DENMARK

INTRODUCTION

The broadband penetration in Denmark is the highest among the EU countries. Mobile broadband is booming in Denmark, and also the number of fibre to the home (FTTH) connections is growing. Fixed broadband continues to grow, although at a slower rate. The demand for higher broadband speeds increased during 2009, as did the use of bundled packages. Fixed PSTN telephony continues to decrease, whereas IP telephony increased, in terms of subscriptions. The impact of the general economic downturn is seen more in the corporate market than in the residential market, with a focus on decreasing costs. There has been some further consolidation in the fixed market. Mobile penetration increased further from an already high level.

The second round of market analyses is progressing and a number of decisions were adopted during the year, one of which deregulated the market for mobile access and call origination. A new Frequency Act, which inter alia further develops existing rules on secondary trading and introduces technology neutrality, was adopted in June 2009, and entered into force on 1 January 2010, along with new secondary legislation and a revised Frequency Plan. A decision was taken in June to use the digital dividend for other purposes than broadcasting, in particular for mobile broadband. NITA issued decisions on frequency re-farming in the 900 and 1800 MHz-bands in late December 2009.

REGULATORY ENVIRONMENT

Main regulatory developments

A new Frequency Act, which inter alia expands the existing rules on secondary trading to also include trading of parts of licences, introduces a technologically neutral approach to the use of frequencies, and bans hoarding and anti-competitive behaviour, was adopted in June 2009, and entered into force on 1 January 2010, at the same time as secondary legislation and a revised Frequency Plan. Furthermore, it was decided in June 2009 that the digital dividend (the 790-862 MHz frequency band) should be used for other purposes than broadcasting, and in particular for mobile broadband.

In 2009 the Minister of Science, Technology and Innovation set up an independent Committee, the High Speed Broadband Committee, in order to make proposals on how to turn Denmark into a high speed broadband society. The recommendations, which were published in January 2010, covered a broad range of areas. The Committee inter alia recommended that in 2013 at least 80% of the Danish population should have access to 50 Mbps, and that the entire population should have access to 10 Mbps. The recommendations will, after a public hearing, enter into a political process.

Organisation of the NRA

The Danish NRA, *IT og Telestyrelsen* (NITA) was considered to execute its regulatory and monitoring tasks in a satisfactory way, with Danish legislation providing for adequate safeguards to secure NITA's independence. Earlier criticisms regarding NITA's lack of pro-activity and lack of transparency were not reiterated. However, some operators maintained that the dispute settlement process still is too long and that the 4-month deadline is not always respected, although it was acknowledged that many cases are very complex.

Decision making

In 2008 NITA had concluded the first round of market analyses, resulting in almost all retail markets being deregulated, except for the retail market of the minimum set of leased lines. Also certain wholesale markets were deregulated, such as the wholesale market for transit services in the public telephone network provided at fixed locations. Regulation was also rolled back from the wholesale market for trunk segments of leased lines. At the end of 2007 NITA initiated the second round of market analyses. The NRA is continuing the second round of market analyses, and adopted in May a final decision on the market for wholesale physical network infrastructure access (LLU). It also made a draft decision in December 2008 regarding the market for wholesale broadband access, which was endorsed by the Commission, and in December 2009 the final decision was issued. Furthermore, NITA published draft decisions on the market for wholesale terminating segments of leased lines, and the market for minimum set of leased lines in December 2009. The annual LRIC decision for 2010 regarding fixed network products reduced the prices of LLU by 10 % and the prices of interconnection by up to 50 %. A decision regarding Mobile Termination Rates (MTRs) set out asymmetric MTRs, allowing a new entrant to charge higher MTRs until 2011. Finally, NITA declared the market for mobile access and call origination effectively competitive, thereby lifting obligations on the SMP operator. In 2009 the Telecommunications Complaint Board made 18 rulings, the majority of which (16) upheld NITA's decisions. One of NITA's decisions was annulled by the Telecommunications Complaint Board and one NITA-decision was altered.

