

The Paris office of Hogan Lovells 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 October 2014.

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

- **Draft constitutional law to amend the Environment Chart to specify the scope of the precautionary principle**, filed at the Senate on December 3, 2013 – Adopted in first reading by the Senate on May 27, 2014.
- **Draft law for the modernisation and simplification of law and procedures in relation to justice and home affairs**, n°175, filed on November 27, 2013 – adopted in first reading by the Senate on January 23, 2014 and by the National Assembly on April 16, 2014 – Failure of the joint commission – Filed before the National Assembly in new reading and adopted on October 30, 2014.
- **Draft law relating to the limitation of the use of biometric technology**, n°361, filed at the Senate on February 12, 2014 – Adopted in first reading by the Senate on May 27, 2014.
- **Draft law relating to biodiversity**, n°1847, filed before the National Assembly on March 26, 2014.
- **Draft law relating to relating to various provisions in connection with criminal procedure for the transposition of EU Law into French Law**, n°482, filed before the Senate on April 23, 2014 – Debate in public session on November 5, 2014.
- **Draft law for the simplification of existing regulations for the business sector**, n°2060, filed on June 25, 2014 – Adopted in first reading by the National Assembly on July 22, 2014 – debate in public session before the Senate on November 4, 2014.
- **Draft law relating to various provisions in connection with economic and financial matters for the transposition of EU Law into French Law**, n°2148, filed on July 16, 2014. Adopted in first reading by the National Assembly on September 18, 2014 and by the Senate on October 16, 2014 – Joint commission.
- **Draft law relating to energy transition towards green growth**, n°2188, filed on July 30, 2014. Adopted in first reading by the National Assembly on October 14, 2014.

- **Draft finance act for 2015**, n°2234, filed on October 1, 2014 – in debate in first reading before the National Assembly from October 14 to November 18, 2014.
- **Draft law relating to health**, n°2302, filed on October 15, 2014 before the National Assembly.
- **Draft law on the financing of Social Security for 2015**, n°2252, filed on October 8, 2014 before the National Assembly.
- **Draft Public Finance Planning Act for 2014 – 2019**, n°2236, filed on October 1, 2014 before the National Assembly.

Enacted laws

- **Law n°2014-1104 of October 1, 2014 relating to taxis and chauffeur-driven cars** – OJ of October 2, 2014.
- **Law n°2014-1170 of October 13, 2014 for farming, food and forest** – OJ of October 14, 2014.

1. Banking

France - Separation of speculative banking activities

Ministerial decree dated 9 September 2014 on the implementation of the first title of the law n°2013-672 dated 26 July 2013 on the separation and regulation of banking activities ([J.O n°0229 dated 3 October 2014](#)) details the condition of implementation of the provisions concerning the separation of speculative activities. The decree provides in particular that, for the activities that can be undertaken otherwise than through a dedicated subsidiary, the institutions identify the internal units in charge of transactions in financial instruments. The units undertaking transactions on their own account are governed by a mandate.

Most of the provisions of the decree entered into force on 4 October 2014 but the implementation of certain provisions is postponed until the 1st April and the 1st July 2015.

France- Legal interest rate

Decree n°2014-1115 dated 2 October 2014 setting the categories of loans used as a basis for the implementation of article L.313-2 of the French Monetary and Financial Code ([J.O n°0230 dated 4 October 2014](#)) amends the French Monetary and Financial Code in order to insert an article D.313-1-A-I. This article sets out the method of calculation and the conditions of publication of the legal interest rate, the definition of which has been modified by the order n°2014-947 dated 20 August 2014.

Decree n°2014-1115 entered into force on 5 October 2014 for the rate calculation applicable as from 1st January 2015.

