

The Paris office of Hogan Lovells LLP is pleased to provide this English language edition of our monthly e-newsletter, which offers a legal and regulatory update covering France and Europe for November 2010.

Please note that French legal concepts are translated into English for information only and not as legal advice. The concepts expressed in English may not exactly reflect or correspond to similar concepts existing under the laws of the jurisdictions of the readers.

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#### Summary of miscellaneous French draft legislation

- **Finance bill for 2011, n°2824, filed on 29 September 2010** - adopted on first reading by the *Assemblée nationale* on 17 November 2010
- **Bill on Social Security Financing for 2011, n°2854**, filed on 13 October 2010 - adopted in *Commission Mixte Paritaire* on 25 November 2010 - awaiting enactment
- **Bill to maintain and create jobs** - adopted on first reading by the *Assemblée nationale* on 9 June 2009
- **Bill to reform representation before the courts of appeal** - filed on 3 June 2009 - adopted on second reading by the *Assemblée nationale* on 13 October 2010
- **Bill aiming for greater transparency and fairness in remuneration policies for business managers and market operators** - filed on 2 September 2009 - adopted on first reading by the *Assemblée Nationale* on 20 October 2009
- **Bill aiming to reinforce consumer protection in distance selling**, n°1940 - filed on 29 September 2009 - adopted on first reading by the *Assemblée Nationale* on 20 January 2010.
- **Bill relating to equal representation of woman and men on boards of directors and supervisory boards and to professional equality**, n°2140, filed on 3 December 2009 - adopted on first reading on 27 October 2010
- **Bill to reorganise the electricity market**, n°2451, filed on 14 April 2010 - adopted definitively on 24 November 2010 - awaiting enactment
- **Bill to modernise the regulated judicial and legal professions**, n°2383, filed on 17 March 2010 - adopted on first reading by the *Assemblée Nationale* on 30 June 2010
- **Bill on commercial planning**, n° 2490, filed on 3 May 2010 - adopted on first reading by the *Assemblée Nationale* on 15 June 2010

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## Enacted laws

- **Law n°2010-1330 of 9 November 2010 reforming retirement** - OJ of 10 November 2010
- **Organic law n°2010-1380 of 13 November 2010 on managing the social security deficit** - OJ of 16 November 2010

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## 1. Banking

### France - Status for intermediaries in banking operations (IOB)

Law n°2010-1249 relating to banking and financial regulation dated 22 October 2010 (OJ dated 23 October 2010) creates a new status for intermediaries in banking operations (IOB), financial investment advisors and related agents and now requires them to be registered (please refer to the Legal and regulatory update - October 2010 (Insurance section)).

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## 2. Capital Markets

### France - Net short positions in equities

The AMF has amended its General Regulations to create a new transparency regime for net short positions in equities of any of the companies included in a list published on the AMF's website and traded on a French regulated market or organised multilateral trading facility.

According to new article 223-37 and the implementing instruction 2010-08, any holder of a net short position that reaches, by increase or decrease, any of the thresholds mentioned in article 223-37 must report this position to the AMF. The AMF will also publish on its website reported net short positions equal to or greater than 0.5% of the share capital.

The measures taken by the AMF on 19 September 2008 to prohibit short selling of specified financial stocks will cease to apply on 1 February 2011.

### France - Communication by issuers on their financial indicators

Following a study of the communication by issuers of their 2009 annual results, the AMF has published a Recommendation on the communication by companies of their financial indicators, describing the general principles for issuers to comply with and best practice in relation to financial communication.

The AMF highlights more specifically the description of liquidity (net debt and cash flows), the use of Earnings Before Interest and Taxes (EBIT) on ordinary activities (*Résultat Opérationnel Courant*) and communication about groupings of businesses.

### France - Key investor information document

Because the UCITS IV Directive requires the issue of a key investor information document for investors (short document describing the essential characteristics for investors so that they are reasonably able to take investment decisions) instead of a simplified prospectus, the AMF has published a guide in order to answer the potential questions management companies may have in this respect.