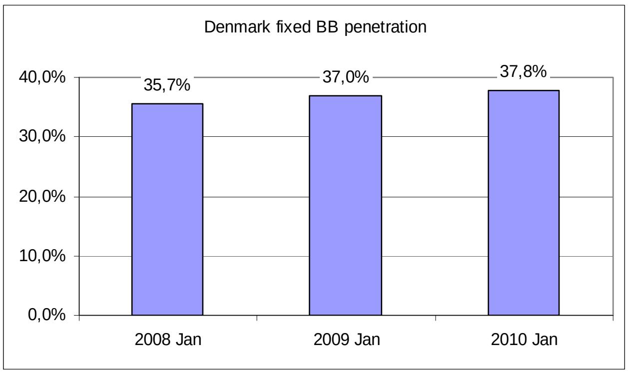
MARKET AND REGULATORY DEVELOPMENTS

The total investments in the telecommunications sector for the year 2008 reached €1293 millions, which represents an increase of 5.5% from the year before, when they amounted to €1226 millions. This represents 0.6% of the GDP. The total revenues in the telecommunications sector for the year 2008 stood at €5518 millions, whereas they reached € 5962 millions the year before. This represents 2.4 % of the GDP. However, the revenues for the year 2008 are not directly comparable with the revenues for the year 2007, due to a change in definitions. It is estimated that, if adjusted for the changes in definitions, the level of revenues for the year 2008 is similar to that for the year 2007.

Market players considered that the recession has had a higher impact on the business sector than on the residential markets, where the effects mainly are seen in a slight decrease of the number of handsets sold, rather than a decrease in call minutes. On the corporate end-user market many companies are cutting costs, by decreasing telecommunications usage, and by trying to purchase cheaper telecommunications services. Demand has also gone down in the corporate market due to lay-offs in the industry, which result in fewer company phones being issued etc. Telecommunication operators appear to be focusing on cutting costs, inter alia by lay-offs, and also focus on defensive investments, except for investments in 3G and in mobile broadband. Energy companies rolling out fibre also appear to be cutting down on investments, and concentrate on increasing the penetration rate in areas where fibre is already laid down.

Broadband

Market situation



Denmark has the highest broadband penetration rate in the EU, reaching 37.8% in January 2010, which is well above the EU average of 24.8%. Mobile broadband is increasing significantly, with a 10.7% penetration rate in January 2010. The fixed broadband market is considered close to saturation, and the number of new broadband lines still increase but at a slower rate. The number of new broadband lines per year increased by only 25 039 for the period July 2008 to July 2009, compared to the previous year (July 2007 to July 2008), when they witnessed a significant increase of 169 660. According to NITA statistics, Fibre to the Home (FTTH) lines accounted for most of the growth in fixed broadband connections, and corresponded to 5% of all broadband lines in July 2009. The number of xDSL and cable modem subscriptions remained virtually unchanged. IP telephony is increasing and traditional PSTN continues to decrease, according to NITA statistics.

Broadband speeds are increasing in Denmark. In January 2010, 715 000 subscriptions had downstream speeds of 10 Mbps or more, which correspond to 35% of the Danish broadband subscriptions. Also upstream speeds are increasing. There were 1 197 000 subscriptions with speeds between 2 Mbps and 10 Mbps. More and more Danes are using bundled packages. Around 5.5% of the Danish population were subscribers of bundled services by July 2009. According to NITA's statistics, by the end of June 2009, there were 303 000 bundled subscriptions, which is 86% more than six months previously, and around 35% of the growth in bundled subscriptions is due to triple-play subscriptions (telephony, Internet and TV), which grew from 61 000 to 110 000 subscriptions during the first six months of 2009.

The incumbent continues to be the dominating copper network and cable provider. The incumbent's overall market share (measured in broadband lines by operator) increased significantly from 57.3% in January 2009 to 63.0% in January 2010. One of the reasons for this increase could be the cumulative effect resulting from the fact that the incumbent acquired a number of smaller operators (mainly ISPs) in 2009.

The DSL platform remained the major broadband technology for broadband lines, contributing around 60% of the broadband connections in January 2010, with other technologies accounting for 40%. The incumbent continues to dominate the DSL market, with a market share of 73% in January 2010. The incumbent's DSL lines continue to grow (from 843 406 lines in July 2008 to 911 000 lines in January 2010) whereas the total number of new entrants' DSL lines fell (from 406176 in July 2008 to 340 000 in January 2010).

