

IRELAND

INTRODUCTION

The economic environment in Ireland is challenging as illustrated by the rapid fall in GNP and in consumer prices. Consumers are increasingly cost-conscious and are demanding value for money. The potential for sustainable infrastructure-based competition in the Irish market is beginning to be realised, driven by demand for converged services, some consolidation and the increasing importance of cable as an alternative competitive platform in urban areas. Mobile players are adding fixed line voice and broadband services to their portfolios. Fixed traffic and revenues continue to decline. Ireland still ranks below the EU average on fixed broadband penetration although mobile broadband continues to grow strongly. Furthermore, there is a need to ensure that targeted performance levels for universal services are met.

In general, while some important decisions were taken during the year, significant effort has been devoted to preparatory work on key issues which have not yet come to fruition. There is uncertainty regarding future investment in Next Generation Networks (NGN) although there seems to be some interest among market players in collaborative approaches. The Government and ComReg have published reports outlining respectively a general strategy for NGN and principles for an approach to NGN regulation. Major decisions are pending on spectrum refarming which were also flagged in last year's report although ComReg is engaging in a thorough consultation process and has recently published a response and consultation which outlines a way forward. The future use of the Digital Dividend in Ireland is also currently one of the major regulatory issues at stake. It is necessary that the debate and the decision making process on this issue are advanced as soon as possible.

Some market players also voiced concerns about ComReg's implementation and enforcement capabilities. In that context ComReg has recently launched a new consultation on its dispute resolution procedures.

While acknowledging the need for regulatory independence, the Irish government has recently published a statement of regulatory principles (directed at all economic regulators) which could have implications for ComReg's operations.

REGULATORY ENVIRONMENT

Main regulatory developments

Following a consultation process launched in 2008, in June of 2009 the Irish government published a report on Next Generation Broadband. The strategy as outlined in the Report consists of promoting private sector investment, ensuring optimal regulation, an innovative spectrum policy and targeted government action. ComReg followed this report with a discussion document launched in July 2009 and a subsequent follow-up report published in November 2009 which focused on the role of regulation in next generation broadband development.

There were a number of important developments concerning spectrum in the course of the year. In particular ComReg issued a consultation paper and report on the use of the digital dividend which is seen as a first step in this process. While stating that 2012 is the target date

for digital switchover, the Irish government has yet to confirm that the switchover will be complete by that stage.

In relation to proposals for liberalisation of the future use of the 900 MHz and 1800 MHz ("GSM") spectrum which was flagged in last year's report, ComReg has conducted a lengthy and thorough consultation process in which a set of refined proposals have been suggested.

Organisation of the NRA

The Irish government has proposed legislation to regulate premium rate services in Ireland. The proposed legislation establishes a regime for consumer protection for subscribers to premium rate services. It replaces the existing industry model of self-regulation and transfers the regulatory functions to ComReg. It is expected to be passed into legislation shortly.

The replacement of the Electronic Communications Appeals Panel with the possibility of appeal to the High Court in 2007 appears to be working well and has been welcomed by most players. Since the beginning of 2009, five appeals have been lodged by the incumbent against ComReg decisions. To date all except one of these has been settled.

In October 2009 the Irish government issued a Statement on Economic Regulation which has implications for a number of regulatory agencies in Ireland including ComReg. This Statement covers governance and accountability arrangements, structures and mandates as well as costs and efficiencies in regulatory agencies. The Statement was issued in the context of a government commitment to initiate a review of economic regulation in Ireland and takes into account the challenging economic environment in which such agencies now operate. While the Statement acknowledges the need for independent regulation it nevertheless includes provision for Ministerial policy directions as well as resourcing and budgetary constraints. The Commission will monitor developments in this area.

Decision-making

ComReg published a draft decision and consultation on 23 December 2008 for the physical network infrastructure access (LLU) market 4. In the Commission's subsequent comments, whilst noting that the regulatory outcome was not affected, it invited ComReg to include also alternative operators' fibre in this market. ComReg issued a further consultation on this matter on 15 May 2009.

ComReg has taken a number of important decisions on retail bundled offers and on pricing for unbundling of the local loop which should have significant implications for the future. If implemented as proposed, these decisions will mean significant reductions in prices.

