

French Telecommunications Regulation after the 1996 Reforms

Sweeping amendments to French telecommunications laws were enacted last year to implement European Union directives calling for the liberalization of telecommunications markets.¹ Since then, a number of regulations have been issued to implement the legislative reforms. The purpose of this article is to provide an overview of French telecommunications regulation in light of these reforms.

I. The Regulatory Environment

A. INDEPENDENCE OF REGULATORS

According to the French Posts and Telecommunications Code, the regulation of telecommunications, which is administered on behalf of the state by the minister responsible for telecommunications and the Telecommunications Regulatory Au-

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1. Law No. 96-659 of July 26, 1996, *JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE* (J.O.), July 27, 1996, p. 11384; 1996 O.J. (L 74) 13 (amending 1990 O.J. (L 192) 10) (on the implementation of full competition in telecommunications markets); 1995 O.J. (L 321) 6 (on the application of open network provision "ONP" to voice telephony). See also Law No. 96-660 of July 26, 1996, J.O., July 27, 1996, p. 11398 (on the status of France Telecom). " 'Telecommunication' means any transmission, sending out or reception of signs, signals, text, images, sound or information of any nature by wire, optics, radio waves or other electromagnetic systems." *CODE DES POSTES ET TÉLÉCOMMUNICATIONS* art. L. 32(1) [hereinafter C. POSTES ET TÉLÉCOMM.] (translation by author). A brief summary of some basic provisions of the French constitution may be helpful at this point. Legislative power is vested in Parliament, consisting of the National Assembly and the Senate. Const. art. 24. The president is the head of state. See *id.* art. 5. The president may dissolve the National Assembly, whereupon new elections are called and after which the National Assembly may not be dissolved again for one year. *Id.* art. 12. The prime minister is the head of government. *Id.* art. 21. The president appoints the prime minister and, on the prime minister's recommendation, the other members of government.

thority (ART),² is independent of the operation of networks and the provision of telecommunications services.³

The principal telecommunications carrier in France is France Telecom, which still enjoys a monopoly for public voice telephony between fixed points. Until October 1997, all of France Telecom's capital stock was owned by the state; current law provides that the state will retain majority control.⁴

The telecommunications minister, a political appointee,⁵ plays a dual role as

2. C. POSTES ET TÉLÉCOMM. art. L. 32-1(I)(3). See *infra* notes 8-19 and accompanying text. ART's jurisdiction does not extend to radio and television broadcasting or radio and television services distributed through cable networks, which are regulated by the Superior Audiovisual Council (CSA). See Law No. 86-1067 of Sept. 30, 1986, CODES ET LOIS (C.L.), Aug. 27-Sept. 30, 1986, p. 9 (Juris-Classeur ed. 1997). But see *infra* note 26 and accompanying text. ART and CSA are the French acronyms for *Autorité de régulation des télécommunications* and *Conseil supérieur de l'audiovisuel*, respectively.

3. C. POSTES ET TÉLÉCOMM. art. L. 32-1(I)(3).

4. The provisions of Article L. 33-1 of the Posts and Telecommunications Code, see *infra* notes 28-29 and accompanying text, which permits the setting up and the operation, by carriers other than France Telecom, of public networks with a view to the provision of telecommunications services other than public voice telephony between fixed points, entered into force on July 1, 1996. Law No. 96-659 of July 26, 1996, art. 22(I). " 'Public network' means any telecommunications network set up or used for the provision of telecommunications services to the public." C. POSTES ET TÉLÉCOMM. art. L. 32(3) (translation by author). The provision to the public, by carriers other than France Telecom, of voice telephony between fixed points on licensed networks will not be permitted until January 1, 1998. Law No. 96-659 of July 26, 1996, art. 22(II). On December 31, 1996, France Telecom was transformed from a public legal entity (*personne morale de droit public*) into a national enterprise (*entreprise nationale*). The new entity is subject to laws applicable to business corporations to the extent not inconsistent with the 1990 law on the organization of the public service of posts and telecommunications. Law No. 96-660 of July 26, 1996, art. 1. (amending Law No. 90-568 of July 2, 1990, art. 1(1)). See Decree No. 96-1174 of Dec. 27, 1996, art. 1, J.O., Dec. 29, 1996, p. 19433 (approving France Telecom's articles of association). See generally Law No. 66-537 of July 24, 1966, C.L., July 24, 1966, p. 1 (on business corporations). The statute says that a majority of France Telecom's capital stock is to be owned by the state, but, at the time of the transformation, the state acquired all of the company's stock. Law No. 96-660 of July 26, 1996, arts. 1, 12 (amending Law No. 90-568 of July 2, 1990, arts. 1(1), 49(2)). While a public offering of a minority interest in France Telecom was authorized by the previous center-right government, see Decree No. 97-13 of Jan. 13, 1997, art. 1, J.O., Jan. 14, 1997, p. 649, the current Socialist-led government is generally hostile to privatization as a matter of principle. The government's intentions as to the possible sale of minority interest in France Telecom remained vague for most of the summer. See Barry James, *Privatization Is Essential, Chirac Warns Socialists*, INT'L HERALD TRIB., July 15, 1997, at 10; Barry Janes, *Paris Holds Key in Telecom Link to Germany*, INT'L HERALD TRIB., July 14, 1997, at 11. However, the government finally announced on September 8, 1997, that only 20% of France Telecom's stock would be offered to private investors. Joseph Fitchett, *A Slice of France Telecom; Private Investors to Be Offered 20% of Stock*, INT'L HERALD TRIB., Sept. 9, 1997, at 1. In addition, a swap with Deutsche Telekom of a further minority interest is planned. *Id.* Commenting on these proposed transactions, the French finance minister is reported to have said, " [t]his is not a privatization." ' ' *Id.*

5. Under the current government, the minister of the economy, finance, and industry, Dominique Strauss-Kahn, has responsibility for posts and telecommunications policy. Decree No. 97-710 of June 11, 1997, art. 1, J.O., June 12, 1997, pp. 9344, 9345; Decree of June 4, 1997, art. 1, J.O., June 5, 1997, p. 9121. The central administration of the posts and telecommunications ministry consists of a directorate for posts and telecommunications (DPT), which includes a posts division and a telecommunications division. Decree No. 96-1227 of Dec. 27, 1996, art. 1(II),