The key investor information document will apply to all UCITS funds set up as from 1 July 2011. UCITS funds already created will have until 1 July 2012 to comply with this requirement.

### France - Sukuk prospectuses and approval procedures

The AMF has published its position n°2010-06 dated 27 October 2010 on preparation of sukuk (ie Sharia-compliant bond) prospectuses and approval procedures and has updated the relevant guide on the subject.

The AMF position sets out the required content of a sukuk prospectus and reminds issuers that the AMF is not competent to ascertain the compatibility of a sukuk issue with Sharia principles. It is for issuers, with the assistance of their counsel, to include in the prospectus the relevant information to enable the investors to establish the advisability of investing in such sukuk instruments.

## **France - Banking and financing regulation**

Law n°2010-1249 dated 22 October 2010 on banking and financing regulation has been published. It enhances the sentencing powers of the AMF, creates the French *Autorité de contrôle prudentiel* as a single entity for the control and supervision of the banking and insurance sectors, increases regulation of derivative instruments and short-selling, and strengthens the duties of professionals in the financial services sector towards their clients.

## **France - Marketing of complex financial instruments**

The AMF has published its position n°2010-05 dated 15 October 2010 on marketing of complex financial instruments.

The AMF position (i) underlines the responsibility of investment services providers, financial investment advisers, and direct marketers of banking and financial services with regard to the information provided to retail investors about structured funds and complex debt securities (notably complex EMTNs) and (ii) reminds them of the objective criteria as to the risk of misselling with regard to complex financial instruments.

## **France - AMF's position on preparation of bond prospectuses and approval procedures**

The AMF has published its position n°2010-04 dated 15 October 2010 on preparation of bond prospectuses and approval procedures and has updated the relevant guide on the subject.

The AMF position sets out in what way a base prospectus differs from a standalone prospectus as well as the regulatory timeline for reviewing and approving a prospectus.

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## **3. Competition**

### **France - Online gaming**

Decree n°2010-1289 of 27 October 2010 for the application of Law n°2010-476 of 12 May 2010 on the liberalisation and regulation of the online gaming sector was published in the O.J. of 29 October 2010. It clarifies the concept of indirect control as mentioned in Article 15 of the Law for companies seeking approval as online gaming operators. Such companies must submit a presentation of all natural or legal persons directly or indirectly controlling them.

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## **4. Corporate**

### **France - Regime of public offerings**

Bill n°2010-1249 of 22 October 2010 on banking and financial regulation made significant changes to the rules for public offerings, especially concerning the notion of "action in concert", the regime for mandatory offers and abolition of the guaranteed price.

While the categories of agreements constituting an "action in concert" remain unchanged, an "action in concert" may now be deemed to exist in two situations rather than just one: where its purpose is to implement the company's commercial policy or where the aim is rather to serve the interests of the persons acting "in concert".

### **France - Rules for disclosure for temporary holdings of shares before shareholders' meetings**

Law n°2010-1249 of 22 October 2010 on banking and financial regulation (please refer to the Legal and regulatory update - October 2010 (Corporate section)) has introduced a new article L.225-126 to the French Commercial Code requiring any person who, pursuant to a temporary sale agreement, holds listed shares representing more than 2% of the voting rights of the issuer, to disclose to the issuer and the AMF the number of securities temporarily held.

Disclosure must include the number of shares temporarily held, the identity of the seller, the date and term of the agreement governing the transaction, as well as any voting arrangement. This information must be disclosed to the company at the latest by the third business day preceding

the shareholders' meeting. Failing such disclosure, temporarily held shares are automatically deprived of their voting rights and decisions taken by the shareholders' meeting in breach of these rules may be declared void in Court.

This new requirement entered into force on 24 October 2010.

### **France - Equality of women and men on corporate boards**

The Bill on balanced representation of women and men on corporate boards was passed by the Senate on 27 October 2010 (please refer to the Legal and regulatory update - January 2010 (Corporate section)).