Energy companies continue to invest in the roll-out of Fibre to the home (FTTH) networks, and focus on delivering 100 Mbps. The number of new entrants FTTH-connections increased from 67532 in July 2008 to 116 000 in January 2010.

New entrants' total number of wholesale Local Loop Unbundled (LLU) lines fell (with fully unbundled lines decreasing from 205 100 in July 2008 to 166 437 in July 2009, and the number of shared access lines decreasing from 61715 lines to 59380 lines, during the same period). In October 2009, the monthly average cost per full unbundled loop in Denmark (€11.34) was above the EU average, and also the monthly average cost per shared access in Denmark (€6.16) was above the EU average. The connection fee for fully unbundled loops is close to the EU average. Due to the new LRIC decision setting out prices for 2010, both the monthly average cost and the connection fee will fall.

Regulatory issues

In order to address the issue of the lack of information on the ongoing upgrading of the incumbent's copper network, the Cable Management Forum (which resumes bi-annually) was created by the incumbent, with the intention to provide alternative operators with a platform for receiving information on the incumbent's roll-out plans. However, alternative operators considered that the information received via the Cable Management Forum was not always sufficient.

As part of the second round of market analyses, NITA adopted on 1 May 2009 a decision on the market for wholesale physical network infrastructure access (LLU), which entered into force on 1 July 2009. The decision imposes a full set of remedies, and also imposes certain new obligations on the incumbent, inter alia an obligation to provide access to unbundled fibre (dark fibre) on backhaul circuits, to anyone who has the right to interconnection. The decision also includes an obligation for the incumbent to inform other companies about their plans for upgrading of the network, to allow the companies to adjust their business plans, and a requirement that the incumbent only eliminates copper-circuits after a suitable notice period to allow the companies to find alternative solutions. The general aim of all obligations is to prevent a deterioration of the competitive situation as the incumbent keeps upgrading its network. NITA’s decision was upheld by the Telecommunications Complaint Board in December 2009.

In the NITA decision of 22 December 2009 on the market for wholesale broadband access, the incumbent was designated as SMP operator, and was imposed an obligation to grant access to BSA via both the copper and the cable-TV network. NITA considered that the SMP operator's control over both the copper network and large parts of the cable TV network creates a special competition problem in the broadband market. The reason was that the SMP operator was considered to have an economic incentive to upgrade only the unregulated infrastructure (i.e. the cable TV network) to the detriment of competitors. The cable TV network can provide a higher capacity than the copper network, and without regulated access, other companies are not able to offer consumers the same services as the SMP operator. The draft decision was endorsed by the Commission in its comments letter of March 2009. Since the SMP operator will incur fairly considerable costs in order to establish a wholesale product on the cable TV network, NITA considered it important to ensure that the obligation will only have effect in practice when there is a specific request for access, and when there is sufficient clarity regarding what the wholesale price will be. Therefore the access obligation will not have effect until the wholesale price of broadband via the cable TV network has been determined, and the SMP operator has implemented all necessary systems etc. The SMP operator has concerns about the access obligation, which they consider will negatively affect their possibility to provide inter alia TV.

In markets where the incumbent has been found to have SMP and a price control obligation has been imposed, NITA annually sets maximum wholesale prices based on the LRIC model. This concerns the wholesale market for fixed network access, the wholesale market for fixed network termination, the wholesale market for physical network infrastructure access (LLU), and the wholesale market for broadband access. In the autumn of 2009, NITA made a decision, based on the LRIC-model, setting the 2010 wholesale prices for a number of products that operators purchase from the incumbent for use of the copper access network. The decision means that a number of prices have decreased, such as the prices for shared access, and the price for LLU, which fell by 10 %, from 1 January 2010. Furthermore, the price for interconnection (termination and access) with the incumbent's fixed network decreased by almost 50%.