(i) a telecommunications regulator with control over the issuance of licenses to public network operators and public voice telephony providers and (ii) a representative of the state *qua* controlling shareholder of France Telecom. This dual role is apparently not perceived by the French legislature to compromise the independence of the regulators although American observers are likely to view the legislative pronouncement of regulatory independence with skepticism given the degree of state involvement in the operation of networks and the provision of services. Despite the government's role in the appointment of the ART's members, the independence of the ART is somewhat less open to challenge since its members may not be removed from office and are not eligible for reappointment.⁶ However, in certain areas, the powers of the ART are subordinate to those of the telecommunications minister.⁷

B. INSTITUTIONAL FRAMEWORK

1. *Telecommunications Minister*

The telecommunications minister shares responsibility with the ART for: (a) the provision and financing of all the components of public telecommunications service; (b) fair and effective competition among network operators and telecommunications service providers; (c) the development of jobs, innovation, and competitiveness in the telecommunications sector; (d) the definition of terms and conditions of access to, and interconnection of, public networks; (e) adherence by telecommunications carriers to the principles of confidentiality of communications and neutrality with regard to content; (f) compliance of network operators and telecommunications service providers with the obligations of defense and of public safety; and (g) the promotion of the interest of territories and users in access to services and equipment.⁸ In addition, the telecommunications minister has various specific regulatory powers, including the power to issue most licenses.⁹

J.O., Dec. 31, 1996, p. 19691 (amending Decree No. 93-1272 of Dec. 1, 1993, art. 1(6)). The DPT, which is currently headed by Patrick de Guerre, *see* Decree (*arrêté*) of June 30, 1997, art. 1(II), J.O., July 2, 1997, pp. 10050-51, has been placed under the control of the secretary of state for industry, Christian Pierret, to whom the finance minister's powers in the area of telecommunications have been delegated. Decree No. 97-728 of June 18, 1997, arts. 1-2, J.O., June 19, 1997, p. 9588. The DPT's principal function is to develop and implement the government's policies in the area of posts and telecommunications. The DPT coordinates the administrative control of La Poste and France Telecom. Decree No. 96-1227 of Dec. 27, 1996, art. 5 (amending Decree No. 93-1272 of Dec. 1, 1993, art. 18). The DPT's telecommunications division is responsible for developing and implementing the regulation of telecommunications activities, except as to matters that are subject to the jurisdiction of the ART. It exercises administrative control over France Telecom. *Id.* art. 7 (amending Decree No. 93-1272 of Dec. 1, 1993, art. 20).

6. *See infra* note 12 and accompanying text.

7. *See, e.g., infra* note 14 and accompanying text.

8. C. POSTES ET TÉLÉCOMM. art. L. 32-1(II).

9. *See infra* notes 14, 27-28, 35-36 and accompanying text.

2. *Telecommunications Regulatory Authority*

The ART, which came into existence on January 1, 1997,¹⁰ shares regulatory responsibility with the telecommunications minister in the areas described above.¹¹

The ART consists of five members appointed for staggered six-year terms. Three members, including the chairman, are appointed by decree. The two other members are appointed by the president of the National Assembly and the president of the Senate, respectively. The members of the ART may not be removed from office and are not eligible for reappointment.¹²

The ART is consulted on legislative and regulatory initiatives relating to telecommunications. At the request of the telecommunications minister, the ART has a role in the preparation of the French position in international negotiations on telecommunications issues and participates in the representation of France before the relevant international organizations having jurisdiction in this field.¹³ The ART has the power to adopt rules concerning the operation of networks, the provision of services, the terms and conditions of interconnection, the interoperability of networks and terminals, the portability of terminals, and the proper use of frequencies and telephone numbers. All such rules are subject to approval by the telecommunications minister.¹⁴

The ART reviews applications for licenses to be issued by the telecommunications minister. In addition, the ART delivers certificates of conformity for termi-

10. C. POSTES ET TÉLÉCOMM. art. L. 36.

11. See *supra* note 8 and accompanying text.

12. C. POSTES ET TÉLÉCOMM. art. L. 36-1. In order to provide for staggered renewals, the statute limits the term of some of the initial members to two or four years. As a result of these arrangements, one-third of the members of the ART appointed by decree will be renewed every two years. The rule on ineligibility for reappointment does not apply to members who have served for less than two years. *Id.* Jean-Michel Hubert (chairman), Yvon Le Bars, and Dominique Roux were appointed initial members of the ART by President Chirac. Decree of Jan. 4, 1997, J.O., Jan. 5, 1997, p. 224. Mr. Le Bars will serve for four years, and Mr. Roux will serve for two. Resolution of the ART of Jan. 7, 1997, J.O., Jan. 18, 1997, p. 937. Bernard Zuber and Roger Chinaud were appointed initial members of the ART by the president of the National Assembly and the president of the Senate, respectively. Decree J.O., Jan. 5, 1997, p. 245. Mr. Zuber will serve for six years, and Mr. Chinaud will serve for four. Resolution of the ART of Jan. 7, 1997. For the organization and operating procedures of the ART, see Decree No. 96-1138 of Dec. 23, 1996, J.O., Dec. 26, 1996, p. 19142; Decision No. 97-57 of Mar. 26, 1997, J.O., p. 6382 (adopting the ART's internal operating procedures (*règlement intérieur*)).

13. C. POSTES ET TÉLÉCOMM. art. L. 36-5. The DPT is responsible for representing the ministry in the international context in the areas of posts and telecommunications. Decree No. 96-1227 of Dec. 27, 1996, art. 5, J.O., Dec. 31, 1996, p. 19691 (amending Decree No. 93-1272 of Dec. 1, 1993, art. 18). The DPT's telecommunications service is responsible for defining and defending the French positions in international organizations having jurisdiction over telecommunications. In this area the DPT coordinates relations with foreign countries and participates in the negotiation of international agreements and in cooperative activities. *Id.* art. 7 (amending Decree No. 93-1272 of Dec. 1, 1993, art. 20).