France - Implicit acceptance decisions

Decree n°2014-1281 dated 23 October 2014 relating to exceptions to the application of the two month period for implicit acceptance decisions provided in paragraph II of article 21 of the law n°2000-321 dated 12 April 2000 relating to the rights of citizens in their relation with the administrations ([J.O n°0254 dated 1st November 2014](#)) lists the procedures, within the ministry of finance and public accounts and the ministry of economy, industry and numeric scope, for which an implicit acceptance is granted after a period other than a two month period. The decree provides in particular that requests for exemption relating to the licence of credit institution are deemed to be accepted after a three month period.

The provisions of the decree n°2014-1281 apply to the requests submitted as from 12 November 2014.

France - Implicit refusal decision

Decree n°2014-1280 dated 23 October 2014 relating to the exception to the principal "silence amounts to acceptance" pursuant to paragraph II of the law n°2000-321 dated 12 April 2000 relating to the rights of citizens in their relation with the administrations ([J.O n°0254 dated 1st November 2014](#)) lists the procedures, within the ministry of finance and public accounts scope and the ministry of economy, industry and numeric scope for which the silence of the administration still amount to a refusal. The decree provides in particular that a request to be licenced as a credit institutions is deemed to be rejected after a period of six months which may be extended for a further six months.

The provisions of the decree n°2014-1280 apply to the requests submitted as from 12 November 2014.

2. Capital Markets

France - Derivatives trading framework

The French AMF published an article in respect to the supervision of derivatives trading. The European regime (MiFIR) imposes an obligation of transparency (MIFID II) and an obligation to trade on regulated trading venues (such as regulated markets). This article is available on the AMF website, under reference ([encadrement du trading des dérivés](#)).

France - Publication of the directive and regulation on Markets in Financial Instruments

The French AMF publishes the new directive on markets in financial instruments and the regulation on markets in financial instruments ([publication](#)). On this occasion the AMF reiterated the obligations missing in particular, in respect of transparency, the structure of markets as well as those related to the protection of the investors.

France - The French AMF publishes a position in which it applies the ESMA guidelines in respect to the reporting obligations imposed by the AIFM Directive

This position concerns in particular the information that must be communicated by management companies managing an AIF, as well as the procedures in respect thereof ([Doc-2014-09](#)).

France - The AMF publishes guidance on financial information

A recommendation of the AMF applies the ESMA guidelines, including the methods for preparing financial statements. This document is available on the AMF website under the reference [DOC-2014-13](#).

3. Commercial law

France - The authorization granted to the Government to modify the civil Code

The Parliament (*Assemblée nationale*) passed on 30 October 2014, on first lecture, the bill relating to the modernization and simplification of the justice and internal affairs.

The government is authorized by the Parliament (article 3 of the bill) to modify, via reasoned order (*ordonnance*), the third part of the *civil Code*, which deals with contract law and burden of proof.

Consequently, the government shall notably modify the general principles of contract law, the rules related to the process for entering into contracts, their validity, their interpretation, their nullity, their effects on third parties, their duration, as well as the rules governing obligations, voluntary assignments and pre-contracts.

4. Consumer law

France - Means of control of the French administrative authority – Adoption of the implementing Decree

Decree n°2014-1109 of 30 September 2014 implementing the provisions of the Consumer Protection Law n°2014-344 of 17 March 2014, strengthening the means of control of the administrative authority responsible for consumer protection and adapting the rules regarding penalties, was published in the Official Journal on 2 October 2014. It outlines the implementation methods of the new means of control of the officials responsible for competition policy, consumer affairs and fraud control, by consolidating all of the modified administrative provisions relating to such means, as regards consumer protection, product safety and compliance as well as competition. The Decree also sets up a new administrative sanctioning procedure pursuant to the new Consumer Protection Law, by replacing a number of criminal offences.

The Decree entered into force on 3 October 2014.