The Bill aims to ensure that each gender represents at least 40% of the members of boards within six years of its enactment. The Bill, initially restricted to listed companies, has been extended to companies with more than five hundred employees and a turnover or balance sheet total of more than fifty million euros.

Appointments made in breach of these quotas will be void but will not invalidate decisions in which an illegally appointed director has participated

### **France - Tax on stock options**

The social security financing Bill for 2011 increases tax on stock options, from 10% to 14% for employers, and from 2.5% to 8% for employees. The Bill is expected to be published in December 2010 (please refer to the Employment section).

### **France - New regulation of short selling**

An AMF Order (n°2010-08) of 9 November 2010 on the disclosure of short selling positions introduces a new transparency rule for short selling positions (please refer to the Capital Markets section).

### **France - Communication by companies of their financial indicators**

The AMF published on 18 November 2010 a recommendation on companies' communication of their financial indicators (please refer to the Capital Markets section).

### **France - Key investor information document (KIID)**

The AMF published on 16 November 2010 a guide to answer questions asset management companies might have about the switch from the simplified prospectus to the key investor information document (please refer to the Capital Markets section).

### **France - Insider misconduct by senior executives of listed companies.**

The AMF published on 3 November 2010 a Guide to preventing insider misconduct by senior executives of listed companies.

It develops proposals for preventing insider misconduct and regulating more effectively the way that senior executives manage their companies' securities. It reiterates key ethical principles, and recommends that companies establish "closed" periods during which trading is prohibited, enshrine obligations in the conduct of business rules or rules of procedure, and appoint a compliance officer.

The guide also suggests that directors arrange with an independent agent to manage their shares or stock-options, through the use of programmed trading mandates, which will allow persons with managerial responsibilities to benefit from a rebuttable presumption that they have not engaged in insider dealing, unless there is positive proof that the rules of the mandate have been breached.

### **France - Islamic Finance: publication of an AMF guide to creating a sukuk prospectus**

The AMF announced on 27 October 2010 the publication of a guide explaining how to create a sukuk prospectus and obtain a visa. The guide takes the form of questions and answers (please refer to the Capital Markets section).

### **European law - Cross-border transfer of the registered office of companies**

The Paris Chamber of Commerce and the "*club des juristes*" presented on 5 November 2010 a draft directive to establish a European procedure for cross-border transfer of companies' registered offices.

The draft directive would entail the creation of a European register of companies. However, national requirements that were stricter than the directive would still apply, on the basis of the subsidiarity principle. A harmonized procedure at the European level would provide an adequate level of protection for creditors, minority shareholders and employees.

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## 5. Employment

### France - Pension reform

Law n° 2010-1330 on pension reform, adopted by French Parliament on 27 October 2010, has been validated by the *Conseil Constitutionnel* (Court which examines the conformity of legislation with the French constitution) except for the articles on reform of work-place doctors. The law was enacted by the French President and published in the OJ on 10 November 2010.

### France - Bill on the Financing of the French Social Security system for 2011

The Bill on the Financing of the French Social Security system for 2011, which was adopted by French Parliament on 25 November 2010, provides for the following measures:

- Supplementary retirement schemes: employers opting to pay social security contributions at the time of payment of the supplementary pension will now pay social security contributions on the whole of the pension paid. Furthermore, a social security contribution for employees has been created on supplementary pensions. Pensions will be taxed at 14% if they exceed 600 Euros per month and 7% if they are between 400 and 600 Euros per month, but will be exempt if under 400 Euros per month.
- Stock options: Employers' social security contributions on stock options and free shares will increase from 10% to 14% and employees' social security contributions will increase from 2.5% to 8%, but only for amounts greater than half the annual French social security ceiling (i.e.: greater than 17,676 Euros for 2011).
- Severance pay will be subject to social security contributions for the excess above 3 x the annual social security ceiling (i.e: above 106,056 Euros for 2011). A transitional regime is planned for dismissals in 2011 resulting from a notice of dismissal served before 31 December 2010.
- Fillon reduction: The overall reduction on employers' social security contributions on low salaries will be calculated on the basis of the remuneration paid over the year to the employee and no longer on the pay for each calendar month. Furthermore, it will no longer apply to work accident contributions and occupational illness contributions.
- The monthly Social Security ceiling has been increased by 2.1%, to 2,946 Euros for 2011.