14. C. POSTES ET TÉLÉCOMM. art. L. 36-6.

nal equipment and verifies carriers' compliance with applicable laws, regulations, and the terms of their license. The ART also allocates frequency and numbering resources.¹⁵ In connection with the ART's duty to verify compliance with licensing conditions, the ART can impose administrative and financial sanctions on network operators or service providers after a prior warning. Administrative sanctions include total or partial suspension, reduction of the duration, or revocation of the license. These enforcement decisions may be appealed to the State Council.¹⁶

In addition, the ART has the power to arbitrate disputes regarding interconnection. Upon the request of one of the parties, the ART sets fair interconnection or network-access conditions. The ART can order appropriate conservatory measures to ensure the continuity of the network's operation. The ART also has jurisdiction over certain disputes regarding the provision of public telecommunications services other than voice telephony through cable networks or the shared utilization by carriers of existing facilities located on public or private property. These decisions may be appealed to the Paris Court of Appeals within one month. The filing of an appeal does not result in an automatic stay of execution, although the chief judge of the Court of Appeals can order a stay of execution under certain circumstances.¹⁷

The ART may also act as a conciliator in other types of disputes between carriers. The ART notifies the Competition Council whenever a conciliation proceeding is commenced. If the subject matter of the dispute falls within the Competition Council's jurisdiction and conciliation is not possible, the ART refers the matter to the Competition Council.¹⁸ In addition, the ART can commence a proceeding before the Competition Council in cases of abuse of a dominant position or anticompetitive practices.¹⁹

15. *Id.* art L. 36-7. The ART has issued a notice on its procedures for review of applications for licenses to be issued by the telecommunications minister pursuant to Articles L. 33-1 (public networks) and L. 34-1 (public voice telephony) of the Posts and Telecommunications Code and on the allocation of specific numbering resources for providers of long-distance telephone service. *J.O.*, May 30, 1997, p. 8361.

16. C. POSTES ET TÉLÉCOMM. art. L. 36-11. *See infra* note 62 (on the State Council). Articles 17-19 of the ART's internal operating procedures set forth procedural rules relating to decisions rendered pursuant to Article L. 36-11 of the Posts and Telecommunications Code. Decision No. 97-57 of Mar. 26, 1997, at 6383-84.

17. C. POSTES ET TÉLÉCOMM. art. L. 36-8. Final appeal of the appellate court's decision is possible before the Court of Cassation, France's supreme court for civil and criminal matters. *Id.* Articles 8-15 of the ART's internal operating procedures set forth procedural rules relating to decisions rendered pursuant to Article L. 36-8 of the Posts and Telecommunications Code. Decision No. 97-57 of Mar. 26, 1997, at 6383.

18. C. POSTES ET TÉLÉCOMM. art. L. 36-9. Article 16 of the ART's internal operating procedures sets forth procedural rules relating to conciliation. Decision No. 97-57 of Mar. 26, 1997, pp. 6382-83.

19. C. POSTES ET TÉLÉCOMM. art. L. 36-10.

3. *Superior Commission for the Public Service of Posts and Telecommunications*

The Superior Commission for the Public Service of Posts and Telecommunications (SCPSPT) is responsible for the balanced evolution of the telecommunications sector. The SCPSPT looks after compliance with the principles of public service and, in particular, of universal service in the telecommunications sector. In addition to providing opinions, recommendations, and suggestions to the telecommunications minister in the areas within its jurisdiction, the SCPSPT may be consulted by the ART and by the standing committees of the National Assembly and the Senate as to questions falling within their specific jurisdiction in the area of telecommunications. The SCPSPT may also refer questions to the ART concerning the ART's jurisdiction with regard to verification and enforcement of compliance by carriers, with public service and universal service obligations resulting from applicable legislative and regulatory provisions and the licenses issued to them.²⁰

The SCPSPT reviews the ART's annual report and then prepares its own annual report, which is submitted to Parliament and to the prime minister. This report must include an assessment of the conduct of public telecommunications service, including a section specifically dealing with universal telecommunications service as well as a section on the implementation of public interest assignments.²¹

4. *Specialized Consultative Commissions*

Two specialized consultative commissions, the Consultative Commission on Radiocommunications and the Consultative Commission on Telecommunications Networks and Services, were created in 1996. These commissions include equal numbers of representatives of service providers, users, and qualified persons appointed by the telecommunications minister. The relevant consultative commission is consulted by the telecommunications minister or by the ART on any proposed measure that would define licensing procedures or determine or modify the rules relating to the services falling within its jurisdiction. The relevant consultative commission is also consulted on rules relating to interconnection and numbering. The consultative commissions' conclusions are sent to the SCPSPT.²²

20. *Id.* art. L. 32-2.

21. *Id.* See also *id.* arts. D. 96-1 to 96-24 (on the composition, attributions, and operating procedures of the SCPSPT).

22. *Id.* art. L. 34-5; see *id.* art. D. 97-1 to -3 (on the composition, attributions, and operating procedures of the specialized consultative commissions). The following were appointed members of the Consultative Commission on Radiocommunications: Michel Bertinnetto (*France Telecom*), Carol Boivin (*Association des 3 RP*), Pierre Bontemps (*Association des SCS*), Michel Combes (*Télédiffusion de France*), Roger Francey (*Fédération interprofessionnelle de la communication d'entreprise*), Philippe Germond (*Cegetel*), René Russo (*Bouygues Telecom*), André Ampelas (*Régie autonome des transports parisiens*), Philippe Balin (*Conseil national du patronat français*), Héliédo Costa-Elias (*Société des autoroutes du Nord et de l'Est de la France*), Jean-Pierre Henninot

5. National Frequency Agency

The National Frequency Agency (ANF), which came into existence on January 1, 1997, is responsible for planning, managing, and controlling the use of radio frequencies. The ANF prepares the French position and has a coordinating role in the representation of France in international negotiations in the field of radio frequencies. The ANF coordinates the installation of radio facilities of every kind in order to ensure the optimal use of available sites. For this purpose, decisions on installation may not be rendered, when they are within the jurisdiction of the CSA, until after the ANF's opinion has been sought, and in all other cases, until after the ANF has given its consent.²³

The ANF is administered by a board of directors made up of representatives of the government, the CSA and the ART, and persons chosen by reason of their expertise. The chairman of the board of directors of the ANF is appointed by decree. The chairmen of the CSA and the ART are ineligible for this office.²⁴

