GREECE

INTRODUCTION

Market consolidation in the form of fixed-mobile alliances, along with a strong increase in the wholesale broadband access market, constituted the two elements characterising developments in the Greek electronic communications market this year. In the mobile market, competition at retail prices level was brining prices down, with (double and triple play) bundled services being offered at flat rates. Broadband penetration continued to rise, yet only marginally narrowing the gap with the EU average.

While the Greek Electronic Communications Law 3431/2006 has seen its second year of implementation, some secondary legislation was still awaited by the market, in particular the adoption of legislation on rights of way, which would facilitate network development. The national law on electronic communications has brought some positive changes to the appeal system, yet not enough to guarantee efficiency in the judicial system.

REGULATORY ENVIRONMENT

Main regulatory developments

The reporting year can be marked as the 'implementation year' of the regulatory framework in Greece with the national Law 3431/2006 'Περί Ηλεκτρονικών Επικοινωνιών και Άλλες Διατάξεις 3431/2006' (Law on Electronic Communications and Other Provisions) being in place and with the final decisions adopted from the first round of market analyses. However, there is still secondary legislation pending in the form of Ministerial Decisions. Most prominent is the lack of a Joint Ministerial Decision on the procedures for granting rights of way. While the NRA, Εθνική Επιτροπή Τηλεπικοινωνιών & Ταχυδρομείων, Hellenic Communications and Post Commission (EETT), submitted its proposals to the Ministry of Transport and Communications in July 2007, the Joint Ministerial Decision has not yet been approved by all competent Ministers (at the time of drafting this report, four Ministers have yet to sign the Decision out of nine signatures required).

In July 2008, the Ministry of Transport and Communications ran a public consultation on a draft law that would revise Law 3431/2006. Principally, the draft law provides for the establishment of a National Observatory for Electromagnetic Fields, mainly in response to expressed public health concerns. In addition, it aims to amend a number of articles on the organisation and administration of EETT, the appeal mechanism, spectrum management, etc.

Following publication of the new Recommendation on relevant products and service markets, EETT concluded the second round review for voice call termination markets on individual mobile networks and adopted final measures in October 2008.

From the first half of 2008, telecom operators had access to the 2008 cost-oriented prices relating to all wholesale and retail regulated services for which the Greek incumbent has cost-orientation obligations. This marked the first year that approved cost-oriented prices were made available to the market relatively early in the year, thanks to the earlier submission of data by the incumbent as compared to previous years. Market players could thus formulate their commercial policies on time.

The protection of consumers from unfair practices was also given focal attention, mainly because of the significant rise in consumer complaints registered in 2007. EETT adopted a Code of Practice for operators, and reduced the wholesale tariffs for fixed and mobile call terminations. For the first time, the Ministry of Development, responsible for consumer protection, issued fines to six alternative telecom operators for violating the Consumer Protection Law. The cases related mainly to delays in providing services, and to connections established without the consent of the consumer. Market operators were unhappy with the government's and EETT's focus on consumers, saying that the market was still immature since Law 3431/2006 had been adopted late.

Since the entry into force of Law 3431/2006, appeals against EETT's decisions can be filed before the Administrative Court of Second Instance, and not before the Council of State (the Highest Administrative Court). This change has already brought positive results, as decisions on appeals can be obtained faster than before. Yet, old appeals filed before the publication of the law continue to face long delays (with some cases pending since 1999). A concern shared by market operators is the legal uncertainty regarding the respective jurisdiction of the two bodies. Such a distinction –which is under review before the Council of State – could help to speed up the legal processes. Operators were reported to be flouting obligations due to the long delays in getting appeal decisions.

The Commission launched an infringement proceeding against Greece for failure to fulfil its obligations in regard to the free movement of capital and freedom of establishment with its national law 3631/2008, according to which private investors seeking to invest more than 20% in shares of strategic importance (including the Greek incumbent) would need the Greek government's prior approval.

Organisation of the NRA

EETT is an independent authority with both financial and administrative autonomy. It currently has a staff of 173 employees (out of 220 that are provided for by the law). Two calls for applications for 30 positions have recently been issued. Forming 'Task Forces' among employees to deal with specific issues/problems such as consumer complaints has proved to be a successful way of producing positive and timely results.