### France - Remuneration committee in credit institutions

The law on banking and financial regulation n° 2010-1249 of 22 October 2010 requires credit institutions of a size to be set by decree to establish a remuneration committee. The committee will carry out an annual study of the company's remuneration policy and of salaries, compensation and benefits of all kind paid to corporate officers and the remuneration policy for employees in charge of managing collective investment bodies and employees whose work is likely to have a significant impact on the institution's exposure to risk. These provisions will apply from 22 April 2011.

### France - Declarations by employers

- As from 1 January 2011 and in accordance with decree n° 2010-1334 of 8 November 2010, the monthly declaration of movements within the workforce will have to be sent to the French Department of animation, research, studies and statistics (French "DARES") and no longer to the French Regional Director of companies, competition, consumption, work and employment (French "DIRECCTE").
- The deadline for transmission of electronic declarations of salaries to the complementary retirement institutions is now 31 January instead of 28 February, as per an official statement by the Arrco and Agirc institutions dated 29 October 2010.

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## 6. Energy

### France - Adoption of the NOME Law

The Law reorganizing the electricity market (NOME) was adopted on 24 November 2010 by the *Assemblée Nationale*. It was published on 8 December 2010.

In some circumstances, alternative electricity providers will be allowed to sign basic electricity purchase contracts with EDF at a price and for a quantity that are regulated, on economic conditions similar to those of EDF.

The field of competence of the Energy Regulation Commission (CRE) is extended to the management of basic electricity access and the setting of sale tariffs.

Finally, the Consumer Code will be amended to implement directives 2009/72/EC and 2009/73/EC of 13 July 2009 regarding consumer protection.

### France - Implementation of the Climate-Energy legislative Package and of the Third Energy Package

Through the adoption of a legislative Bill of 17 November 2010 including various provisions to implement EU rules in French law (fast procedure), the Senate adopted the amendments to allow the government to implement the Third Energy Package and the Climate-Energy Package by way of ordinance.

The amendments adopted by the Senate should allow France to implement the directive before the end of the time limit, which is 5 December 2010 for the 2009/28/EC directive, 31 December 2012 for the 2009/29/EC and 2009/30/EC directives, and 3rd March 2011 for the Third Package.

### France - Advisory guide for applications for CEIAB assessment

The Committee for evaluation of photovoltaic products integrated into buildings (CEIAB) recently published on its website an updated version of its Advisory guide for industrials or distributors applying for CEIAB assessment of processes for the integration of photovoltaic panels into buildings to assess the eligibility of the proposed system for the integration tariff (IAB) or simplified integration tariff (ISB), as currently set by a governmental Order of 31 August 2010.

### European law - Auctioning of greenhouse gas emissions allowances

Starting in 2013, member States will be required to offer all gas emission allowances for sale on an auction platform, subject to exceptions.

EU Regulation n°1031/2010 of 12 November 2010 on the timing, administration, and other aspects of auctioning of greenhouse gas emission allowances has been adopted by the European Commission. It specifies the conditions for setting up a scheme for greenhouse gas emission allowances trading within the Community, pursuant to Directive 2003/87/EC of the European Parliament and of the Council in particular auction formats, and the conditions for submission and withdrawal of bids. It also defines the auction clearing price and details the economic operators and persons entitled to bid.

This Regulation came into force on 19 November 2010.

### European law - Priority corridors for power grids and gas pipelines

Communication n°2010-0677 of 17 November 2010 on EU priority corridors for power grids and gas pipelines for 2020 and beyond, defines EU priority corridors for the transport of electricity, gas and oil, on the basis of which future permit granting and financing decisions will be made on concrete EU projects of "European interest", to be identified in 2012.