(*Société nationale des chemins de fer français*), Georges Lefebvre (*Association française des utilisateurs du téléphone et des télécommunications*), Jean-Victor Le Ridant (*Électricité de France*), Albert Renaudin (*Club informatique des grandes entreprises françaises*), Laurent Benzoni, Louis Brousse, Jean-Marc Chaduc, Philippe Dupuis, Étienne Fouques, Marc Houery, and Jean-Bernard Levy. Mr. Houery was appointed president of the commission. Decree (*arrêté*) of May 26, 1997, J.O., June 3, 1997, pp. 9036-37. The following were appointed members of the Consultative Commission on Telecommunications Networks and Services: Eric Debroeck (*France Telecom*), Richard Lalande (*Cegetel*), Alain Nicolazzi (*Omnicom*), Thierry Miléo (*Bouygues Telecom*), Claude Olier (*Colt Télécommunications*), Cyrille du Peloux (*Lyonnais Câble*), Didier Thibault (*Belgacom*), Alain Bernard (*Association française de la télématique*), Paul Bossu (*Association française des utilisateurs du téléphone et des télécommunications*), Alain Bravo (*Conseil national du patronat français*), Pierre-Louis Doucet (*Union des offices des transports et des PTT*), Bernard Larroutourol (*Institut national de recherche en informatique et en automatique*), Hervé Nora (*Club informatique des grandes entreprises françaises*), Henri Pascaud (*Syntec Informatique*), Jean-Jacques Bertrand, Dominique Bureau, Pierre Faurre, Philippe Gaudemer, Jean-Claude Lavenir, Bruno Oudet, and Claude Peninque. Mr. Faurre was appointed president of the commission. *Id.* at 9036.

23. C. POSTES ET TÉLÉCOMM. art. L. 97-1(I). *See id.* art. R. 52-2 to -2-14 (on the composition, attributions, and operating procedures of the ANF). "ANF" is the French acronym for *Agence nationale des fréquences*. One of the ANF's duties is to keep the national frequency band allocation table (*tableau national de répartition des bandes de fréquences*) up to date. *Id.* art. R. 52-2-1(3). *See* Decree (*arrêté*) of Dec. 24, 1996, J.O., Dec. 26, 1996, p. 19119 (attaching the current version of the table). Copies of the table may be obtained from the ANF, 78, avenue du Général de Gaulle, BP 400, 94704 Maisons Alfort CEDEX, France.

24. C. POSTES ET TÉLÉCOMM. art. L. 97-1(II). The following were appointed initial members of the board of directors of the ANF by the administration: Lucien Dat (nominated by minister of defense), Michel Guillot (nominated by minister of the interior), Jean de Gliniasty (nominated by minister of foreign affairs), Jean-Pierre Dardayrol (nominated by telecommunications minister), Jean-Luc Archambault (nominated by minister responsible for space), Christian Foillard (nominated by minister responsible for transportation), Alain Jolivet (nominated by minister responsible for research), Serge Duval (nominated by minister responsible for the budget), Jean-Charles Aubernon (nominated by minister responsible for overseas departments and territories), and Simon Barry (nominated by minister responsible for communication). Decree (*arrêté*) of Dec. 31, 1996, J.O., Jan. 10, 1997, p. 439. Philippe-Olivier Rousseau was appointed an initial member of the board of directors of the ANF by the CSA. Decision No. 96-873 of Dec. 20, 1996, J.O., Jan. 26, 1997, p. 1375. Jean-Claude Jeanneret was appointed an initial member of the board of

The director general of the ANF is appointed by decree on the advice of the chairman of the board of directors. He is responsible for the technical, administrative, and financial management of the ANF and represents the ANF in legal proceedings.²⁵

II. Specific Areas of Regulatory Interest

A. NETWORKS

Articles L. 33 to L. 33-4 of the Posts and Telecommunications Code govern the setting up of telecommunications networks. However, these provisions do not apply to state-owned facilities set up in the interests of national security or public safety or using frequencies allocated by the prime minister to an administration for its own requirements. Radio and television broadcasting facilities and cable networks are subject to the provisions of the Posts and Telecommunications Code applicable to public networks, but only if, and to the extent that, they are used to offer telecommunications services to the public.²⁶

1. Public Networks

Licenses to set up and operate public networks are issued by the telecommunications minister. A license application may be denied only to the extent necessary for the preservation of law and order, for national security or public safety reasons, for technical reasons relating to the availability of frequencies, or because the applicant lacks the technical or financial wherewithal to meet its obligations or has been penalized for noncompliance with any of various rules. The license holder must comply with a series of obligations detailed in its tariff.²⁷ Generally, licenses are issued for a term of fifteen years and are renewable. In the event that an experimental network is being set up or operated, a license is being modified, or the applicant so requests, the license can be issued for a shorter term.²⁸

Subject to international agreements signed by France that contain a reciprocity clause applicable to the telecommunications sector, licenses to set up or

directors of the ANF by the ART. Decision No. 97-2 of Jan. 14, 1997, J.O., Jan. 26, 1997, p. 1376. The following were appointed initial members of the board of directors of the ANF by reason of their expertise: Philippe Dupuis, Jean-Claude Guiguet, Pierre Huet, Jean-Claude Husson (chairman and chief executive officer of Alcatel Espace), Jean-Bernard Levy (chairman and chief executive officer of Matra Communication), and Daniel Sauvet-Goichon. Decree of Jan. 10, 1997, J.O., Jan. 11, 1997, p. 521. Jean-Claude Guiguet was appointed chairman of the board of directors of the ANF by President Chirac. *Id.*

25. C. POSTES ET TÉLÉCOMM. art. L. 97-1(III). Jean-Marc Chaduc was appointed initial director general of the ANF by President Chirac. Decree of Jan. 13, 1997, J.O., Jan. 14, 1997, p. 653.

26. C. POSTES ET TÉLÉCOMM. art. L. 33. *See supra* note 2 and accompanying text (on jurisdiction of CSA).

27. A tariff (*cahier des charges*) is a compilation of rates, rules and regulations applicable to service.

28. C. POSTES ET TÉLÉCOMM. art. L. 33-1(I).

operate networks using radio frequencies may not be issued to companies in which more than 20 percent of the share capital or the voting rights is held, directly or indirectly, by "foreign persons" (defined as natural persons of foreign nationality or legal entities a majority of whose capital is not held, directly or indirectly, by natural or legal persons of French nationality). Likewise, foreign persons may not make any acquisition that would directly or indirectly increase the share held by foreign persons to more than 20 percent of the share capital or shareholders' voting rights of a company holding such a license. These provisions do not, of course, apply to natural persons that are nationals of, or legal entities organized in, European Union or European Economic Area member states.²⁹

2. Independent Networks

The ART issues licenses to set up independent networks other than those for which no license is required.³⁰ A license application may be denied only by reason of the applicant's failure to conform to one of the general conditions governing the setting up of independent networks defined in a decree³¹ or by the ART, pursuant to its rule-making authority.³² Generally, the ART must render its decision within two months after the application is filed. If the ART fails to render its decision, the license is deemed granted.³³ Finally, an independent network operator may not operate its network as a public network without first obtaining a license from the telecommunications minister.³⁴

B. PUBLIC TELECOMMUNICATIONS SERVICES

Public voice telephony licenses are issued by the telecommunications minister. A license application may be denied only to the extent necessary for the preservation of law and order, for national security or public safety reasons, or because the applicant lacks the technical or financial wherewithal to meet its obligations or has been penalized for noncompliance with any of various rules. The license

29. *Id.* art. L. 33-1(III).