As noted in last year's report, ComReg continues to find it challenging to observe the target time frame of four months for resolving disputes. For example, industry players have cited examples of disputes relating to Ethernet access, mobile termination rates and LLU collocation which have taken more than one year to resolve. ComReg acknowledges some of these difficulties and has recently launched a public consultation on the dispute settlement process. Some market players complain that ComReg is slow to reach final decisions even following lengthy consultation processes. On the other hand ComReg is conscious of the need for careful analysis and full transparency in its decision making. Furthermore ComReg has also carried out and closed a number of investigations. Some market players expressed positive views on ComReg's recent performance in relation to ensuring the compliance of the

SMP operator with its regulatory obligation not to unreasonably bundle retail fixed narrowband access.

ComReg's has not initiated any competition cases using its powers to investigate breaches of competition law in the electronic communications sector, established in 2007 through the amendment of the Competition Act 2002.

MARKET AND REGULATORY DEVELOPMENTS

The total turnover of the Irish telecommunications sector declined slightly and was €4.3 billion as of 31 December 2008, compared to €4.4 billion one year earlier. The fixed segment contributed €2.3 billion, a drop of 1.8% on 2007 while the mobile segment was slightly up at €2.1 billion. Investments in telecommunications networks rose and reached an estimated €516 million at the end of 2008 compared to €458 million in 2007. The increase was largely accounted for by fixed incumbent investment while investment by the mobile sector declined by around 5%. The investment over revenues ratio is 11.9% which is below the EU average and significantly below the best performing countries¹⁶⁶.

BT and Vodafone have recently announced an agreement whereby BT will hand over its consumer and SME broadband retail services to Vodafone which will in turn purchase certain wholesale services from BT over the next seven years. Consultations are ongoing with Singapore Technologies Telemedia who have recently acquired a significant shareholding in the Incumbent operator.

According to operators, the current economic climate is creating uncertainty around future investment in next generation networks. In July the Department of Communications, Energy and Natural Resources' (DCENR) issued a policy paper "Next Generation Broadband: Gateway to a Knowledge Ireland" which identified high speed broadband services as being critical in attaining the Government's twin goals of becoming a 'Smart Economy' and a 'Knowledge Society'. ComReg quickly followed with a 'Discussion paper' of its own on the issue of promoting the timely and efficient development of high speed broadband infrastructure and services.

ComReg expects that NGN networks will start roll-out in certain areas next year, and that competition will continue to be important in driving further development. It is considered unlikely that competition alone would, in the short term, provide sufficient impetus to bring about a very extensive rollout of NGN networks across the country. In the context of the investment risks associated with NGN, there also appears to be an appetite amongst a number of stakeholders for the adoption of a collaborative industry approach. ComReg has indicated that it is prepared to engage with stakeholders to explore the likely regulatory framework that could apply in such circumstances, particularly having regard to the need to satisfy competition concerns and having due regard to any relevant EC legislation and recommendations.

During the year there were legal proceedings between ComReg and the incumbent operator in relation to compliance with its obligation not to unreasonably bundle retail narrowband access. In October 2009 ComReg announced that these matters have been settled and the following approach in relation to bundles that include retail line rental should be taken:

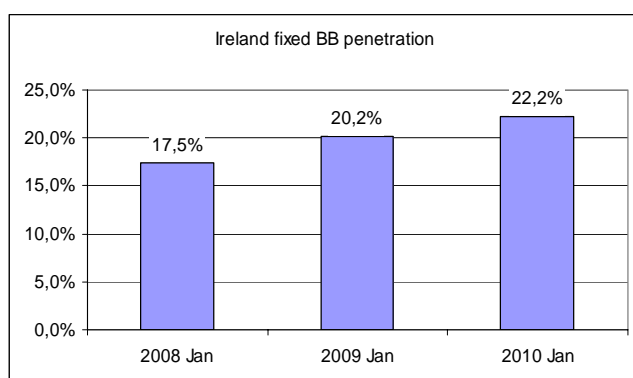
¹⁶⁶ Investment data for alternative operators may be underestimated as not all operators submitted data.

1. Bundles will be assessed by reference to the Net Revenue Test using average total cost;
2. The incumbent is not to launch bundles which include retail line rental without ComReg's prior approval;
3. If there are any bundles in the market that include retail line rental that have been cleared by ComReg, which ComReg subsequently determines do not pass the Net Revenue Test, the incumbent will modify or withdraw such bundles;
4. ComReg has agreed to conduct a consultation in relation to a further specification of the existing obligation not to unreasonably bundle.