France - Information and right of withdrawal – Adoption of the implementing Decree

Decree n°2014-1196 of 17 October 2014 on the list of products mentioned in Article L. 441-8 of the French Commercial Code, on the modalities for preparing the account on negotiations in case of fluctuations in agricultural raw material prices and identifying situations of sharp rise in prices of certain raw materials, was published in the Official Journal on 18 October 2014. Implementing the new Consumer Protection Law n°2014-344 of 17 March 2014, the Decree specifies the conditions and outcome of the mandatory renegotiation as well as the definition of situations of sharp increases in prices of certain raw materials.

The text entered into force on 19 October 2014.

France - Targeted solicitation and advertisement by lawyers – Adoption of the implementing Decree

Decree n°2014-1251 of 28 October 2014 implementing Article 13 of the Consumer Protection Law n°2014-344 of 17 March 2014 lays down the conditions under which lawyer may use advertising and targeted solicitation. Targeted solicitation must take the form of postal or electronic mailings addressed to the recipient of the offered service, thus excluding the use of text messages sent from a mobile telephone terminal. It has to set out the methods used for the determination of the cost of the service, which has to be based on a fee agreement. Advertisement remains subject to the provisions set out under Decree 72-785 of 25 August 1972. Therefore, it may not be done by leaflets, posters, motion pictures, radio or television programs, and must abstain from any statement disregarding professional discretion or affecting the privacy of the individual.

The Decree entered into force on 29 October 2014.

5. Corporate

France - Publication of the Decree relating to the information of the employees in the event of the transfer of their company

Decree n°2014-1254 dated 28 October 2014, taken for the purposes of the application of the provisions of Law No. 2014-856 dated 31 July 2014 on the social and solidarity economy facilitating the transfer of businesses to their employees, came into force on 1 November 2014.

It provides and specifies, in particular:

- the entry into force of the obligation to inform employees;
- the concept of transfer referred to by the Law;
- the delivery date of the information to the employees;

-the modalities of assistance for people who may advise the employees;

-the ways in which the information has to be given to the employees;

-that a transfer occurring at the end of an exclusive negotiation is not subject to prior notification requirements for employees if the contract was entered into exclusive negotiations before 1 November 2014

A guide was posted online to clarify the obligation to inform employees including the following: the nature of assignments and employees concerned, content of the information and the answers to transmit to the employees, the optional nature of the invalidity of the sale in the event of lack of information.

France - The French Senate adopts a bill containing various provisions in economic and financial matters

The Senate amended on October 16, 2014, on first reading, the bill containing various provisions adapting to the European Union Law in economic and financial matters.

Senators have notably deleted Article 23b which authorized the government to implement by order the "MAD-MAR" package relating to market abuse.

They also adopted an amendment limiting to five months the maximum period within which the Paris Court of Appeal has to make its decisions on takeover bid (Article 6a).

France - The AMF publishes a draft recommendation on quarterly and interim financial disclosure

In anticipation of the transposition of the revised Transparency Directive into national law, the AMF is publishing a draft recommendation to accompany the abolition in 2015 of the obligation to produce quarterly financial information.

The revised Transparency Directive (2013/50/EU) adopted by the European Parliament and the Council on 22 October 2013 stipulates, among other things, that Member States may no longer require listed companies to publish quarterly financial information.

6. Employment

France - Implementation of the principle "silence means acceptance"

The 42 Decrees on 23 October 2014 published in the Official Journal on 1st November 2014 implement the principle "silence means acceptance" set out in the Law dated 12 November 2013.

Three decrees relate in particular to the implementation of this principle in French labor Law.

The Decrees n°2014-1289 and n°2014-1291 on 23 October 2014 indicate **the exceptions to the principle "silence means acceptance"** in the field of labor Law.

For example, the principle "silence means acceptance" does not apply where the employer requests the authorization of the administrative authorities to dismiss a protected employee (i.e. a member of the works council, a staff representative...).

The Decree n°2014-1290 on 23 October 2014 relates to **the exceptions to the 2 months-timeframe** provided to the administrative authorities to take a decision. For example, if the employer intends to derogate to the maximum weekly working time for an employee, the administrative authorities can notify their decision within a period of 30 days, instead of 2 months.