The concerns mentioned in previous Reports, regarding the mandatory membership and payment to local cable TV associations, have been re-iterated by some operators as being a significant barrier to market entry, preventing the roll-out and adoption of fibre and other newer technologies. In order to solve this problem, NITA is heading a working group consisting of five ministries, the Danish Competition Authority, and Local Government Denmark. The working group is looking at the possibilities to change the legal rules, and is expected to finish its work in the spring of 2010. The High Speed Broadband Committee set up by the Minister for Science, Technology and Innovation in 2009 also dealt with this issue, and published its Recommendations in January 2010, recommending the elimination of the compulsory membership to local cable TV associations, in order to ensure competition and to enable consumers to freely choose broadband provider. The Commission services are also looking into the matter.

Three years ago the Danish government introduced a tax incentive, which made it possible for employers to pay for their staff's private broadband connections, to enable employees to work from home. This benefit was not taxed. However, the Danish government decided in June 2009 to introduce a multimedia tax, where any employer having supplied with IT-equipment which can also be used for private matters, will be accounted as part of a yearly income, and taxed as such. This includes employee broadband connections at home paid by the employer, which was seen as a fringe benefit. The new tax will apply both to mobile and fixed broadband, and entered into force on 1 January 2010. Many market players are negative to the introduction of this tax into an already saturated market, where it is important to keep incentives for further uptake. However, some maintained that since the consumers pay a fixed sum, independent on how many services they use, some consumers might decide to add on an extra service since they anyway pay the tax. The new tax should also be considered as part of a larger tax-reform in Denmark, from which most tax-payers will receive a reduction in taxation.

The long-drawn issue of double coverage obtained by the incumbent for its copper network infrastructure was addressed in legislation entering into force on 1 January 2009, which provided that costs were to be covered equally by the users of the infrastructure (according to a 50/50 model between the PSTN and the DSL). Despite the new legislation, operators have concerns, since apparently the incumbent is keeping the wholesale access costs fixed and gives the whole rebate to PSTN. According to alternative operators this situation has led to a preference to provide services using bitstream rather than shared access. However, according to NITA the incumbent gives the rebate in accordance with the new legislation.

NITA continues to study the possibility of a ‘margin squeeze’. A model for calculating a potential margin squeeze, which also allows for the possibility of assessing bundled products, has been created by NITA. NITA has inputted data into the model, but have not yet issued any conclusions. Operators maintain that profit margins are close to zero for lower capacities (less than 2 M/Bits).

Mobile

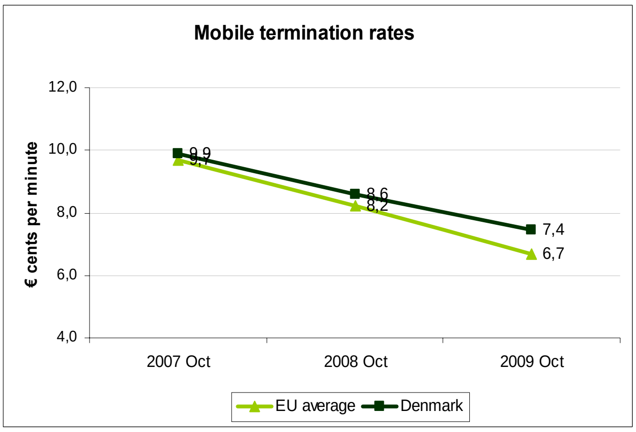
Market situation

The mobile telephony market is characterised by keen competition at the retail level. Mobile broadband is increasing significantly, according to telecommunications statistics for the first six months of 2009 published by NITA. In one year (from June 2008 to June 2009) the number of mobile broadband subscriptions which are only used for mobile data traffic doubled (from 209 000 in June 2008 to 419 000 in June 2009. Also the data traffic from these subscriptions is increasing significantly, with an increase of 160 % in the same period (from 1.3 billion MB in June 2008 to 3.5 billion MB in June 2009). However, the SMS market remains stable. During the first six months of 2009 around 6.5 billion SMS messages were sent, which is at the level of 2008.

Mobile penetration in Denmark has increased further to 126.0% in October 2009 (compared to 120.3% in 2008), thereby being above the EU average of 121.9%. There are four network operators operating their own mobile networks and offering commercial services. Three of these operators have both UMTS and GSM/DCS licence, while one operator has only a UMTS licence. Other service providers buy access to the networks of these providers. The market share of the incumbent's mobile subsidiary (including affiliated companies), in terms of subscribers, was 39.8% in October 2009, and is unchanged from the market share in October 2008. The market share of the second operator (including affiliated companies), based on subscribers, increased to 29.3% in October 2009, from 26.2% in October 2008.