Over 13% of the Irish population subscribed to bundled offers (over 90% of these for "double play") of electronic communications services in 2008.

Broadband

Market situation



In January 2010, fixed broadband penetration reached approximately 22.2% compared to around 20.2% in January 2009, while the EU average stood at 24.8%. Although fixed broadband penetration has increased, the gap between Ireland's penetration rate and the EU average is around the same as last year. Ireland has performed better on mobile broadband where penetration now stands at 10.5% of the population

compared to the EU average of 5.2%. The incumbent's broadband market share is approximately 51% which represents only a slight reduction on 51.6% in January 2009 and compares to an EU average for incumbent market share of 45%.

Broadband speeds are relatively slow in Ireland compared to other Member States. For example, 31% of broadband lines are between 144 Kbps and 2Mbps compared to the EU average for this category of 15.4%. Only 8.9% of broadband lines are above 10Mbps compared to the EU average of 23.4%.

The share of non-DSL broadband lines has increased with most of the growth coming from cable broadband which showed an increase of 56% on last year. Wireless local loops (WLL) have declined slightly. DSL accounts for 72% of broadband lines in Ireland and the incumbent operator holds a 69% market share which compares with an EU average incumbent market share for DSL of just below 56%.

Following the conclusion of a technology neutral competitive tendering process, the contract to implement and operate the National Broadband Scheme (NBS) was entered into by the Department of Communications, Energy and Natural Resources with a mobile wireless broadband operator at end December 2008. This scheme is part funded by the European Regional Development Fund. Progress under the NBS appears to be on track for delivering broadband to certain target areas in Ireland in which broadband services were deemed to be insufficient (estimated at 10% of the population). In order to facilitate competition in the area,

the contractor is required to provide wholesale access to any other authorised operator who wishes to serve premises in the NBS area. It is expected that broadband services will be deployed in all NBS areas within 22 months of the signing of the contract.

Regulatory issues

The number of fully unbundled lines dropped slightly during the year however there was a significant increase of over 19% in the number of shared access lines. In general however the numbers of unbundled lines (shared and full) are significantly below the EU average. For full LLU 7.4% of new entrants DSL lines are unbundled compared to 58.5% in the EU and for Line Share the figure is 2.9% compared to 15.2% at EU level. Although declining slightly, bitstream is by far the most common form of access at 89.8% of lines compared to 15.9% at EU level.

ComReg had published a Draft Decision and consultation for physical network infrastructure access (LLU) market on 23 December 2008. The Product market included copper and fibre. It was proposed to designate the incumbent operator with SMP since it had 100% market share and there were, amongst other things, high barriers to entry. It was also proposed to impose the full suite of remedies for copper lines. In addition remedies are to be imposed 'in principle' for next generation networks with further consultation on the specifics to be held. The Commission invited ComReg to include alternative operators' fibre in its market definition but noted that this had no impact on SMP. A further consultation on the inclusion of alternative operator fibre was published on 15 May 2009 and ComReg is now considering responses to both of the above consultations before taking a final decision.

ComReg took a number of highly significant steps in the area of pricing for LLU during the year. In a consultation ComReg proposed that the monthly full LLU rental price be reduced from €16.43 to €12.18 and the monthly SLU charge from €14.83 to €9.79. In a final decision taken early in 2010 ComReg decided that the maximum monthly rental for LLU is €12.41 and for SLU is €10.53. The monthly Line Share price was reduced significantly from €8.41 to €0.77. The incumbent's appeal of this decision has now been settled. Furthermore ComReg decided that the one off Migration Premium from Bitstream to Line Share and LLU imposed by the incumbent of €47 should be removed and this decision is now in effect.

For wholesale broadband access ComReg is currently engaged in a project that is considering alternative price control remedies to the current retail minus. ComReg has commenced its second round review of the Wholesale Broadband Access market and expects to issue a consultation paper early in 2010.

If eventually adopted these revised LLU prices could have a significant impact on the level of unbundling in the Irish market.

