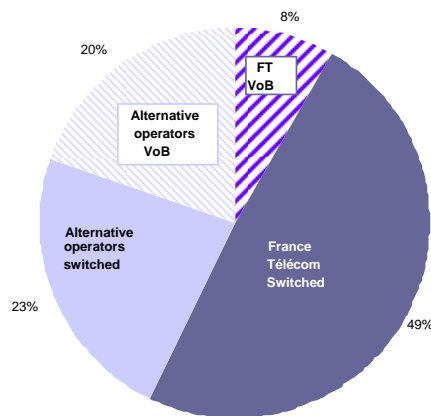


# Market definition: Retail markets

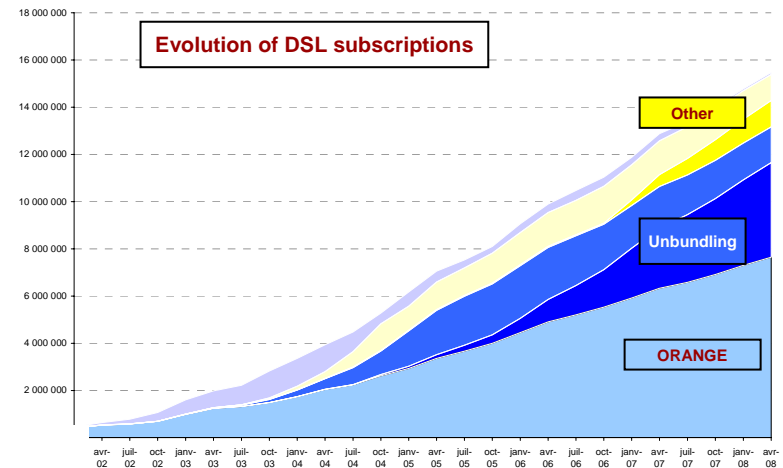
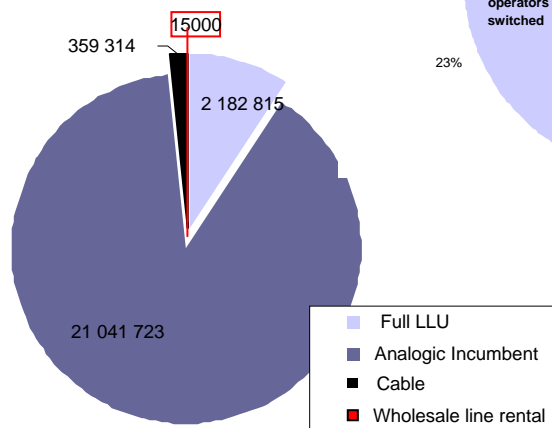
- Fixed telephony and broadband markets : the incumbent's footprint all over the territories
  - France Télécom established all over the territories
  - Underlying network coverage
  - Uniform commercial practices and pricing
  - Homogeneity of competitive conditions

## Fixed Residential Telephony (2006)

### Communications



### Primary telephone Access



## Mobile telephony markets

Zones	Market shares (2007, March)	
Métropole	Orange France	45%
	SFR	34%
	Bouygues Télécom	17%
	MVNO	3%
Antilles - Guyane	Orange Caraïbe	58%
	Digicel	27%
	Outremer Télécom	13%
	Others	2%
Réunion - Mayotte	SRR	71%
	Orange Réunion	28%
	Outremer Télécom	1%

# Market definition:

## Wholesale markets

---

- Homogeneity of competitive conditions all over territories
  - Call origination on the public telephone network provided at a fixed location.
    - France Télécom possesses 95% to 99% of access and its network covers all territories
  - INTRA TERRITORIAL transit services in the fixed public telephone network
  - Wholesale (physical) network infrastructure access (including shared or fully unbundled access) at a fixed location.
  
- Argument of Area covered by the network
  - Call termination on individual public telephone networks provided at a fixed location.
  - INTER TERRITORIAL transit services in the fixed public telephone network
  
- Argument of Existence of legal and other regulatory instruments
  - Voice call termination on individual mobile networks
    - Each MNO operates on a geographical zone, delimited by its main commercial activity, given its delivered authorization to use spectrum or access agreements signed with others operators with such authorization.
  
- Specific case : “*Aéroport de Paris*”

# Market definition: impact of expansion of infrastructures competition

---

- On the Bitstream offers market, three types of zone are outlined with respect to infrastructure deployments:
  - Type A – corresponding to the ULL zone - where several operators are able to provide
  - Type B where only FT is able to provide
  - Type C where no operator able to provide
  
- Characteristics of these zones:
  - broken up, not homogeneously spread
  - boundaries evolving with rhythm of infrastructure deployment for FT AND alternative operators

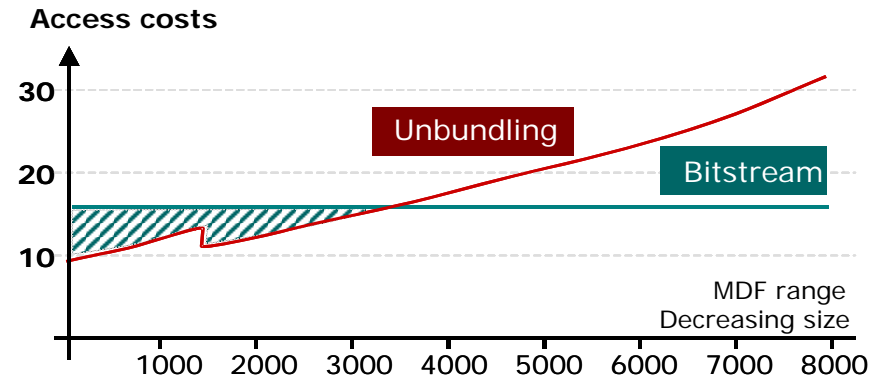
DSL Coverage	2001	2002	2003	2004	2005	2006	2007
FT	36%	66%	74%	80%	90%	97%	98%
ULL	0%	0%	10%	35%	50%	54%	60%

- Factors preventing a strict geographic market definition:
  - Prospective approach: no fixed and sustainable boundaries for ULL at this stage
  - Role of local authorities investments
  - Demand in bitstream offers by operators at a national level

# Remedies:

## generic obligations, geographic terms

- Pricing obligation on FT's bitstream offers
  - « cost orientation unless eviction with respect to ULL tariffs »



- Mobile call termination rates (on non-metropolitan territories)
  - Outremer Telecom is SMP on MCT market delimited by its own network coverage which effectively covers several overseas territories.
  - Obligation of non excessive MTR with price cap implementation
  - Terms of price cap depending on entry date on the different territories

	Guyane	Gadeloupe Martinique	Mayotte	Réunion
<b>Entry date</b>	dec. 2004	dec. 2005	dec. 2006	mar. 2007
<b>Price cap 2008</b>	19,2	22,9	27,2	
<b>Price cap 2009</b>	13,7	15,7	17,5	

## Remedies: generic obligations, geographic terms

---

- Retail market for fixed telephony communications for non-residential
  - France Télécom has been recognized as having SMP
  - (Among others) Obligations of non eviction pricing.
  
- FT submitted “non public prices scales” to ARCEP
  - Specifically designed for corporate customers – where some room should be allowed to enable negotiation and competition between operators
  
- Implementing the price squeeze test, ARCEP considered some adjustments that were based on “geographical aspects”.

Namely, several price levels were approved depending on the structure of competition on a specific MDF, the actual availability of copper pairs, ...