30. *Id.* art. L. 33-2. "'Independent network' means a telecommunications network reserved for private or shared use." *Id.* art. L. 32(4) (translation by author). The independent networks for which no license is required are internal networks; telephone booths other than on the public way; local independent networks, other than radio networks, less than 1,000 meters in length; certain categories of low-power, short-range radio facilities; and radio facilities not using frequencies specifically assigned to their user. *Id.* art. L. 33-3; Decree (*arrêté*) of Dec. 19, 1996, J.O., Dec. 29, 1996, p. 19453.

31. Decree No. 96-1176 of Dec. 27, 1996, J.O., Dec. 29, 1996, p. 19442.

32. See C. POSTES ET TÉLÉCOMM. art. L. 36-6.

33. Issuance of a license relating to a network using frequencies assigned to the carrier requires an express decision by the ART and is subject to compliance with a tariff relating to the use of allocated frequencies and the fees payable for such use, as well as for the costs of managing and monitoring them and specifying the obligations incumbent on the license holder. *Id.* art. L. 33-2. See Decree No. 96-1176 of Dec. 27, 1996.

34. C. POSTES ET TÉLÉCOMM. art. L. 33-2.

holder is required to comply with a series of obligations detailed in its tariff. When the provision of a service presupposes the setting up of a public network, the network license also covers the provision of the service, and a separate license need not be obtained.³⁵

When the provision of telecommunications services to the public using electromagnetic frequencies presupposes the setting up of a new network or the modification of a licensed network, all of the rules regarding public networks apply. When such services are provided through a network using frequencies assigned by an authority other than one having jurisdiction over telecommunications, a public network license must be obtained.³⁶

The provision of telecommunications services other than voice telephony to the public over cable networks requires a prior declaration to the ART. The sole purpose of this filing is to enable the ART to verify the nature of the service provided and the facilities used.³⁷ Except as noted above, the provision of public telecommunications services other than voice telephony is unrestricted.³⁸

Alternative telecommunications infrastructures, such as those belonging to utilities, may also be used to set up and operate public networks and to provide all types of public telecommunications services.³⁹

C. INTERCONNECTION AND NETWORK ACCESS

1. *General Rules*

Public network operators must grant requests for interconnection from other public network operators and from public voice telephony providers on objective, transparent, and nondiscriminatory terms and conditions and may not deny any request for interconnection that is reasonable in light of the applicant's requirements, on the one hand, and the carrier's ability to satisfy them, on the other. The parties sign an agreement setting forth the technical and financial terms of the interconnection. A copy of the interconnection agreement is sent to the ART, which has the power to request indispensable changes to ensure the equality of competitive conditions or the interoperability of services.⁴⁰

35. *Id.* art. L. 34-1.

36. *Id.* art. L. 34-3.

37. *Id.* art. L. 34-4.

38. *Id.* art. L. 34-2.

39. *Id.* art. L. 34-7.

40. *Id.* art. L. 34-8(I). For the general conditions and the rate principles with which all interconnection agreements must comply, *see id.* art. D. 99-6 to -10 (added by Decree No. 97-188 of Mar. 3, 1997, art. 1, J.O., Mar. 4, 1997, pp. 3439-40). Interconnection agreements must designate the interconnection points and describe the physical means of interconnection. *Id.* art. D. 99-9. The price terms of interconnection agreements must not have the result of unduly imposing excessive charges on carriers requesting interconnection, and the carrier providing interconnection must be able to justify such terms at the request of the ART. *Id.* art. D. 99-10.

2. Rules for Carriers with Significant Market Share

Special rules apply to public network operators that the ART has listed as enjoying a substantial share of the market.⁴¹ These carriers are required to publish a catalogue setting forth the technical and pricing terms of their interconnection offering, approved in advance by the ART.⁴²

Interconnection rates are to be charged for the actual use of the network and must reflect the corresponding costs.⁴³ These carriers must be in a position to demonstrate that their interconnection rates do, in fact, reflect such costs.⁴⁴ Costs specific to interconnection services are allocated entirely to such services, and costs specific to the carrier's other services are not taken into account for the purpose of computing the costs of interconnection services. Costs properly attributable to both interconnection services and other services are appropriately allocated to both.⁴⁵

Public network operators with a substantial share of the market must also provide access to their network, on objective, transparent, and nondiscriminatory terms and conditions, to users and suppliers of telecommunications services other

41. *Id.* arts. L. 34-8(II), D. 99-11 to -22. One of the ART duties is to draw up an annual list of carriers considered to have a significant influence in a relevant telecommunications market. A carrier is presumed to have a significant influence in a relevant market if its share of the market exceeds 25%. The ART's decision whether to include a given carrier on the list is based on a number of factors. *Id.* art. L. 36-7(7).

42. *Id.* arts. L. 34-8(II), D. 99-11. These terms must be sufficiently detailed. In particular, the price terms must be adequately broken down to demonstrate that the requesting carrier will be charged only for the use of the network elements strictly linked to the service requested. *Id.* art. D. 99-15. The catalogue must include a description of all of the physical interconnection points and the conditions for access thereto when the requesting carrier is supplying the interconnection link. *Id.* art. D. 99-16.

43. *Id.* arts. L. 34-8(II), D. 99-11.