Placing the development of the broadband market in Greece at the core of its work while at the same time pursuing fair competition and consumer protection, EETT contributed significantly to the Greek electronic communications market being one of the fastest growing markets of the European Union in 2007. EETT declared 2008 as the year of 'Qualitative Broadband' and geared its legislative and monitoring work towards accomplishing the goals set in its Regulation Strategy for 2008-2011, i.e. establishing a competitive market based on a sound regulatory framework which would attract investments in broadband infrastructure.

In general, EETT has been successful in carrying out its tasks and in addressing market problems, very often under the strong criticism of market operators. The most evident result of its work has been the uptake of broadband lines, and the significant increase in local loop unbundling.

EETT's initiatives in organising conferences and forums, and issuing leaflets on issues of interest to consumers, as well as launching a broadband website (www.broadband.gr), have helped to inform the general public.

Decision-making

In March 2008 EETT approved amendments to the Reference Unbundling Offer (RUO) adopted in April 2007, and adopted a regulation regarding collocation, defining the terms, conditions and procedures for electronic communications equipment. In October 2008, EETT approved the reference wholesale line rental (WLR), and the Reference Offer for leased lines terminating and trunk segments and part circuits.

EETT conducted hearings and imposed fines exceeding €15 million in 2008 for a variety of violations, including the unauthorised activation of carrier pre-selection (CPS), or the annulment of applications for cancelling CPS, and delays in the handling of applications for local loop unbundling services. Fixed operators criticised EETT for reducing its regulatory role in the area of competition and giving excessive attention to consumer issues.

Within the context of its responsibilities as the competition authority for electronic communications, EETT approved the change of management of the Greek incumbent and its mobile subsidiary following the agreement signed by the Greek government and the German incumbent in May 2008, under which the German incumbent would acquire a 25% plus one share stake in the Greek incumbent, thus eventually taking majority control of the Greek operator.

MARKET AND REGULATORY DEVELOPMENTS

The total revenue of the Greek electronic communications sector in 2007 was €8.44 billion, of which €3.85 billion came from the fixed market and €4.59 billion from the mobile market. Investments in the electronic communications sector totalled €1.29 billion, of which €295 million were made by the incumbent in the fixed telephony network, €514 million by alternative operators, and €486 million by mobile operators. The investment over revenues ratio in the Greek telecom sector for 2007 was 15.3%.

Alternative operators continued to expand their networks, building mainly on local loop unbundling. New investment in fixed networks was undertaken by mobile operators which now provide ADSL services through synergies with fixed operators. The incumbent extended the number of sites with LLU collocation facilities. One operator, which is deploying its own network based entirely on the IP protocol, branched out to offer its services to a wider public.

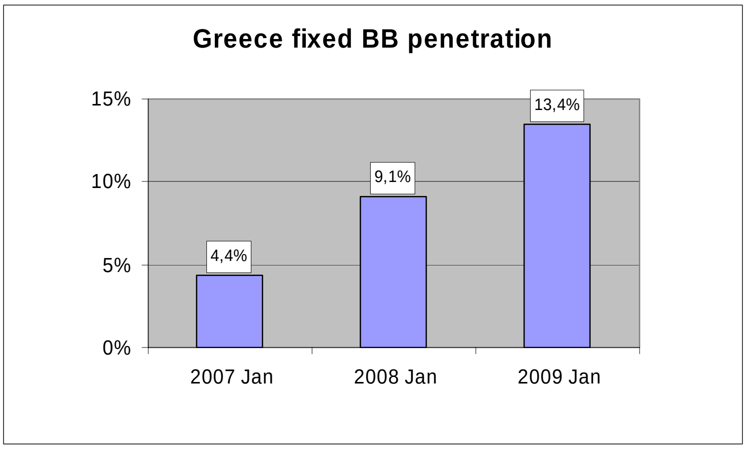
In February 2008, the Greek Minister of Transport and Communications presented the government's strategy for electronic communications and ICT for the period 2008-2013. He announced a €3 billion programme including investment of €2.1 billion for the installation of a fibre optic network that would give at least 2 million households and enterprises access to broadband services in at least 52 major cities. The focus of the fibre optic network would be the large urban areas. As regards the remote areas – given the topography of Greece – the emphasis would be on wireless access. Financing for the project was expected to come from the government, the European Union, and from the private sector. The Greek authorities were aiming to submit this project to the European Commission for examination and approval by the end of 2008. The Greek government intends to finance one third of this project.