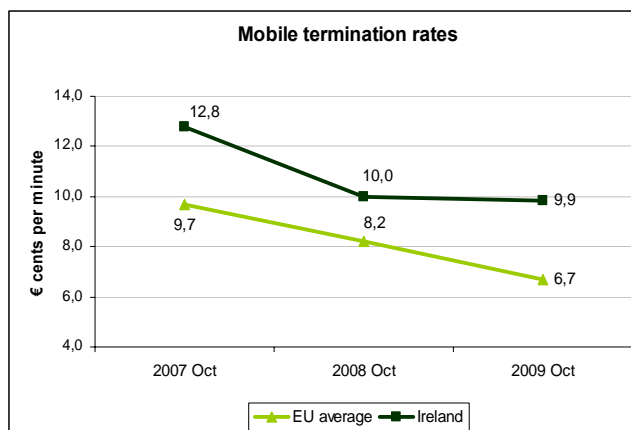
Mobile

Market situation

Mobile revenues were around €2.1 billion which accounts for 48% of total retail revenues. Mobile retail voice minutes accounted for 55% of all voice traffic. The mobile penetration rate has remained more or less static at 119.3% in October 2009 which is below the EU average of 121.9%. All four mobile operators now provide commercial third generation (3G) mobile services. Mobile price per minute of voice communication, at €0.10, compared favourably with the EU average of €0.13. Irish Mobile average revenue per user (ARPU) remains among the highest in the EU; in 2009 it was €390.

Regulatory issues

Following voluntary commitments entered into during 2009 all four mobile network operators in Ireland will now each reduce their MTRs annually to reach an average rate of 5 €-cents per minute no later than the end of 2012. ComReg has reserved the right to intervene where rates are materially out of line with EU best practice. Average MTRs are among the highest in the EU and stood at 9.86 €-cents compared to 6.70 €-cents at EU level in October 2009. The



implementation of these voluntary commitments should bring MTRs in Ireland closer to the EU average although there remains a significant gap. The Commission emphasises the need for ComReg to review this market shortly and to impose appropriate remedies instead of relying on voluntary commitments.

Roaming Regulation

All Irish mobile operators appear to be in compliance with the amended Roaming Regulation which entered into force on 1 July 2009. ComReg has indicated some concern that one or two operators will not be able to meet the cut-off limit transparency requirements on time and is in contact with these operators on this issue.

Fixed

Market situation

Fixed line revenue and traffic have continued to decline over the year reflecting both the effects of the poor economic climate and structural market changes. Fixed access paths declined by 5.2% while traffic is down by around 10%. The fixed market now accounts for only 45% of total traffic compared to 52% in 2007¹⁶⁷. The incumbent's market share (measured by retail revenues) in the fixed telephony market was similar to last year at around 68%. This compares with an EU average of around 63.3% in revenue terms.

¹⁶⁷

Source: ComReg.

Approximately 21% of subscribers used an alternative provider for voice telephony services in July 2009 which is down 1 percentage point on the previous year. The number of alternative operators using proprietary infrastructure as a percentage of total alternative operators was 13.6% which is a significant increase on the previous year (5.8%). However, they accounted for an estimated 2% of the volume of fixed communications traffic, below the EU average of 14.48%. ComReg plans to carry out a review of VoIP services in 2010.

Regulatory issues

The incumbent is required to apply cost-oriented fixed wholesale termination prices (using the forward-looking long-run incremental costs — FL-LRIC model). Alternative operators exceeding the market threshold of five per cent of direct access paths or five years from the date of ComReg's decision, whichever is the earliest, will trigger the commencement of a glide path so that the alternative operator can reduce its termination rate towards an efficient cost oriented level. ComReg intends to consult further on the specific details of a glide path or target to be achieved by the alternative operator and the timing of same. The incumbent's termination rates were just below the EU average in October 2009 for single and double transit and slightly above for local interconnection.

In 2008 the incumbent proposed a new wholesale product, called "white label", comprising elements of call origination, transit and termination, and meaning in practice that the incumbent would undertake all switching of calls on clients' behalf. In 2008, ComReg had launched an investigation into this product and in April 2009 issued an information notice stating that it had issued a Notification of Non-Compliance to the incumbent in this regard. ComReg states that the White Label product has not been sold to date in any significant volumes. To help bring certainty to the industry ComReg has decided to consult on a further specification of the pricing for the regulated wholesale inputs used in the wholesale re-sale of voice services to switchless operators ('white label') and indicated that it intended to proceed to consult with industry in relation to this matter.

Single Billing via Wholesale Line Rental (SB-WLR) enables Other Authorised Operators (OAO) to issue one single bill to end users for Carrier Pre-Selection (CPS) 'all calls' and line rental charges. ComReg have now conducted a review of the SB-WLR CoP and has published two documents to replace the original Code that relate to SB-WLR.