### European law - Energy priorities

The "Energy 2020 Communication" of 10 November 2010 for competitive, sustainable and secure energy defines the energy priorities for the next ten years, on the basis of which the Commission will come forward with concrete legislative initiatives and proposals in the coming months. The top five priorities are: (i) energy savings, (ii) achieving a pan-European integrated energy market possessing the necessary infrastructure (iii) coordinating EU's energy policy vis-à-vis third countries, (iv) launching major projects in key areas for Europe's competitiveness (such as new technologies for intelligent networks and electricity storage) and (v) new measures for consumers on price comparison, switching suppliers and clear

and transparent billing.

### **European law - Development of wind energy and EU biodiversity policy**

The European Commission published [Guidelines](#) on 29 October 2010 regarding the development of wind energy in protected natural areas. These Guidelines apply to the Natura 2000 network (nearly 26,000 sites in the 27 EU countries, established under the 1992 Habitats Directive and covering almost 18% of the EU's land area), which is the cornerstone of EU policy on protecting biodiversity.

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## **7. Insurance**

### **France - Position on sales with premium**

On 4 November 2010, the *Autorité de Contrôle Prudentiel* ("ACP") issued a position on sales with premiums in life insurance contracts, in which a sum of money (premium) is granted upon subscription of a life insurance contract or a new payment made on an existing contract. The position was adopted to remind insurance undertakings of the recent amendment to the regulation regarding guaranteed rates in life insurance contracts adopted by ministerial order of 30 July 2010.

### **France - Money laundering**

On 18 October 2010, the ACP issued three instructions as to information that entities subject to its authority must provide by no later than 17 December 2010 for the purposes of combating money laundering. Charts are provided as appendices to the instructions detailing the data to be provided to the ACP, which include internal procedures, the identity of the person in charge of the system for assessing and managing money laundering risk, the identity of the informants and correspondents for Tracfin and a list of foreign branches and subsidiaries.

### **France - Intermediation in the field of insurance**

A [public hearing](#), part of a general consultation going on until 31 January 2011 on the revision of directive 2002/92/CE on intermediation in the field of insurance, will be held on 10 December 2010 in Brussels. Organisations representing insurance intermediaries, insurance companies and consumer associations are invited to take part. Three main subjects will be discussed: (i) changes to the scope of applicable rules for a more integrated market with optimum consumer protection, (ii) requirements relating to information, transparency and potential conflicts of interest, and (iii) adaptations necessary for the sale of Package Retail Investment Products (PRIPs), including insurance and pension products.

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## **8. Intellectual Property**

### **France - Organization of French Courts in the field of intellectual property**

Decree n°2010-1369 of 12 November 2010 amends the Code of organization of French Courts, designating the seat and jurisdiction of the courts of first instance and large claims courts handling proceedings in the field of author rights, designs and models, trade marks and geographical indications. This decree follows decree n° 2009-1204 of 9 October 2009, which rationalized the organization of French courts in the field of intellectual property. From now on, the Strasbourg large claims court once more has jurisdiction in this area, alongside the large claims courts of Bordeaux, Lille, Lyons, Marseilles, Nanterre, Nancy, Paris, Rennes and Fort-de-France.

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## **9. Life sciences**

### **France - Telemedecine**

Publication in the OJ of [Decree of 19 October 2010 on telemedicine](#), defining the conditions of its use, in particular with respect to the identification of patients and authentication of the professionals involved.

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## 10. New technologies

### France - Labelling of the legal offer of online content

A decree of 10 November 2010 specifies how the High Authority for the distribution and protection of protected works on the Internet ("HADOPI") will carry out its missions concerning development of the legal offer of online content and the regulation of digital rights management. The "HADOPI legal offer label" set up by this decree allows internet users to identify content that can be lawfully downloaded thereby respecting the authors' rights.