In July 2008, 2.85% of the Greek population used bundled services. The majority of these subscribers (2.31%) used double play services including telephony and broadband while 0.54% used triple play products (fixed-mobile telephony and broadband).

Broadband market

Market situation

The growth of the Greek broadband market during the reporting year was significant. Broadband penetration grew to 13.4% in January 2009 from 9.1% a year ago. Effective regulation in place, the availability of bundled products on the market, and the Greek authorities' efforts to promote broadband, including in the rural areas, have certainly contributed to this positive development.



As a consequence, the gap between Greece's broadband penetration and the EU-27 average of 22.9% was narrowing marginally. The total number of broadband lines reached 1 506 614 in January 2009. This represents an increase by 507% since the adoption of Law 3431/2006 (297 090 lines in July 2006).

The incumbent's market share of retail broadband connections (DSL) decreased marginally, reaching 57.4% in January 2009, compared to 57.8% a year ago. During the same period, alternative operators slightly increased their presence in the overall fixed broadband market with their market share increasing from 42.2% in January 2008 to 42.6% in January 2009.

A significant increase is observed in the number of local loop lines, which reached 541 920 in January 2009 compared to 203 374 a year ago. Fully unbundled lines tripled within a year, reaching 485 030 lines in January 2009 (compared to 161 865 lines in January 2008). Broadband lines via local loop unbundling (both full and shared) constitute 36% of the total broadband access lines. Alternative operators stepped up their investment, thereby depending to a lesser extent on other wholesale broadband access products. This constitutes an encouraging trend for increasing competition in this important market. DSL lines of alternative operators via bitstream have been reduced from 223 122 in January 2008 to 94 413 lines in January 2009.

A significant contributor to the growth in local loop unbundling in Greece has been the availability by the incumbent of new physical collocation sites throughout Greece, standing at a total of 152 sites in December 2008, compared to 119 in December 2007. Some sites offer also distant collocation.

The market share of broadband DSL lines denotes the predominance of the DSL technology (99.6% in January 2009). DSL coverage in urban areas stood at 100% while in rural areas was 50%. The DSL rural gap compared to the national average of DSL coverage stood at 36.3%. Broadband access via cable platform is not available in Greece. Mobile broadband has started to be used and gained a marginal share of 1.6% in January 2009 (calculated as the number of dedicated data services via modems, cards, and USB keys), lower than the EU average of 2.8%.

The majority of fixed broadband lines in Greece are within the range above 144 Kbps and below 2Mbps (43.7% of total retail fixed broadband lines). Broadband speeds in the range of 10Mbps and above constitute 31.5% of the total lines while 24.8% of the total lines are between 2Mbps and 10Mbps.

The roll-out of the funded project for Broadband Access Development in Under-served Territories, which is aimed at co-financing broadband investments for local access across Greece, is progressing satisfactorily. One electronic communications operator started delivering its services on its own network developed as part of this project. Another operator wanted to extend its network to the street cabinet.

Within the framework of the government's Digital Strategy 2006-2013, the deployment of metropolitan fibre optic networks is being implemented in 75 municipalities in Greece, financed by the Operation Programme 'Information Society'. In principle, the purpose of these networks is to connect more than 3 000 sites of public interest (universities, museums, libraries, etc.), while also providing faster and cheaper Internet access to citizens. The development of these networks will be particularly important for Greece's rural areas. Already, some municipalities have started to offer wireless broadband access and services to their citizens.

Regulatory issues (including market analysis and remedies)

The new revised RUO adopted in March 2008 makes provision for easing the development of alternative infrastructure at collocated sites, facilitating the handling of consumer complaints, and accelerating fault management. The Greek incumbent appealed this RUO to the Council of State. Pending the ruling of the Court, the first adopted RUO is currently in force (which already includes one amendment of December 2007). Alternative operators expressed uncertainty as to which RUO version was in force.

In addition, EETT adopted a regulation in March 2008, specifying the procedures for collocation of electronic communication equipment and/or joint use of essential facilities by the network and/or service providers.

EEET is working on the second round review of the wholesale market for unbundled access to the local loops and sub-loops and the wholesale broadband access market.