Broadcasting

Market situation

The share of Irish TV viewers relying on analogue broadcasting had fallen from approximately 25% in 2008 to approximately 23.6% in 2009. Approximately 37.5% of subscribers use the satellite platform while around 32% use cable. Internet television (IPTV) subscriptions are negligible. The economic environment has delayed the rollout of the DTT network and there is no current launch date for DTT in Ireland.

Regulatory issues

The new Broadcasting Act 2009 allows for the establishment of a new single broadcasting regulator, the Broadcasting Authority of Ireland (BAI), for both RTÉ (the public service broadcaster) and the independent broadcasting sector. It requires ComReg to award spectrum usage rights to the national public broadcaster (RTÉ) in respect of the public service multiplexes and to the Broadcasting Authority of Ireland (BAI) in respect of the commercial

multiplexes. The Act provides for RTE to have established a full national DTT service, providing space for all 4 national terrestrial TV channels by 31st December 2011, or such later date as the Minister for Communications may decide. In addition the Act provides for the BAI to enter into contractual arrangements with independent multiplex operator(s) who will establish, maintain and operate three commercial DTT multiplexes. Following delays with the tender competition, it is now understood that contract negotiations between the BAI and the current preferred bidder for the first three independent multiplex contracts for independent DTT services are progressing. A date for switching off the ‘free to air’ terrestrial analogue services remains to be set by the Minister for Communications.

ComReg launched a public consultation on the digital dividend in March 2009 and issued its report on that consultation in October 2009. In its Report ComReg indicates that it intends to clear the 800 MHz band to accommodate uses other than broadcasting and provide timely access to this band; consider additional digital dividend spectrum, once the benefits of the 800 MHz band can be fully realised and the core digital broadcasting requirements can be protected; and encourage innovation through *Test & Trial Ireland* rather than create a spectrum innovation reserve using digital dividend spectrum.

ComReg will now further develop its position on Ireland’s Digital Dividend and will consult again on the matter, having regard to developments at a national and international level.

Horizontal regulation

Spectrum management

In 2008 ComReg had published its first consultation on liberalising the use of the 900 MHz and 1800 MHz spectrum bands. This was followed in March 2009 with a response to that initial consultation and further consultation. ComReg also provided the opportunity for respondents to Consultation 08/57 and/or Consultation 09/14 to speak to, and clarify, their previous written submissions in a bilateral meeting. ComReg published its latest document in late December 2009. This document sets out ComReg’s response to Consultation and further consults on a number of specific matters including proposed licence conditions.

ComReg is seeking to determine how best to liberalise and make available spectrum in the 900 MHz band in accordance with EU legislative requirements and in the context of its statutory functions and objectives.

ComReg's consultations have identified a number of characteristics to be addressed, these principally being:

- the expiry of existing GSM 900 MHz licences commencing in 2011;
- asymmetries in mobile spectrum holdings between existing mobile operators. In particular, three mobile operators each make use of 900 MHz, 1800 MHz and 2100 MHz spectrum whereas the fourth operator uses 2100 MHz spectrum only;
- likely spectrum scarcity in relation to liberalised 900 MHz spectrum;
- asymmetry in relation to GSM 900 MHz licence expiry as two of these licences expire in 2011 and the third expires in 2015;

- liberalising the entire 900 MHz band as soon as possible to ensure the full benefits associated with liberalisation are realised and passed onto users, without creating distortions to competition; and how to allow existing and future licensees to effectively and efficiently determine their location in the band including by facilitating access to contiguous blocks.

ComReg is engaged on the design of a competitive process, a combinatorial auction, which would deal with these issues using market mechanisms, wherever possible. The auction now proposed by ComReg involves a two stage process. The first stage would determine the number of generic 2×5 MHz lots won by each bidder and the price by allowing bidders to bid for a certain number of generic lots. Winners would be chosen to maximise the total value of winning bids, subject to not awarding more lots than the number of lots available and maintaining the competition spectrum cap of 2×10 MHz. The competition design also allows the spectrum associated with one operator's existing licence to be made available on a liberalised basis in 2010 (i.e. before the scheduled licence expiry in 2015). To achieve this, a package bid would be augmented to include the possibility of releasing existing spectrum as well as buying lots.