France - Information of the employees in the event of the sale of the business

The [Decree n°2014-1254 on 28 October 2014 published in the Official Journal on 29 November 2014](#) implements the Law dated 31 July 2014 regarding the obligation to inform the employees in case of the sale of business in the companies employing less than 250 employees.

Please refer to the [Corporate section](#).

7. Energy

France - [Please refer to the Environment concerning the solar panels](#).

8. Environment

France - Waste electrical and electronic equipment

Five Ministerial Orders dated 8 October 2014 published in the Official Journal of 15 October 2014 complete the Decree n°2014-928 dated 19 August 2014 transposing the EU Directive 2012/19/EU dated 4 July 2012 on waste electrical and electronic equipment (WEEE) ([please refer to the Legal and regulatory update - July/August 2014](#)).

Those Ministerial Orders concern, in particular: (i) the conditions of implementation of the take-back obligations of the distributors; (ii) the conditions that must be satisfied by the authorised representative appointed by a producer of EEE not established in France in order to ensure compliance with the obligations of that producer; (iii) the classification of waste from, in particular, photovoltaic panels as WEEE from private households; (iv) the modalities for treatment of WEEE; (v) the entry in the national registry relating to electrical and electronic equipment.

9. Insurance

France - Payment protection insurance - Decree on method of calculation of the annual percentage rate of insurance

The [Decree n°2014-1190](#) has been adopted in implementation of law n°2013-672 of 26 July 2013 on the separation and regulation of banking activities and introduces new methods of presentation of the cost of payment protection insurance. The Decree specifies the method of calculation of the annual percentage rate of insurance ("APRI") which has to be calculated by subtracting to the annual percentage rate including any proposed insurance, the annual percentage rate without any insurance cost. The APRI must be presented along with the benefits (death, disability, invalidity, loss of employment...) and include their cost. As a result, the French Consumer Code is completed with new provisions, following Article R. 313-5 and Article D. 311-1 is amended. These new provisions shall enter into force on 1st January 2015.

European Law - Solvency II – Adoption of a delegated Regulation

The European Commission has adopted on 10 October 2014 a [delegated Regulation supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance \(Solvency II\)](#). The delegated Regulation notably sets out provisions (i) supplementing the definition of the Solvency II Directive, (ii) providing harmonised rules for the market consistent valuation of assets and liabilities, including technical provisions, (iii) specifying the eligibility of insurers' own fund items to cover capital requirements, (iv) specifying details of the standard formula for the calculation of the Solvency Capital Requirement and (v) specifying the provisions relating to investment in securitisation positions. The European Parliament and the Council have a six months period to approve or reject the delegated Regulation, as from the date of its publication by the European Commission. Should the approval be obtained, the delegated Regulation will enter into force on the day following its publication in the Official Journal of the European Union.

European Law - EIOPA - Publication of multi-annual work programme 2015-2017

The European Insurance and Occupational Pensions Authority's (EIOPA) has published its [multi annual work programme for 2015-2017](#) which establishes its work priorities and its overall strategic goals such as (i) to ensure transparency, simplicity, accessibility and fairness across the internal market for consumers, (ii) to lead the development of sound and prudent regulations supporting the internal market, (iii) to improve the quality, efficiency and consistency of the supervision of EU insurers and occupational pensions and (iv) to identify, assess, mitigate and manage risks and threats to the financial stability of the insurance and occupational pensions sectors.

European Law - EIOPA - Consultation on conflicts of interest in direct and intermediated sales of PRIIPS

On 1st October 2014, the EIOPA has opened a [public consultation on conflicts of interest in direct and intermediated sales of insurance-based investment products](#) ("PRIIPS"). The EIOPA has been mandated by the European Commission to provide technical advice in relation to the adoption of the delegated acts on conflict of interests in insurance mediation area. The consultation is mainly entailed by the Directive 2014/65/EU (MiFID II) which introduces new organisation requirements for insurance intermediaries and insurance undertakings with regard to conflicts of interest, notably in relation to PRIIPs. The consultation is opened until 1st December 2014.