Mobile markets

Market situation

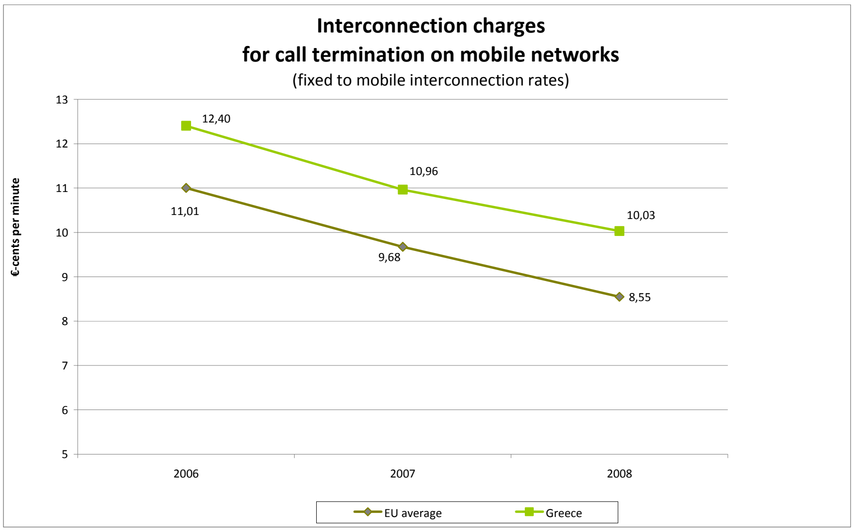
Consolidation in the form of fixed-mobile alliances resulted in more intensive competition at retail prices level, and the introduction of fixed-mobile bundled products. The market's three mobile network operators (MNOs) have 3G licences. Their 3G networks are based on the UMTS technology. All have started to offer bundled products (double play, which includes mobile voice telephony and broadband Internet, or triple play, which includes mobile voice telephony, fixed voice telephony and broadband Internet). The entry of mobile operators into the LLU market is expected to result in the availability of quad-play services (fixed telephony, Internet access, digital cable TV and mobile telephony).

The mobile penetration rate in Greece has continued to rise, reaching 122% (active subscribers) in October 2008 compared to 110.2% in October 2007. This figure is above the EU average of 119%. The total number of subscribers reached 13 708 972 in October 2008.

All mobile operators experienced a decreasing rate of new subscribers during the reporting year, which is a sign of the market's maturity.

The market share of the incumbent's mobile subsidiary in terms of subscribers was 43.12% in October 2008, a sharp increase from 37% market share in October 2007. This stronger presence in the market may be attributed to its purchase two years ago of the biggest chain of electronic communications retail products in Greece, expanding in this way its nationwide network of retail outlets. Its market share is well above the EU average of the leading mobile operator's market share of 38.1% (October 2008). In contrast, the market share of the second operator based on subscribers declined to 29.23% in October 2008 from 35% a year ago. A marginal decline in the market share of the third operator is witnessed also, from 28% in October 2007 to 27.65% in October 2008.

Mobile termination rates in Greece, at €0.10 in October 2008, were above the EU average (€0.0855) albeit decreasing during the reporting year (down from €0.11 in October 2007). On retail level, the average revenue per minute reached €0.16 at the end of October 2008, the EU average being €0.14.



Currently, there is no MVNO in Greece, although there are two resellers of mobile services (under brand names).

Regulatory issues (including market analysis and remedies)

In October 2008, EETT took final measures on the analysis of the second round review of the market for voice call termination on individual mobile networks. All three mobile operators were found to have SMP in their respective mobile termination markets, and obligations were imposed on them in respect of cost accounting, access and interconnection, non-discrimination, and cost-orientation, with a glide path of 2 years. During the period 1 January 2009 - 1 January 2011, mobile termination rates will be reduced by an average of 50% in order to reach the targeted maximum symmetric rate of €0.0495/min. The termination rates were calculated on the basis of a bottom-up LRIC model.

For all 3G licences, there was a prerequisite of 50% national coverage by 2006. Yet, the roll-out of such networks proved to be difficult due to the procedural problems with licensing and installation of antennas.