44. *Id.* art. D. 99-17. The costs taken into account must be relevant, *i.e.*, causally linked, directly or indirectly, to the interconnection service being rendered. *Id.* art. D. 99-17(1). The costs must tend to increase long-term economic efficiency, *i.e.*, the relevant costs must take into account investments made for the improvement of the network. *Id.* art. D. 99-17(2). Rates charged include an equitable and proportional contribution to the costs that are common to interconnection services and other services. *Id.* art. D. 99-17(3). Rates charged include a normal return on the capital investment, the rate of which is set by the ART taking into account the average weighted capital cost of the carrier and of the cost that would be borne by an investor in telecommunications networks in France. *Id.* art. D. 99-17(4), -22. In its decision approving France Telecom's interconnection offering, the ART set this rate of return at 11.75%. Decision No. 97-88 of Apr. 9, 1997, art. 1, J.O., May 10, 1997, pp. 7121, 7124. Different rates may be charged according to the time of day to take account of the congestion of the transmission and switching capacity of the carrier's general network. C. POSTES ET TÉLÉCOMM. art. D. 99-17(5). The unitary rates applicable for an interconnection service are independent of the volume or the capacity of the elements of the carrier's general network utilized by the service. *Id.* art. D. 99-17(6). Billing units must correspond to the needs of the interconnected carriers. *Id.* art. D. 99-17(7).

45. *Id.* art. D. 99-18. In particular, access costs (local loop) and commercial costs (advertising, marketing, sales, sales administration unrelated to interconnection billing, and collection unrelated to interconnection) are not taken into account. General network costs are split between interconnection services and other services on the basis of the actual use of the general network by each of such services. *Id.*

than public voice telephony as well as to audiovisual communication services for which a prior declaration is required. These public network operators must also grant justified requests from such service providers and users for special access corresponding to unpublished technical and pricing conditions.⁴⁶

It is interesting to note that France Telecom recently filed a petition with the State Council challenging certain provisions of the government's interconnection decree of March 3, 1997. According to France Telecom, the statute did not contemplate that the decree would set forth requirements as to the content of the interconnection catalogue of carriers with significant market share but instead left this task to the ART. In addition, France Telecom takes the position that the statute requires only that interconnection prices be based on the network elements that are used. France Telecom argues that the decree has gone further by requiring that interconnection rates be cost-oriented, thereby necessitating a new method of calculation based on long-term incremental costs.⁴⁷

D. TERMINAL EQUIPMENT

The manufacture and sale of terminal equipment are generally unrestricted, although equipment intended for connection to a public network and radio facilities must be tested for conformity with the essential requirements.⁴⁸ The equipment testing laboratories are designated in such a way as to provide the industrial companies concerned with a choice preserving their independence relative to companies offering goods and services in the field of telecommunications. Equipment subject to the testing requirement may not be manufactured for the European Economic Area, imported from countries outside the European Economic Area, held with a view to their sale, offered for sale, distributed free of charge or for consideration, connected to a public network, or advertised unless a certificate of conformity has been issued in respect thereof and the equipment is in compliance therewith at all times.⁴⁹

46. *Id.* art. L. 34-8(II). The provision of certain audiovisual communication services requires a prior declaration to the CSA and/or the state prosecutor, depending on the service involved. Law No. 86-1067 of Sept. 30, 1986, art. 43, C.L., Aug. 27-Sept. 30, 1986, p. 19.

47. Gadault, *L'Opérateur Public Lance Une Offensive Contre l'Interconnexion*, LA TRIB., July 9, 1997, at 10. See *infra* note 62 (on the State Council).

48. "Essential requirements" mean the requirements necessary to guarantee, in the public interest, the safety of users and of employees of telecommunications network operators, the protection of networks, the associated exchanges of control and management information, as well as, where applicable, the proper use of the radio spectrum and, when justified, the interoperability of services and of terminal equipment, the protection of data, the protection of the environment and the taking into account of the constraints of urban planning and national and regional development.

C. POSTES ET TÉLÉCOMM. art. L. 32(12) (translation by author).

49. *Id.* art. L. 34-9. See Decree No. 97-328 of Apr. 9, 1997, J.O., Apr. 11, 1997, p. 5526 (on the ART's powers pursuant to Article L. 34-9 of the Posts and Telecommunications Code); Decision No. 97-152 of June 11, 1997, J.O., July 10, 1997, p. 10483 (designating Cetecom SARL as a

E. NUMBERING

A national numbering plan, to be set up by the ART and managed under its supervision, is supposed to ensure equal and simple access for users to the various telecommunications networks and services and the equivalence of numbering formats. The ART is responsible for allocating prefixes (*i.e.*, access codes), numbers, and number ranges to carriers in an objective, transparent, and nondiscriminatory manner, in return for a fee to cover the costs of managing the numbering plan and controlling its use.⁵⁰ The carrier's tariff or the allocation decision specifies how these prefixes, numbers, and number ranges are used. The ART is supposed to ensure that the numbers allocated are properly used. Prefixes, numbers, and number ranges may not be protected by industrial or intellectual property rights. Also, prefixes, numbers, and number ranges are not assignable and may not be transferred without the prior consent of the ART.⁵¹

Beginning on January 1, 1998, any subscriber who does not change his geographical location may retain his number in the event of a change of carrier, subject to the limitations of available technologies. Until December 31, 2000, the cost of the transfer of calls by the initial carrier will be borne by the new carrier, which alone may then bill the subscriber therefor, and no other fee of any kind may be billed to the subscriber in this respect by the initial carrier. Carriers are required to include the necessary provisions in interconnection agreements. These rules do not apply to numbers allocated to radio networks when they are used to provide mobile services.⁵²

Beginning on January 1, 2001, any user may, upon request, retain his telephone number if he changes carriers without changing his geographical location or obtain from the carrier to which he subscribes a number allowing him to change his geographical location or change carriers while retaining this number. Beginning on the same date, carriers will be required to include the necessary provisions in interconnection agreements and make corresponding offers to users, the terms of which must be approved in advance by the ART.⁵³

Any public network subscriber may request that his subscriber number not be identifiable by the person called, except for reasons linked to emergency services or the tranquillity of the person called.⁵⁴

telecommunications terminal equipment testing laboratory); Decision No. 97-43 of Mar. 19, 1997, J.O., Apr. 25, 1997, p. 6325 (designating Emitech as a telecommunications terminal equipment testing laboratory).

50. For details on the amount of the fee, see Decree No. 96-1224 of Dec. 27, 1996, J.O., Dec. 31, 1996, p. 19685; Decree (*arrêté*) of Dec. 27, 1996, J.O., Dec. 31, 1996, at p. 19692.