European Law - EIOPA - Consultation on product oversight & governance arrangements by insurance undertakings

On 27 October 2014, the EIOPA has opened a [public consultation on Product Oversight & Governance \(POG\) arrangements by insurers](#). Product oversight and governance arrangements refer to internal processes, functions and strategies aimed at designing and bringing products to the market, monitoring and reviewing them over their life cycle. In this context, the consultation is on proposed Guidelines to better protect consumers during the early stages of product development to prevent misselling of insurance products due to poor product design. The Guidelines will be addressed to national authorities. The consultation is opened until 23 January 2015.

10. Intellectual Property

France - Proposal for new laws in the field of copyright and cultural heritage

On 22 October 2014, the French minister of culture and communication presented a [proposal for new laws in the field of copyright and cultural heritage](#).

This text aims at implementing provisions of (i) the [directive 2011/77/EU on the term of protection of copyright](#) (ii) the [directive 2012/28/EU on certain permitted uses of orphan works](#) and (iii) the [directive 2014/60/EU on the return of cultural objects](#).

The principal amendments are:

-Implementation of the directive 2011/77/EU

The proposal aims at amending [Article L. 211-4 of the French Intellectual Property Code](#) ("IPC") in order to extend the term of protection of performers' economic rights (and producers of phonograms) if, during the initial period of protection of 50 years, a phonogram (or a fixation of a performance on a phonogram), is lawfully published or lawfully communicated to the public. The term of protection would be 70 years starting from 1 January of the year following the earliest of these acts (instead of the actual 50 years).

Moreover, the proposal would amend Articles L. 212-3-1 and L. 212-3-4 of the IPC to award performers, after the first 50 years of protection, a right to notify their intention to terminate the authorisation given to a producer of phonograms to fix their performance on a phonogram, when the producer does not offer sufficient copies to the public or does not make it available in a way that members of the public can access it at a time and place chosen by them.

-Implementation of the directive 2012/28/EU

The proposal adds new Articles L. 135-1 to L. 135-7 of the IPC to allow public libraries to digitise and make accessible to their users the orphan works of their collections. This exemption would be extended to other organizations and institutions, in particular, museums, archives and educational establishments. It concerns literary and cinematographic or audiovisual works and phonograms whose right holders cannot be identified or located despite a diligent search.

-Implementation of the directive 2014/60/EU

The proposal intends to amend the French Heritage Code, in particular to provide that, in case of request of return of a cultural object unlawfully removed from the territory of another Member State of the European Community, consideration shall be given, to determine whether the possessor exercised due care and attention to obtain a compensation for the loss of the cultural object, to all the circumstances of the acquisition, in particular the documentation on the object's provenance, the authorizations for removal required under the law of the requesting Member State, the character of the parties or the price paid. The requesting State would only pay compensation upon return of the object.

The Government has initiated an accelerated procedure for the Proposal and the Commission of Cultural Affairs should examine the text on 12 November 2014

France - Law on the future for agriculture, food and forest

The French Parliament adopted the law n°2014-11710 of the 13 October 2014 on the future for agriculture, food and forest.

This law amends certain provisions of the IPC, including:

The possibility for the director of the National Institute of the Origin and Quality (INEO) to institute opposition proceedings against the registration of a trade mark. When there is a risk of infringement to the name, image, goodwill or reputation of a Protected Designation of Origin or a Protected Geographical Indication, the director of the INAO now has the possibility to file an opposition against a trade mark application with the National Institute of Industrial Property (Article L.712-4, 1°bis of the IPC). This provision follows the possibility, since the law n°2014-344 of 13 March 2014 on consumer affairs (known as the "Hamon law"), for a territorial authority or an Advocacy and Management Body of a Geographical Indication for non-agricultural products, to file an opposition.