The price of spectrum would be set at the level of the second highest bid, reflecting the opportunity cost of the spectrum. Qualifying bids must be at or above a pre-set minimum price. If demand does not exceed supply then all bids in the first stage are won at that price.

Given the outcome of the first stage, ComReg would be in a position to determine all the feasible frequency locations for winning bids on the basis that all winning multiple lots will be assigned contiguous spectrum. The second stage, or assignment stage, would then determine which exact spectrum is allocated to winners (that is, the location in the frequency band), by allowing winners in the first stage to make bids for the lots they have won, to be located at various specific frequencies.

Some market players expressed concern about the uncertainty arising from ComReg's general approach to handling these issues. In particular three of the four existing licensees are concerned about the possible impact on consumers of a potential situation where an existing operator in the 900 MHz spectrum would not get a new right of use for this spectrum.

Implementation of spectrum decisions

The Commission has written to the Irish authorities requesting further detailed information with a view to assessing whether implementation of certain spectrum management issues are in compliance with Decisions 2005/513/EC, 2008/411/EC and 2008/477/EC.

The first of these concerns the band 2500-2690 MHz, where the analysis of the plan shows that it does not seem to be compliant with Decision 2008/477/EC. In particular, the Commission considered that it should be made clear that other electronic communications services can access the band besides the current use of the band by multichannel multipoint distribution services (MMDS).

Concerning the band 3400-3600 MHz, the national usage of the band for "Fixed Wireless Point-to-Multipoint Access (FWPMA)" and "Fixed Wireless Access Local Area (FWALA)" specified in the plan appears too restrictive compared to the Decision, which opens the band for "terrestrial systems providing electronic communications services" and allows both fixed and mobile use.

Concerning both Decisions 2008/411/EC and 2008/477/EC, no information has been provided on how and when the frequencies covered by these Decisions will be made available to spectrum users according to the possibilities open by these Decisions besides the current uses of the band in Ireland.

The Commission is currently considering the response of the Irish authorities to its letter.

ComReg has recently released additional spectrum in the 10.5 GHz band for Fixed Wireless Access Local Area (FWALA) broadband services. Two separate spectrum allocations will be released increasing the amount of spectrum available for FWALA broadband in the 10.5 GHz band by 33%.

In October 2009 ComReg published its Response to Consultation on the release of spectrum in the 2300 - 2400 MHz (2.3 GHz) band. The Response to Consultation sets out ComReg's views on the future licensing of this band including matters such as licence types, national and local, licence duration and competition approaches. ComReg believes that this is an important step given that wireless broadband contributes to a significant amount of the total broadband market in Ireland. Following consideration of some outstanding matters, ComReg will bring forward its final consultation on this valuable radio spectrum band in 2010.

Rights of way and facility sharing

Rights of way and facility sharing, and more specifically optimal use of public assets, is identified as an issue in the Irish government's report on Next Generation Broadband, published in July 2009. This includes a planned one-stop shop to manage access to publicly owned ducting infrastructure. In addition, the report also proposes a planning requirement that certain new build premises should have open access fibre connections.

THE CONSUMER INTEREST

Tariff transparency and quality of service

ComReg carries out a range of initiatives relating to consumer protection and care. Its interactive tariff guide has been updated to include an international roaming calculator. A quality standard for bill presentation has been launched and the Disability services forum continues to keep a consistent focus on accessibility issues.

Universal service

The incumbent has made formal requests to ComReg for compensation of the net costs involved in meeting universal service obligations for 2006/07 and 2007/08. In 2007 ComReg published a Decision Notice which set out the process and procedure for the USO funding application and which required the incumbent to submit a full justification for its request, in 2007. As noted in last year's Implementation Report, ComReg is still in the process of reviewing the incumbent's compensation request. ComReg has invited the incumbent to make its application on the basis of actual costs and may consult on this and other issues pertaining to funding of USO.

The incumbent operator is subject to legally binding performance targets concerning its universal service obligations to be achieved by the middle of 2009. In particular, the incumbent is obliged to ensure that 80% of all in-situ connections to the incumbent's network are completed within 24 hours of request and 80% of all other connection requests are

completed within two weeks of request, to reduce the line fault rates, as well as to meet the target of completing 80% of line fault repairs within two working days. ComReg monitors the incumbent's performance on a quarterly basis. The performance data to date indicates that the incumbent has not complied with 11 of the 15 targets. ComReg is considering the incumbent's explanation for its non-compliance and any further action.