51. C. POSTES ET TÉLÉCOMM. art. L. 34-10.

52. *Id.*

53. *Id.*

54. *Id.*

F. ENCRYPTION

The French law on encryption was modified in 1996 by the same legislation that amended the Posts and Telecommunications Code.⁵⁵ The statute recognizes not only the need for data protection and secure communications and transactions but also the primacy of the state's interest in national defense and internal and external security.⁵⁶

Under current law, the use of an encryption device or service⁵⁷ is unrestricted if the encryption device or service (a) does not ensure confidentiality, in particular when its only purpose is to authenticate a communication or to ensure the integrity of the message sent; or (b) ensures confidentiality but only uses secret keys managed under procedures and by a body approved under the conditions set forth in the statute. In all other cases, the use of an encryption device or service requires the prior authorization of the prime minister.⁵⁸

Encryption devices and services that ensure confidentiality may not be supplied, imported from countries outside the European Union, or exported without the prior authorization of the prime minister. To obtain such authorization, the supplier may be required to reveal the identity of the purchaser. These transactions are subject to prior declaration to the prime minister in all other cases.⁵⁹

The statute says that an implementing decree will determine the conditions under which the authorizations are granted and the declarations are made. Also, an implementing decree will provide for: (a) a simplified declaration or authorization regime for certain types of devices or services or for certain categories of users; (b) declaration instead of authorization for transactions involving encryption devices whose technical characteristics or conditions of use do not require prior authorization, although they do justify special supervision in light of the state's above-mentioned interest in national security; (c) waiver of all prior formalities for transactions involving encryption devices and services whose technical characteristics or conditions of use are such that these transactions are unlikely to have a negative effect on national security; and (d) time limits for responses to applications for authorization.⁶⁰

55. Law No. 96-659 of July 26, 1996, art. 17, J.O., July 27, 1996, pp. 11384, 11395 (amending Law No. 90-1170 of Dec. 29, 1990, art. 28).

56. *Id.* art. 17(I)(2) (amending Law No. 90-1170 of Dec. 29, 1990, art. 28(I)).

57. "'Encryption services' mean any services designed to transform clear information or signals, using secret keys, into information or signals that are unintelligible to third parties, or to do the reverse, by means of devices, equipment or software designed for this purpose." Law No. 90-1170 of Dec. 29, 1990, art. 28(I), C.L., Dec. 19-31, 1990, p. 5 (translation by author). "'Encryption device' means equipment or software designed or modified for this purpose." Law No. 96-659 of July 26, 1996, art. 17(I)(1), J.O., July 27, 1996, pp. 11384, 11395 (amending Law No. 90-1170 of Dec. 29, 1990, art. 28(I)) (translation by author).

58. Law No. 96-659 of July 26, 1996, art. 17(I)(2), J.O., July 27, 1996, pp. 11384, 11395 (amending Law No. 90-1170 of Dec. 29, 1990, art. 28(I)(1)).

59. *Id.* (amending Law No. 90-1170 of Dec. 29, 1990, art. 28(I)(2)).

60. *Id.* (amending Law No. 90-1170 of Dec. 29, 1990, art. 28(I)(3)).

The third-party bodies responsible for managing secret keys for encryption devices and services that ensure confidentiality must be approved in advance by the prime minister. These third-party bodies are bound by professional secrecy in the exercise of their approved activities, which must be carried on in France. The approval specifies the devices and services that they may use or supply. These bodies are required to keep the secret keys that they manage. They also can be required to disclose the secret keys to law enforcement authorities or to demonstrate to them how they work.⁶¹

The statute says that a State Council decree will determine the procedures under which these bodies are approved as well as the conditions to which the approval is made subject.⁶²

III. Public Service Obligations

A. UNIVERSAL SERVICE

1. *Definition and Content*

The Posts and Telecommunications Code provides that everyone is entitled to universal telecommunications service, which it defines as a quality telephone service at an affordable price. Universal service includes the routing of telephone calls to and from subscription points, the free routing of emergency calls, the provision of a telephone directory in printed and electronic form and an information (*i.e.*, directory assistance) service, and the provision of telephone booths installed on public property throughout the national territory.⁶³

Universal service must take account of the special difficulties, both financial and technical, encountered in access to telephone service by certain categories of users, such as those with disabilities or low or fixed incomes. For example, users involved in bankruptcy, debt-rescheduling, or similar proceedings who are unable to pay their phone bill are entitled to continue to receive a limited service, for one year, enabling them to receive calls and place calls to toll-free and emergency services.⁶⁴ Any person may request a telephone subscription from a carrier responsible for universal service. Landlords may not object to a telephone installation requested by bona fide tenants or occupants.⁶⁵

2. *Responsibility*

After stating the general principle that any carrier may be given the responsibility of providing universal service if it agrees to provide it throughout France and

61. *Id.* art. 17(II) (amending Law No. 90-1170 of Dec. 29, 1990, art. 28(II)).

62. *Id.* The State Council, which serves both as an adviser to the government and as the supreme administrative court, must be consulted prior to the government issuance of certain types of decrees, known as State Council decrees.

63. C. POSTES ET TÉLÉCOMM. art. L. 35-1. The notions of "quality" telephone service and "affordable price" are not defined.

64. *Id.*

65. *Id.*

is capable of doing so, the Posts and Telecommunications Code designates France Telecom as the public carrier responsible for universal service. The tariff of a carrier responsible for providing universal service is drawn up after consultation with the SCPSPT and the tariff sets forth the general conditions for the provision of this service, including, in particular, the necessary provisions regarding pricing to ensure access to universal service to people of all walks of life and to avoid discrimination based on geographical location. The tariff also determines the conditions under which the rates for universal service and the quality thereof are verified.⁶⁶

The routing of emergency calls free of charge is compulsory for all public voice telephony providers.⁶⁷

3. *Financing*

The costs attributable to universal service obligations will be assessed on the basis of an appropriate accounting maintained by the carriers and audited, at their expense, by an independent body designated by the ART. These costs are to be financed by public network operators and public voice telephony providers.⁶⁸

The net cost of rate equalization obligations is financed by a fee paid to the carrier responsible for universal service in addition to the interconnection fee. The fee is computed in proportion to the share of total telephone traffic of the carrier requesting interconnection. The amount of the fee is proposed by the ART and certified by the telecommunications minister.⁶⁹

In order to encourage the development of mobile communications and the reduction of rates for users, mobile communications carriers, whose tariff imposes national coverage obligations, are exempt from the portion of the additional fee corresponding to the imbalance resulting from the current telephone rate structure. In return for this exemption, such carriers must agree to contribute, beginning on January 1, 2001, to the coverage, by at least one mobile telephone service, of main roads, highways, and rural areas not covered by such a service. Carriers that have not agreed to these commitments by October 1, 1997, will be denied the benefit of the exemption by the telecommunications minister, on the advice of the ART.⁷⁰

A universal service fund has been created to finance the net costs of: (a) the offering of special rates for certain categories of subscribers in order to ensure that the service is accessible to them; (b) the provision of public pay phones throughout France; (c) the universal directory; and (d) the corresponding information service. The share of the net costs payable by each carrier is computed in

66. *Id.* art. L. 35-2(I).