Exemptions to patents and plant variety certificates in case of involuntary cross-pollination in fields (aimed at strengthening the legal certainty of farmers' activities). Article L.613-2-2 of the IPC provides for an exemption to patent owners' monopole on a product containing a genetic information or consisting in a genetic information, in case of adventitious or incidental presence of such patented genetic information in seeds, propagating material of the plants, seeding and plants or part of plants. Furthermore, the new Article L.623-4 of the IPC clarifies that the exclusive right of a plant variety certificate's owner does not extend to the crops or products made from crops when the non-authorized used of reproduction or propagating material of the protected plant variety is adventitious or incidental.

European Law - OHIM Communication on the common practice of relative grounds of refusal – likelihood of confusion (impact of non-distinctive/weak components)

The Office of Harmonization in the Internal Market (OHIM) published on 2 October 2014 a common Communication on the common practice of relative grounds of refusal – likelihood of confusion (impact of non-distinctive/weak components). This communication is made in the name of the European trade mark and design network (a network of several intellectual property stakeholders, including national and regional offices) in the context of the convergence program of practices. This communication follows four previous communications of the convergence program on other aspects of offices' examination.

European Law - Publication of the 17th draft of the Rules of Procedure of the Unified Patent Court (UPC)

The Preparatory Committee of the Unified Patent Court (UPC) published, on 3 November 2014, the 17th draft of the UPC Rules of Procedure, which includes the amendments suggested by the Legal Group. A public hearing will be held on this new version on 26 November 2014 at the European

11. New technologies

France - CNIL issues public warning to Orange

On 7 August 2014 the French data protection authority (the CNIL) issued a public warning to Orange France on the grounds that it did not comply with its obligation to ensure the security and confidentiality of its customers' personal data. Indeed, according to the CNIL, Orange should have conducted a security audit before using a third party provider's technical solution.

France - ARJEL's annual report

On 19 September 2014, the French Regulatory Authority for online gambling (ARJEL) published its annual activity report for the year 2013. ARJEL conducted 1,067 inspections in 2013. The most frequent deficiencies identified generally relate to: an improper typography, failing to alternate the warning messages on the risks of online gambling and not requiring players to enter their date of birth upon each login attempt.

European Law - Delisting

Further to the ECJ decision of 13 May 2014 ([please refer to the Legal and regulatory update - May 2014](#)), the WP29 (the Article 29 Working Party, established by Article 29 of the 1995 data protection directive, composed of the 27 European Union data protection authorities) decided at its plenary session of 16 and 17 September 2014, to set up a common network in order to create a framework allowing better management of complaints received in cases where search engines refuse to implement delisting requests received from internet users.

International - The fight against online crime

On 1 September 2014, Europol launched its Joint Action Cybercrime Taskforce (J-CAT). This organization aims at establishing a common front between the different Member states of the European Union and their allies, including the United States and Canada, against all forms of online crime and fraud.

12. Tax

France - Corporate income tax

Updates on the interest rate limiting the deductibility of financial expenses provided by article 39, 1, 3° of the FTC

The French Tax Authorities ("FTA") updated their guidelines by integrating the reference rate used for calculation of the limit of deductible interest, applicable to interest paid to shareholders for sums provided to the company in addition to their share in the capital.

This reference rate is raised to 2.87% for the twelve-month period ended between 30 September 2014 and 30 December 2014 ([BOI-BIC-CHG-50-50-30, n°40](#)).

VAT for sporting event

As from 1 January 2015, tickets for sporting events exempt from the entertainment tax (*impôt sur les spectacles*) will be subject to VAT at a reduced rate of 5.5% ([BOI-TVA-CHAMP-30-10-10](#); [BOI-TVA-LIQ-30-20-40](#)).