### European law - Revision of the Data Protection Directive

On 4 November 2010, the European Commission released a draft version of its Communication proposing "a comprehensive approach to personal data protection in the European Union". The Commission recommends in particular that the role of national data protection authorities and of the Article 29 Working Party (WP29) be strengthened. The CNIL has expressed agreement with the Commission's propositions. These proposals will serve as a basis for comments.

### International - Applicant guidebook for new gTLDs

On 12 November 2010, the Internet Corporation for Assigned Names and Numbers (ICANN) published the fifth version of its guidebook on applying for new gTLDs. If this version is approved at the next ICANN Board meeting in December, the official guidebook could be published at the beginning of January 2011.

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## 11. Public law

### France - Public passenger transport services by road

Decree n°2010-1388 dated 12 November 2010, published in the OJ of 16 November 2010, authorizes the operation of national road passenger services provided as part of a regular international service. When such operations are performed, they must not jeopardise the economic balance of passenger transport public service contracts.

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## 12. Real estate

### France - Thermal Regulations 2012

Decree n°2010-1269 and an Order dated 26 October 2010 published in the OJ of 27 October 2010 set out requirements for the thermal performance and energy efficiency requirements for new buildings and new parts of buildings.

These provisions apply to building permits applied for from 28 October 2011 for buildings for office or educational use, organisations caring for small children and residential buildings in urban renewal zones and, from 1 January 2013, other residential buildings.

### France - Prevention of seismic risks

Decree n°2010-1254 dated 22 October 2010 published in the OJ of 24 October 2010 amends the regulations applying to "normal" earthquake risk including buildings, equipment and facilities for which the consequences of an earthquake remain confined to their occupants and their immediate vicinity.

This Decree is supplemented by the Order dated 22 October 2010 published in the OJ of 24 October 2010 which defines the rules of classification and earthquake-resistant construction for buildings in the "normal risk" class.

Finally, Decree n°2010-1255 dated 22 October 2010 published in the OJ of 24 October 2010 defines the earthquake-prone zones on French territory.



## France - Hotels: creation of the "Palace" distinction

An Order dated 8 November 2010 published in the OJ of 11 November 2010 creates the "Palace" distinction, which denotes hotels already classified as five-star but with exceptional features relating in particular to location, historical and aesthetic interest and services offered.

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## 13. Tax

### France - Shares savings plan or *Plan d'épargne en action* (PEA)

The French tax authorities (FTA) issued a statement of practice dated 25 November 2010 (**statements of practice n°5 C-8-10**) regarding shares in European real estate companies (REIT) eligible for the PEA.

### France - Wealth tax (ISF) and investment in small companies (PME)

The FTA issued a statement of practice dated 24 November 2010 (**statement of practice n°7 S-7-10**) regarding changes to the wealth tax rebate to encourage investment in PMEs. Investment periods and disclosure requirements applicable to investment funds (FIP/FCPI/FCPR) are modified.

### France - Deductible interest rate for tax purposes

The FTA issued a statement of practice dated 16 November 2010 (**statement of practice n°4 C-6-10**) regarding the maximum interest rate deductible for tax purposes (for Q3 2010, the rate is 3.82%).

### France - Tax criminality division

Decree dated 4 November 2010 setting up a tax criminality division with jurisdiction in the context of judicial investigations.

### France - Draft Amended Finance Bill for 2010

The FTA issued the amended Finance Bill for 2010, which should be enacted by the end of the year. It provides, among other things, for reform of the tax regime for partnerships. This reform would end the so-called fiscal "translucidity" of partnerships, which would be considered see-through entities (transparent) for tax purposes. This would trigger various consequences both for partnerships and their partners.

## International - Double tax treaties and bilateral agreements

- **Decree** dated 11 November 2010: publication of double tax treaty between France and Kenya signed on 4 December 2007;
- **Several laws** dated 13 November 2010: authorization to enter into agreements regarding exchange of information in tax matters with Uruguay, Vanuatu, Antigua and Barbuda, Grenada, St. Lucie, St. Vincent and the Grenadines, St. Kitts and Nevis.