The interconnection charges for call termination on mobile networks (on the basis of subscribers) decreased during the year to 7.44 €-cents, from 8.58 €-cents, but were still above the EU average of 6.70 €-cents, in October 2009. The annual average revenue per user for the year 2008 decreased to €360 (down from €389 for the year 2007). The mobile price per minute for the year 2008 fell marginally to €0.10, from €0.12 for the year 2007.

Regulatory issues



In the context of the second round of market analyses NITA made, on 30 March 2009, a decision which concluded that the wholesale market for mobile access and call origination was effectively competitive, and previous obligations on SMP operators were thereby lifted. NITA has started the second round of market analysis on the market for voice call termination on individual mobile networks. In April 2009, in the context of the market analyses, NITA carried out the market definition of the market for voice call termination on individual mobile networks, with a draft analysis in September 2009. The draft decision was made in December 2009, and the publication of the final decision is foreseen for the first quarter of 2010. In the autumn of 2009 NITA imposed asymmetric Mobile Termination Rates (MTRs) on all mobile operators, allowing the new 3G mobile provider to charge higher mobile termination rates than the other mobile network providers for the year 2010. The new entrant mobile operator is allowed to charge 0.51DKK(6.80 €-cents) whereas the other three mobile network operators can charge

0.44DKK(5.90 €-cents). All mobile termination rates will be set at a symmetric level in 2011. The Commission issued a comments-letter in the summer of 2009, pointing out that asymmetric MTRs are usually imposed for new entrants having been on the market for less than four years (which is not the case for the Danish new entrant), and then only if there are objectively justified cost differences. All mobile network operators except the new entrant are concerned about the imposition of asymmetric MTRs until 2011. Furthermore, NITA has examined the market for SMS termination, which to a great extent faces similar problems to those on the voice call termination market. A draft decision by NITA on this market is foreseen for the first half of 2010.

In 2008 discussions were held as to whether a prolongation of the maximum 6-month binding period provided for in contracts between electronic communications providers and customers would be welcome. Due to lack of support, the situation finally remained unchanged. However, many operators, and in particular mobile operators still express concerns that the binding period is too short. Throughout 2009 the binding period was contained only in a sector specific Executive Order. However, in January 2010 general consumer legislation regarding binding periods has come into force, which provides that, in general, consumer contracts now are limited to a maximum binding period of 6 months.

Roaming Regulation

As regards the recent amendments to the Roaming Regulation regarding inter alia wholesale prices for data roaming and SMS messages, the amendments were implemented on time. However, NITA has monitored the compliance of mobile operators with the amended Roaming Regulation, and found that two mobile operators did not comply with the provisions regarding prices for sending SMS messages and for receiving calls while abroad. One of the operators adjusted the relevant prices in compliance with the Roaming Regulation on 1 October 2009, while the other operator still has to carry out the necessary adjustments. Furthermore, some operators are concerned that the new cut-off clause may not be implemented before March 2010, since all mobile operators have to wait for suppliers of relevant systems.

Fixed

Market situation

There is a trend in Denmark of a decreasing number of fixed telephony subscriptions (PSTN lines) and a growing number of IP telephony subscriptions. According to statistics published by NITA, in two years the number of IP Telephony subscriptions have doubled, and at the end of June 2009 there were 603 000 IP-telephony subscriptions in Denmark. In the first six months of 2009 alone the number of IP telephony subscriptions increased by 119 000, which represents an increase of almost 25%. During the same period the number of traditional fixed telephony subscriptions fell by slightly more than 10 %.