67. *Id.* art. L. 35-2(II).

68. *Id.* art. L. 35-3(I)-(II).

69. *Id.* art. L. 35-3(II)(1).

70. *Id.*

proportion to its traffic volume. If a carrier agrees to extend the offering of special rates for certain categories of subscribers in order to ensure that the service is accessible to them under the conditions set forth in its tariff, the net cost of this offering is deducted from its contribution. The amount of the net contributions that carriers pay or receive is certified by the telecommunications minister, on the advice of the ART. In the event of nonpayment by a carrier, the ART may impose penalties, including revocation of the carrier's license.⁷¹

The imbalance resulting from the present telephone rate structure will be gradually reduced before December 31, 2000, within the context of overall reductions in rates for all categories of users. When the imbalance has been reduced, and in any event not later than December 31, 2000, the additional fee referred to above will no longer be payable, and the net cost of the geographic equalization will be financed by the universal service fund. The transition to this new financing regime will be decided by the telecommunications minister, with the advice of the ART and the SCPSPT.⁷²

A State Council decree⁷³ has been issued on the financing of universal service. The decree deals with the methods for evaluating, offsetting, and sharing the net costs of universal service as well as the terms and conditions of management of the universal service fund.⁷⁴ The Posts and Telecommunications Code provides that the methods for evaluating, offsetting, and sharing the net costs tied to universal service obligations will be published at least one year before they are implemented.⁷⁵

4. *Directories*

A universal directory, in both printed and electronic form, and a universal information service are made available to the public. Subject to the protection of rights of privacy, these directories provide access to the names, telephone numbers, and addresses of all public network subscribers, as well as a reference to their trade or business, if desired. A body legally distinct from the companies offering telecommunications goods and services creates and updates the list required for publication of universal directories and the provision of universal information services and makes it available to carriers and service providers. Carriers are required to provide their lists of subscribers for this purpose. This body is required to provide the consolidated list, under identical conditions, to all those who request it, subject to rights of privacy, in return for a cost-based fee. This body may not publish a subscriber directory. France Telecom publishes a universal directory in printed and electronic form.⁷⁶

71. *Id.* art. L. 35-3(II)(2).

72. *Id.* art. L. 35-3(II)(3).

73. *See supra* note 62.

74. Decree No. 97-475 of May 13, 1997, J.O., May 14, 1997, p. 7248.

75. C. POSTES ET TÉLÉCOMM. art. L. 35-3(III).

76. *Id.* art. L. 35-4.

The Posts and Telecommunications Code provides that a State Council decree,⁷⁷ issued with the advice of the SCPSPT, will determine how the rules on the universal service directory and the universal information service are applied. The decree will indicate how and on what basis the body will be designated by the telecommunications minister; it will specify the duties entrusted to this body and the means by which the confidentiality of data will be ensured, in particular with regard to the commercial interests of carriers and the protection of rights of privacy.⁷⁸

B. MANDATORY SERVICES

Mandatory services include an offering, throughout France, of access to the integrated services digital network, leased lines, packet switching, enhanced voice telephony services, and telex service. The tariff of a carrier responsible for universal service will determine which of the mandatory services it is required to provide and the terms and conditions on which it must provide them. France Telecom provides all the mandatory services.⁷⁹

C. PUBLIC INTEREST ASSIGNMENTS

Public network operators and public voice telephony providers can be required to provide certain services at the request of the state in furtherance of the interests of defense and public safety for which they are entitled to just remuneration, all as determined by their tariff.⁸⁰

Higher education in the field of telecommunications is the responsibility of the state, under the supervision of the telecommunications minister. Such education is to be paid for by the state beginning with the 1997 budget, under the conditions set forth in appropriations legislation.⁸¹

Public research and development assignments in the field of telecommunications are carried out by or on behalf of the state under contracts setting forth the programs and specifying the means of implementation and financing thereof.⁸²

IV. Conclusion

How the legislative reforms enacted in 1996 will be implemented remains to be seen. Some of the implementing decrees have yet to be issued, and the

77. See *supra* note 62.

78. C. POSTES ET TÉLÉCOMM. art. L. 35-4.

79. *Id.* art. 35-5. For France Telecom's tariff, see Decree No. 96-1225 of Dec. 27, 1996, J.O., Dec. 31, 1996, p. 19685.

80. C. POSTES ET TÉLÉCOMM. art. L. 35-6.

81. See Decree No. 96-1177 of Dec. 27, 1996, J.O., Dec. 29, 1996, p. 19442; Decree (*arrêté*) of Dec. 31, 1996, J.O., Jan. 10, 1997, p. 433; Decree (*arrêté*) of Dec. 31, 1996, J.O., Jan. 10, 1997, p. 432; Decree (*arrêté*) of Dec. 30, 1996, J.O., Dec. 31, 1996, p. 19692; Decree (*arrêté*) of Dec. 30, 1996, J.O., Dec. 31, 1996, p. 19693.

82. C. POSTES ET TÉLÉCOMM. art. L. 35-6.

January 1, 1998, European Union liberalization deadline is still a month away. As to the separation of regulation and operation, it is probably best to judge the regulatory behavior of the telecommunications minister and the ART over time.

The government's intentions as to the privatization of France Telecom should become clearer in the near future. While current law provides for only partial privatization,⁸³ it may be hoped that all of France Telecom's stock will eventually be transferred to the private sector. Full privatization would certainly give greater legitimacy to the telecommunications minister and the ART as independent regulators.

Another development to watch for over the next several months is a possible modification of the relationship between the ART and the CSA.⁸⁴ Given the increasing overlap between telecommunications and radio and television broadcasting and cable service, it would appear sensible for a single independent regulator to have jurisdiction over all of these areas.

83. See *supra* note 4 and accompanying text.

84. See Herbert Maisl, *La Nouvelle Réglementation des Télécommunications*, 1996 L'ACTUALITÉ JURIDIQUE—DROIT ADMINISTRATIF 762, 765.