Reporting obligations: new payment system for major companies

The "SATELIT" system, whereby major companies falling within the scope of the French *Direction des Grandes Entreprises* ("DGE") paid their taxes

(VAT, corporate income tax, additional corporate income tax contribution, rental income tax, company real estate contribution, company value-added contribution, payroll taxes), ceased to operate on 28 October 2014.

From now on, major companies within the scope of the DGE have to pay the taxes listed above through their personal account on the website impots.gouv.fr.

France - Taxation of investors and managers

New tax regime for capital gains realized by individuals on disposal of shares and securities

The FTA updated their guidelines to take into account the new tax regime applicable to capital gains realized by individuals on the disposal of shares and securities in the context of the management of their personal assets as provided by the finance acts for 2013 and 2014.

As a reminder, capital gains realized by individuals on the disposal of shares and securities are subject to French individual income tax under ordinary tax rates with possible application of tax rebates for holding period (50% for ownership of more than 2 years and 65% for ownership of more than 8 years).

Disposal of shares of small and medium enterprises (**SMES**), or within a family group of companies, or upon retirement of the company's owner is also eligible for specific tax rebates.

The FTA launched a consultation process and parts of these updates can be reviewed and commented until 14 November 2014 ([BOI-IR-BASE-20-20](#); [BOI-RPPM-PVBMI](#); [BOI-RPPM-PVBMI-10](#); [BOI-RPPM-PVBMI-20](#); [BOI-RPPM-PVBMI-30](#); [BOI-RPPM-PVBMI-40](#); [BOI-RPPM-PVBMI-60](#); [BOI-ANNX-000075](#); [BOI-ANNX-000149](#)).

Capital gains from sales of shares and securities: new reporting obligations

The [decree n°2014-1223 dated 21 October 2014](#) specifies the reporting obligations with respect to the new tax regime applicable to (i) capital gains realized by individuals on disposal of shares and securities ([see above](#)), and (ii) capital gains and debts taxable upon transfer of the taxpayer's tax residence outside France, as provided by the finance acts for 2013 and 2014.

Application of the French registration tax to gifts and *inter vivos* distributions including real estate property

The FTA updated their guidelines in order to take into account the application of the French registration tax (*formalité fusionnée*) to gifts and *inter vivos* distributions (*donations-partages*) including real estate property made as from 1 July 2014 ([BOI-ENR-DG-10-30](#); [BOI-ENR-DMTG-20](#); [BOI-ENR-DMTG-20-40](#)).

13. Telecoms

France - Publication of ARCEP's analysis decision on fixed telephony markets

On Tuesday 30 September 2014, ARCEP adopted [decision n°2014-1102](#) on its analysis of fixed telephony markets. The decision came into effect on 3 October 2014, and will remain in force for a period of three years.

For this fourth round of analysis, ARCEP has extended the obligation imposed on Orange to provide a wholesale line rental product (VGAST) at cost-based prices. At the same time, the decision introduces a gradual relaxation of the pricing obligations imposed on Orange for straight carrier selection offers, i.e. excluding VGAST wholesale line rental, whereby the customer continues to have a landline telephone subscription with Orange. As a result, Orange will switch from the current cost-based regime to one that forbids excessive pricing of these products, starting on 1 January 2017.

A communiqué from Orange on both planned price increases and the support measures implemented is expected by 1 January 2015, the latest.

European Law - New European Commission recommendation on relevant markets

On 9 October 2014, the European Commission adopted a [new recommendation](#) that lists the markets open to *ex ante* regulation, whose previous version dates back to 2007. In this new recommendation, the Commission removes from the list of relevant markets the access to public telephone network at a fixed location (market 1) and call origination on public telephone network provided at a fixed location (market 2). This decision is justified by the decline in traditional telephony on the PSTN and the emergence of products based on alternative technologies. The recommendation also operates a new segmentation of fixed access markets (markets 4, 5 and 6); narrowing the list down to five markets.

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