There has been some further consolidation on the market, and during 2009 some smaller service providers (mainly ISPs) have been acquired by the incumbent. The Danish incumbent continues to be the largest provider for telephony on the fixed network and its market share has increased marginally. Its market share (for all types of calls) by minutes of traffic was 65.5% in December 2008 compared to 64% in December 2007. However, its market share, by volume, for international calls, decreased from 48.5% in December 2007, to 46.3% in December 2008. In total there were 32 fixed alternative operators, offering public voice telephony through direct access, in July 2009. 24 of these alternative operators were using fully unbundled local loops and 8 of them were using shared access lines for the provision of their services. This represents a decrease for the former category, since 28 alternative operators used fully unbundled local loops in 2008, whereas the number of operators using shared access remained stable (8 operators). The market share, on the basis of volume of traffic, of VoIP operators increased to 15.1% in December 2008, compared to 9.4% in December 2007. 16.4% of Danish subscribers were using an alternative provider for direct access in July 2009, which is above the EU average.

The interconnection charges for terminating calls on the incumbent's fixed network at local level had increased from 0.46 €-cents to 0.48 €-cents, but were still below the EU average, in October 2009. The interconnection charges for both single and double transit remained unchanged at 0.65 €-cents and 0.86 €-cents, respectively, in October 2009, which was below the EU average. In 2010 the prices at local level will be 0.25 €-cents, due to the revision of the LRIC-model, mentioned below.

Regulatory issues

The process of revising the LRIC-model, which was initiated in the autumn of 2007 by a public consultation, was completed in 2009. LRAIC prices for 2010 and onwards have been determined on the basis of the revised model.

In 2008, NITA concluded in its analysis of the market for wholesale trunk segments of leased lines market that there was no SMP in the market, and thus, the remedies were revoked. Certain operators are now concerned about increasing prices. As regards the market for wholesale terminating segments of leased lines NITA notified a draft decision to the Commission in December 2009, with a final decision foreseen for the first quarter of 2010. Finally, market definitions have been made for the market for access to the public fixed telephone network, the market for call origination on the public fixed telephone network, and the market for call termination on individual public fixed telephone networks.

Broadcasting

Market situation

Cable is still the leading television platform in Denmark representing around 70% of all households, in July 2009. The IPTV network reached 0.8% of all households in July 2009. It should be noted that these figures are based on the results of a questionnaire survey amongst a representative cross section of the population and therefore are estimates.

Regulatory issues

Following international coordination agreements, the digital switchover in Denmark took place on 1 November 2009, without any major problems encountered. Six out of eight Danish multiplexers are allocated for digital television. Two of these six multiplexers are allocated for public service television, while the remaining four are allocated to a commercial gatekeeper.

On 4 April 2008, following a tender procedure, a gatekeeper was given a distribution license, with a licence term of 12 years, to operate the digital TV transmitter network for the four multiplexers. One of the requirements imposed was to launch mobile TV using the DVB-H standard on one of the multiplexes. The gatekeeper is facing certain resistance on the demand side. The multiplexer to be used for mobile TV is used for testing and research until 31 October 2010.Of the remaining two multiplexers it has been politically decided that one (regarding the digital dividend) should be used for other purposes than TV, especially mobile broadband. It has still not been decided for what purpose the last multiplexer shall be used, although it is expected that a decision regarding the last multiplexer will be made in 2010.

Horizontal regulation

Spectrum management

On 12 June 2009 the Parliament adopted a new Act on Radiofrequencies, which entered into force on 1 January 2010. The new Frequency Act aims at promoting innovation and competition by increasing market players' flexibility regarding their own spectrum use. The new Act expands the existing rules on secondary trading to also include trading of parts of licences, and introduces a technologically neutral approach to the use of frequencies, as well as a ban on hoarding and on anti-competitive behaviour. New related secondary legislation also entered into force on 1 January 2010, along with a revised Frequency Plan. NITA initiated in October a public hearing over the revised frequency plan.

On 22 June 2009 it was decided by the Danish Minister of Science, Technology and innovation, and the Minister of Culture that the 790-862 MHz frequency band in the future shall be used for other purposes than TV, especially mobile broadband, to ensure that the rapid growth in the uptake of mobile broadband in Denmark will continue. The Minister of Science, Technology and Innovation will make a decision at a later stage on exactly how the frequencies will be awarded. The spectrum will be freed as of 1 January 2013. NITA is currently consulting with stakeholders as to the practical aspects of the implementation of the political decision of 22 June.