Users' access to the Internet and network management

A settlement was reached between the incumbent operator and record companies concerning proceedings which had been instigated against the incumbent over alleged illegal downloading. While full details of the settlement were not published it is understood that the incumbent will operate a “three strikes” policy. This means that after being supplied with the IP addresses of suspected infringers by the aforementioned record companies, the incumbent will twice warn infringers that their IP address has been detected infringing copyright. If these warnings are ignored or unheeded, the incumbent will proceed to disconnect the suspected infringers. It is also understood that these record companies are initiating similar proceedings against other operators in the market. The Commission services will monitor developments in this area.

Number portability

For mobile number portability, approximately 265 000 transactions took place between January and end of September 2009. Approximately 32 000 fixed portability transactions took place between January and end of September 2009. In Ireland the time needed to port a fixed number is 9 days, above the EU average of 5.9 days, whereas the time needed to port a mobile number is one day, substantially below the EU average of 4.1 days.

In January 2009 ComReg published a decision in relation to the maximum charges for wholesale fixed and mobile number porting. The revised porting charges will result in reductions of up to 90% in relation to the wholesale mobile number porting (MNP) charges and reductions of up to 70% to wholesale fixed number porting charges. The decision states that a mobile operator cannot charge in excess of €2.05 to another mobile operator for number portability. Similarly, a fixed operator cannot charge in excess of €4.02 to another fixed operator for fixed number portability. ComReg also set out a number of other wholesale fixed number portability charges, including a maximum charge of €3.50 for Geographic Number Portability (GNP) in the context of Unbundled Local Metallic Path (ULMP) and a maximum charge of €5.74 for Non-Geographic Number Portability (NGNP).

Consumer complaints

In terms of contact management approximately 18 200 issues are received by ComReg each year of which 24% are complaints. 82% of these complaints were resolved within 10 days. Most consumer complaints continued to be focused on billing issues in 2009, the other frequently aired subjects being quality of service and contractual terms.

European emergency number 112

A consultation on handling calls from persons with disabilities and other possible call handling enhancements was held during August 2009, the closing date for submissions was 31st August 2009. The Department of Communications, Energy and Natural Resources (DCENR) expects to finalise its views on the matter in 2010, following discussions with the relevant state and commercial organisations.

Following the introduction of the Communications Regulation (Amendment) Act of 2007, the DCENR tendered for a Supplier to provide the Emergency Call Answering Service (ECAS) for Ireland. On completion of this open tender process an operator was awarded the contract (known as a Concession Agreement) to provide 112 and 999 call answering services. This operator will operate the service for the next five years.

In terms of caller location information – where a person in an emergency situation is unable to state their location for any reason, some mobile base-station location information will be available automatically to the emergency services. Ireland is in the process of building a new emergency call answering service which is expected to go live in quarter 3 of 2010. The caller location information systems are being upgraded to automate the provision of mobile and fixed location information to the PSAPs for onward transmission to the emergency services.

In terms of awareness of 112 only 18% of respondents in Ireland knew that they can reach emergency services from anywhere in the EU by calling the European emergency number 112 (compared to an EU average of 25%) and a relatively high percentage (27%) responded with an incorrect number when answering this question.¹⁶⁸

Harmonised numbers for harmonised services of social value (116)

The number 116123 for emotional support helplines has already been assigned however it is delayed for funding reasons. The number 116111 for child helplines has been assigned, and is in-service since March 2009. The number 116000 has not been assigned yet.

Must-carry

According to the legal framework in place, the must-carry obligations apply currently to cable and MMDS (Multipoint Microwave Distribution System) operators in Ireland. The new Broadcasting Act 2009 extends the 'must-carry' obligations to all appropriate network providers.

Data protection

Ireland's challenge of the legal basis for the Data Retention Directive (2006/24/EC) was rejected by the European Court of Justice in February 2009. After initial consideration of a draft statutory instrument to transpose the Directive, revised legal advice was issued to the effect that transposition would have to be by way of primary legislation. On 6 July, the Communications (Retention of Data) Bill 2009 was presented to the Irish Parliament. The Bill is intended to implement the Data Retention Directive. It is expected that this draft legislation will be adopted in the near future. The Commission's Infringement Proceeding against Ireland for failure to implement the Directive is ongoing.

¹⁶⁸ Eurobarometer Flash survey on the European emergency number 112 (February 2010)