All mobile operators were particularly unhappy about the special levy imposed on post-paid mobile subscriptions. The levy, imposed on top of 19% VAT, increases with the monthly bill in a stepwise manner. With the introduction of converged products, this levy is applied to the total cost of mobile services plus broadband costs, plus the VAT. Mobile operators noted that fixed alternative operators were not paying similar taxes on either broadband services or fixed subscriptions.

Roaming

The Roaming Regulation has been implemented smoothly in Greece, with mobile operators offering the 'Eurotariff' along with other international roaming packages.

Fixed markets

Market situation

The main fixed alternative operators (in terms of market share) established alliances with mobile operators, allowing bundled products to be offered (mainly fixed-mobile lines with ADSL). This consolidation has increased the mobile operators' role in the fixed market. A couple of operators were in the process of being liquidated at the time of drafting this report.

In total, there were 21 fixed operators, offering public voice telephony services, of which 5 were VOIP operators. The incumbent's share in this market (for all types of calls by minutes of traffic) decreased slightly to 76% in December 2007 from 79% in December 2006.

The Greek subscribers still vastly choose the incumbent for direct access in 92.2% of the cases, more than the EU average of 81.4%. As of July 2008, 21% of subscribers were using a provider other than the incumbent operator for voice telephony services (either through carrier selection and/or carrier pre-selection, and/or direct access), which constitutes an increase of two percentage points from last year.

A new development in the Greek fixed market is the offering of VoIP telephony by five operators, which gained a marginal market share of 0.26% (data based on outgoing minutes of communications – December 2007).

Regulatory issues (including market analysis and remedies)

The incumbent's reference wholesale line rental (WLR) has been approved by EETT with modifications, as well as the relevant tariffs, which were established through a retail-minus methodology, in October 2008.

EETT also approved the Reference Offer for leased lines terminating and trunk segments and partial circuits in March 2008.

The second stage of the glide path for reducing fixed termination rates (FTRs) was applied during 2008. FTRs were not to exceed the ceiling rate €0.011/min up to 31 December 2008 (decreasing from €0.013/min a year ago). As of 1 January 2009, FTRs should not exceed €0.008/min.

Broadcasting

Market situation

The main platform for the provision of broadcasting services in Greece is analogue terrestrial TV (99%) followed by slight penetration of digital terrestrial and satellite TV (7% of households). IPTV was introduced into the market in 2008 and gained a marginal share of 0.22% of the total population.

In the near future, fixed electronic communications operators are expected to launch bundled products transmitting also broadcasting programmes. An IP provider recently acquired digital satellite television, while the Greek incumbent plans to enter the market with its own digital satellite TV. A fixed alternative operator has already started transmitting broadcasting services.

Regulatory situation

Greece intends to move to full digital broadcasting by 2012. The pilot phase of digital broadcasting transmissions was initiated on 1 November 2008.

The Resolution on the Frequency Chart for the purposes of the digital television broadcasting transition was adopted by the Greek government in July 2008. A Presidential Decree on the authorisation and allocation of frequencies (through a tendering procedure) relating to the final switchover was being drafted. Two Joint Ministerial Decisions are pending before the National Broadcasting Council, which can grant authorisations to TV and radio channels. It is not yet clear how much digital dividend will be generated by the switch-off of analogue broadcasting.

EETT held a public consultation from 16 November to 16 December 2008, regarding possible amendments to the Regulation of General Licences, which would define extra responsibilities of electronic communications network providers when producing or transmitting broadcasting programmes.

Horizontal regulation

Spectrum management

EETT has now issued the totality of secondary legislation in the sector of radio frequency spectrum, deriving from Law 3431/2006. This has also led to harmonisation of the Greek legislation with the Commission's spectrum decisions. Greece has implemented all the spectrum decisions adopted up until the end of 2007, except Decision 2007/344/EC on harmonised availability regarding spectrum use within the Community. It has also implemented four of the Commission decisions adopted in 2008, namely, Decision 2008/294/EC on spectrum use for mobile communication services on aircraft; Decision 2008/411/EC on the 3400-3800 MHz band; Decision 2008/432/EC amending Decision 2006/771/EC on short range devices; and Decision 2008/477/EC on the 2.6GHz band (2500-2690 MHz) for wireless communications systems.

A Regulation allowing partial spectrum trading has been adopted and published by the Ministry of Transport and Communications.