Following the adoption of the amended GSM Directive, a public consultation on the re-farming of the 900 MHz-band (which previously had been reserved for GSM) and the 1800 MHz-band was carried out in November 2009. Within the 900 MHz-band, matters are slightly complicated by the Danish railways frequencies currently located in the band. The public consultation proposed a general re-farming within the 900 MHz-band, in order to let a new entrant receive 2 X 5 MHz, by a beauty contest or by an auction, from 1 January 2011. The licence of the new entrant would run until 2017, to be renewed for 15 years until 2032, according to the public consultation. As regards existing licence holders, it was proposed in the public consultation that these licences would be prolonged until June 2017, and would then be handed out either by a beauty contest or an auction in 2017, with a licence term of 15 years until 2032. The public consultation also proposed that the licences of the current licence holders would be made technology neutral, but the technology neutrality would only enter into force eight months after the entry into force of the new entrant's licence, i.e. on 1 September 2011. On 23 December 2009 NITA issued decisions to the three existing licence holders in the 900 MHz-band, some elements of which significantly differed from the consulted draft. The decisions provided for a re-farming of the frequencies within the band, and freed 2 x 5 MHz for the benefit of a new entrant from 1 January 2011. The licence of the new entrant is expected to run until the end of 2034. It is for the Minister to decide whether the frequencies will be given out through a beauty contest (as is the case for existing licence holders) or through an auction. As regards existing licence holders, the NITA decisions provide for a termination of the licences by the end of 2019. In 2019, new licenses will be handed out either by a beauty contest or an auction, with a licence term of an expected 15 years, until the end of 2034. Thereby the licence terms of these licences will be synchronised with the new entrant's licence terms. According to the decisions, the licences of the current licence holders will be made technology neutral in accordance with the revised GSM-directive and the Commission Decision, but the technology neutral licences may not be exploited commercially until 1 May 2011. The re-farming of the 900 MHz-band in Denmark is controversial. A complaint from an operator regarding the re-farming of the 900 MHz-band is currently being investigated by the Danish National Competition Authority (NCA). The Commission is monitoring developments regarding the re-farming of the 900 MHz-band in Denmark.

As regards the 1800 MHz-band, the solution proposed in the public consultation is quite similar to that of the 900 MHz-band. NITA also decided on 23 December 2009 on the re-farming in the band, in order to allow a new entrant to receive 2 X 10 MHz. The licence of the new entrant will run until 2032. It is not yet decided whether the frequencies will be handed out by means of an auction or a beauty contest. Existing licences have been terminated by NITA as of June 2017, and new licences will be handed out either by beauty contest or by auction. These licences, which will be valid from 2017 will also run until 2032.

In July 2009 NITA initiated a public hearing on the auction of the 2.6 GHz-band. This frequency spectrum is suitable inter alia for mobile broadband based on standards like LTE and WiMAX, but can also be used for other purposes, such as mobile TV. Frequencies in the 2.6 GHz band are to be auctioned in March/April 2010. Altogether a frequency area of 205 MHz will be auctioned, of which 190 MHz will be in the 2.6 GHz band (2500-2690 MHz) and 15 MHz in the 2 GHz-band (2010 to 2025 MHz). The licences will be service and technology neutral.

Implementation of spectrum decisions

Denmark has implemented the great majority of the Commission Decisions on frequencies. However, the Commission services are currently looking into certain aspects of the implementation of Commission Decisions 2008/411/EC (regarding the 3400 to 3600 MHz-band), which should have been implemented by 22 November 2008, and 2008/477/EC (regarding the 2500-2690 MHz band) which should have been implemented by 14 December 2008. Further information was requested from the Danish authorities and was received on 4 December 2009, and is currently being analysed.

Rights of Way and facility sharing

Mobile operators have expressed concern about difficulties in getting permits for erecting masts and antennae due to health concerns in the municipalities, and are concerned that these problems may delay the future development of mobile broadband. Furthermore, in some cases public hearings on the erection of antennae may prolong the process. NITA is taking an active role in facilitating a constructive dialogue between the mobile operators and local authorities, and in October 2009 the Minister of Science and the president of Local Government Denmark addressed a joint letter to all municipalities in Denmark to remind them of the importance of mobile broadband, and encouraging them to process the applications.