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## 14. Telecoms

### France - Financial support to production, preparation and distribution of cinematographic and broadcasting works

Decree n°2010-1432 of 19 November 2010 amending decree n°95-110 of 2 February 1995 regarding financial support of production, preparation and distribution of broadcasting works was published in the OJ of 21 November 2010.

Works of fiction are now included in the works which benefit from financial support. However, the text specifically excludes skits of such works.

### France - Media on demand services

Decree n°2010-1379 of 12 November 2010, in application of Law n°2009-258 of 5 March 2008 regarding broadcasting communication and the new TV public service, specifies the applicable rules concerning broadcasting media on demand services (SMAd).

The decree comprises provisions relating to the development of cinematographic and audiovisual work, guaranteeing the existence of such work made in Europe and in French, and ensuring that such work is promoted. The decree also contains provisions on advertising, sponsorship and teleshopping. It sets quotas of 50% for European works and 35% for works in French for a period of three years, and 60% and 45% respectively

thereafter.

The decree, published in the OJ on 14 November 2010, will come into force on 1 January 2011.

#### **France - Improvement of electronic and postal communications services offers**

On 26 November 2010, ARCEP submitted for public consultation [thirty proposals](#) whose aim is to improve the offers that Internet service providers (ISPs), fixed and mobile electronic communications operators and postal operators make to consumers.

The proposals pertain to the transparency of offers, market liquidity, the quality and availability of services, value-added services (e.g. numbers starting with 08), and provision to the disabled of access to electronic communications services.

The public consultation will end on 14 January 2011. ARCEP will then publish its definitive proposals, including ones involving voluntary commitments by the players. Among other things, these proposals will constitute guidelines for ARCEP in the performance of its duties.

#### **France - Summary of the public consultation on value-added vocal services (SVA)**

ARCEP published on 23 November 2010 a [summary](#) of the public consultation on tranches of extensions for certain number tranches for value-added vocal services (SVA), as well as the players' contributions.

The national numbering scheme identifies 10 figure numbers starting with 08 for access to value-added vocal services. Some of these tranches of numbers are becoming saturated, with varying degrees of urgency. The tranches concerned begin with 0892, 0800, 0805, 0810 and 0811.

#### **France - Access to France Telecom ducts**

On 9 November 2010, ARCEP adopted a [decision](#) setting the economic terms governing access to France Telecom ducts. This decision, which France Telecom will be implementing at the start of 2011, will result in a significant decrease in the price that alternative operators pay to access France Telecom ducts. This will enable them to deploy optical fibre networks under favourable conditions - both in high density areas and rural ones. The measure could be extended to overhead infrastructure.

#### **France - Decision setting cost caps for the wholesale market of mobile call termination**

ARCEP adopted on 2 November 2010 its [decision n°2010-1149](#) on the third cycle of regulation for the wholesale mobile call termination market. This decision extends to the period from 1 January to 30 June 2011 the caps applicable in continental France and sets new caps for the 2011-2012 period for French overseas territories. These new caps follow the downward trend towards the level of underlying costs.

Subsequent decisions will set caps for the rest of the three-year period.

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## **15. Transport**

### **France - Public passenger transport services by road**

Please refer to the Public Law section.

#### **France - Creation of the Transport Code**

[Ordinance](#) n°2010-1307 of 28 October 2010 for the application of Article 92 of the [Law](#) n°2009-526 of 12 May 2009 relating to the simplification and clarification of law and procedures was published in the OJ of 3 November 2010. It creates the legislative part of the Transport Code.

#### **France - Road safety**

[Decree](#) n°2010-1390 of 12 November 2010 relating to various road safety measures was published in the OJ of 16 November 2010. It introduces into the Traffic Code provisions relating to the crossing of roads by pedestrians, organises the circulation of certain users of sidewalks, facilitates the creation by local authorities of a "right-turn" at traffic lights for cyclists and prohibits motorists from overtaking on the far left-hand lane of motorways if they are not driving at at least 80 km/h.

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