Over the summer, EETT launched a public consultation concerning the introduction of technologies other than GSM for the 900MHz and 1800MHz bands, to collect operators' views in view of the Commission's proposal to update and simplify the GSM Directive. The first licence of the 900MHz band will expire in 2012.

Rights of way and facility sharing

The absence of secondary legislation on rights of way continues to be a long-standing deficiency in the Greek electronic communications legislation. The Joint Ministerial Decision setting out the framework and the procedures has not yet been adopted, due to serious delays in relevant Ministries. This situation renders infrastructure development particularly cumbersome and uncertain.

While legislation is in place for the installation and licensing of antennas, in practice the process seems ineffective. One reason is that legislation is not correctly applied by all relevant authorities. Another reason is that cumbersome obligatory environmental studies must be undertaken prior to any authorisation for installing antennas. As a result, some town planning authorities either take too long to issue licences or simply do not process applications. Currently, there are about 6 500 licensed antennas out of the total of 10 000 antennas in Greece.

THE CONSUMER INTEREST

Tariff transparency and quality of service

Faced with a rising number of consumer complaints, EETT gave top priority to safeguarding consumers' rights. It issued a Code of Practice for the provision of electronic communications, and a Code of Practice for the provision of premium rate services. Furthermore, EETT issued a regulation for the measurement and publication of quality indicators for the provision of retail electronic communications services. Data on these indicators are gradually becoming available on the websites of EETT and of the telecom operators. The majority of such data is expected to become available by the end of 2009, giving consumers comparable information on the quality of services available in the market.

Universal service

According to EETT's decision, the Greek incumbent remains the universal service provider until the completion of the procedures for universal service provider designation under Law 3431/2006. The relevant legislation on the conditions for the selection and compensation of related costs was finalised in 2008. At the time of drafting this report, EETT was working on specifying the selection process to be followed. A Joint Ministerial Decision was adopted in September 2008 introducing measures for users with disabilities in order to ensure access to and affordability of publicly available telephone services.

Directory service and directory enquiry services

In August 2008, EETT issued a regulation on determination of the form of subscribers' directories, the procedures and costs for distributing subscribers' data among operators.

Consumer complaints

During 2007, EETT had received around 17 500 written and 36 900 phone requests or complaints from consumers regarding electronic communications services. The majority of these complaints focused on issues of local loop unbundling, fixed number portability, carrier pre-selection, quality and speed of broadband services and disputed bills. According to EETT, written complaints and telephone calls decreased significantly in 2008 (reduction of 17% and 30% respectively).

European emergency number 112

Calls to the emergency number 112 are handled at the main call centre of the incumbent, which then forwards the calls to the appropriate emergency service. Calls to 112 can be handled in Greek, English, and French, while calls in other European languages can be transferred to another emergency call handler who speaks the language concerned.

Approximately 252 000 calls per month are made to the 112 emergency number in Greece. "Pull" is the required forwarding technique for the provision of caller location information to Public Safety Answering Points (PSAPs) from both fixed and mobile networks. Information campaigns on 112 have taken the form of leaflets at airports, ports and railway stations in Greece. Currently, 112 is displayed in highway toll points and in Athens. The level of awareness of 112 in Greece, as the number to call in an emergency situation anywhere in the EU, is amongst the lowest in the EU countries.

Number portability

There was a robust increase of 142% from October 2007 to October 2008 in fixed and mobile ported numbers during the reporting year. A total of 1 590 515 numbers were ported, out of which 779 936 were fixed (49%) and 810 579 were mobile (50.9%). The most important factor that contributed to this positive development was the increase in local loop unbundling, which led to more bundled services being taken up by consumers.

According to national law, numbers must be ported within a maximum of ten working days, unless the consumer decides otherwise in his contract with the provider. Yet, in no circumstances should this period be extended to more than 15 working days. The use of number portability in Greece entails no cost for the end-user. The one-off fee charged by the incumbent to other operators to port a fixed number decreased from €10 in 2007 to €4.5 in 2008.

Data protection

By December 2008, Greece had not yet communicated measures for the transposition of the Data Retention Directive. Infringement proceedings are ongoing.

At the time of drafting this report, a draft Joint Ministerial Decision was under public consultation (3 December 2008-19 January 2009) concerning the minimum obligations of network operators to ensure the integrity of public telephony networks and the availability of public telephony services at fixed locations.