THE CONSUMER INTEREST

Tariff transparency and quality of service

There is an online interactive price and quality guide for electronic communications services on the NITA web site, which is updated by market players whenever they are launching new offers or services in the market, and then validated by NITA on a day-to-day basis. Every three months a pamphlet is issued showing the five cheapest offers for various baskets in mobile, fixed and broadband telephony, as well as fixed and mobile broadband. On the same website there is now also an online facility by which consumers can test the speed of their Internet broadband connection. However, it is considered by consumer representatives and certain market players that more transparency is needed, and that a quality index should be introduced, in order to introduce more competition on quality. Some operators allegedly advertise higher speeds than the consumer actually gets. Such advertising practice would be against the guidelines for good marketing behaviour of telecommunications providers, issued by the Consumer Ombudsman.

Universal service

A new Danish Executive Order on Universal Service was adopted on 26 June 2008, introducing a new regime for the designation of the Universal Service provider(s) in Denmark. The legislation provided for four 'packages' of services under the universal services, including (1) PSTN and ISDN; (2) leased lines: (3) directory services; (4) radio-based maritime distress and safety communications services. Some of the services (maritime services, ISDN and leased lines) are additional services not included in the scope of the Universal Service Directive. A public call for expression of interest was held regarding all four packages. The Danish incumbent was designated as the universal service provider for the PSTN and ISDN package, as well as for the leased lines package, due to the fact that they were the only operator showing interest. As regards directory services, the incumbent was also designated as the universal service provider based on a public tender, where two providers showed interest. As regards maritime services, NITA did not receive any application during the public call for expressions of interest for providing this package, and thus designated the incumbent based on an evaluation of the market and relevant operators, as well as certain technical specifications.

According to Danish legislation additional mandatory universal services, such as maritime services, ISDN, leased lines, not within the scope of the Universal Service Directive, when resulting in a net cost, are to be financed by a possible surplus of services provided within the scope of the Universal Service Directive, such as voice telephony. Based on concerns expressed by one operator, the universal service mechanism in Denmark, in particular the compensation mechanism set out in Danish legislation, is under examination by the Commission services. It is currently being investigated whether the mechanism is compatible with the Universal Service Directive, and in particular, Articles 8, 12, 13 and 32 thereof.

Users' access to the Internet and network management

Questions related to illegal downloads have been examined in Denmark, with a view to finding means to defend rights-holders' interests without putting consumers' rights at risk. No conclusions have been drawn yet, but there is a proposal from the Government to establish a legal body to send out information letters, without any sanctions, outside the Court system. If there is no improvement following the receipt of the letter, rights-holders can go to Court.

Number portability

The total number of porting transactions as regards fixed numbers were 132 404 between January 2009 and June 2009, and 280 860 as regards mobile numbers, for the same period. The maximum price per ported fixed number in Denmark was €7.8, and the average price per ported mobile number was €3.7 for the period between January 2009 and June 2009. The Danish Consumer Ombudsman has stated that porting of numbers should not take more than a maximum of 30 days. In view of the reform of the EU regulatory package operators maintain that it would be technically possible to port numbers in one day. However, they consider that it might be difficult to do so for legal and administrative reasons related to the notice period in contracts and the 6-month binding period (if the porting is requested during this binding period).

Consumer complaints

Consumers' complaints regarding products and services offered by the electronic communications providers are addressed to the Telecommunications Complaints Board. The number of complaints received has fallen significantly during the past years and this trend continued in 2009. Most complaints concern defective mobile phones, billing and fault repair time.

European emergency number 112

The EU rules on the emergency number 112 have been implemented in Denmark. The emergency number 112 is the only emergency number available since 1992. Caller location information is available from both fixed and mobile networks, with the push forward technology applied for the provision of caller location information to public safety points (PSAPs) as soon as a call is received.

Harmonised numbers for harmonised services of social value (116)

Both the 116 000 number, which is a hotline for missing children, and the 116 111 number, which is a child helpline, have been assigned to the incumbent, on 3 October 2007 and 16 April 2008, respectively, and are functioning. The number 116 123 is still available as NITA has not received any applications for this number.