

ITALY

INTRODUCTION

While overall growth in the electronic communications market decreased for the first time in several years, Italy's mobile sector, which has the highest penetration rate in the EU, continued to grow in 2008, and mobile broadband is increasingly prominent. The broadband market has also grown further, although penetration is still lower than the EU average. The digital divide has been significantly reduced thanks to several projects carried out by public entities, and to investments by fixed operators.

The most important regulatory issue in 2008 was the incumbent's proposed undertakings in the framework of an operational separation between retail and wholesale activities aimed at guaranteeing non-discriminatory treatment in the provision of wholesale access services. Other significant issues were the setting-up of a glide path to reduce the asymmetry of fixed and mobile termination rates between the incumbent and alternative operators, and the successful transition to digital TV of the first Italian region.

REGULATORY ENVIRONMENT

Main regulatory developments

In July 2008 the incumbent proposed to AGCOM a set of commitments in addition to existing obligations imposed in 2002, intended to ensure non-discrimination in the provision of wholesale access network services. After a public consultation and some requests for modifications from AGCOM, the commitments were approved by AGCOM in December 2008.

The incumbent proposed that its already existing business unit, "Open Access", would be in charge of the management, planning, development and rationalisation of the incumbent's network access. "Open Access" would deliver wholesale services to both the incumbent's retail unit and the incumbent's wholesale unit according to a set of rules that – in AGCOM's view - would help to guarantee non-discrimination.

The commitments also oblige the incumbent to provide a reference offer for its passive fibre infrastructure. They also foresee the constitution of a working group open to all operators, which will assist AGCOM on technical, organisational and economic aspects connected with the transition to the New Generation Access.

A Supervisory Board (with three members designated by AGCOM and two by the incumbent) is supposed to monitor the implementation of the undertakings through a set of indicators measuring the quality of the supply of wholesale services. Non-compliance with the commitments would be reported by the Board to AGCOM and to the management of the incumbent, unless the incumbent brings the violation to an end within an agreed time frame, determined on a case-by-case basis.

A Dispute Settlement Body will be in charge of resolving the controversies of a technical-operational character in relation to the services of access to the network.

The decision by which AGCOM accepted the commitments suspended the ongoing proceedings for non-compliance by the incumbent with existing obligations. At the end of the reporting period AGCOM had not yet formally notified any draft measures that would include Telecom Italia's commitments.

Other important regulatory decisions were taken on fixed and mobile termination rates, numbering, spectrum management and consumer issues. Italy does not comply with the EU requirements concerning calls to the European emergency number 112. A procedure concerning caller location information was pending before the European Court of Justice at the end of the reporting period, and a new procedure concerning the effectiveness of 112 call handling was opened in 2008.

Organisation of the NRA

In order to increase the efficiency of the dispute resolution mechanism between operators (questioned by alternative operators) AGCOM has approved a new regulation that allows the complainants to request an interim measure, and AGCOM to open a sanctioning procedure during litigation.

AGCOM's decision-making process is generally considered open and transparent. However, the lack of transparent internal procedures for handling complaints remains an issue for the operators.

Decision-making

In March 2008, AGCOM started the second round of analyses for all markets. However, the majority of the analyses of fixed markets were suspended in July 2008, pending evaluation of the above-mentioned undertakings proposed by the incumbent. While all existing obligations remain in place, some of the price caps imposed as remedies expired before the new market analysis could be finalised. In these cases interim decisions were adopted.

In December 2008, on the basis of the comments received by the Commission, AGCOM adopted a decision to reduce mobile termination rates with a glide path implementing full symmetry between operators by 2012. The Commission had also invited AGCOM to reduce mobile termination rates to the cost level of an efficient operator.

The analysis of the mobile access and call origination market (notified to the Commission on 19 December 2008) led to the conclusion that the three cumulative conditions for ex-ante regulation were not being met.

During 2008, AGCOM carried out seven investigations for non-compliance by the incumbent with existing obligations concerning, mainly, win-back activities, the activation of non-requested retail services, and the disconnection of carrier pre-selection without users' consent. Decisions regarding all the above proceedings have been suspended after AGCOM's approval of the incumbent's undertakings; however, the proceedings may be resumed in the event of non-compliance with the undertakings.

The national antitrust authority (AGCM) accepted, in December 2008, a set of commitments proposed by the incumbent with a view to stopping illegal use of privileged information for the purpose of win-back.

MARKET AND REGULATORY DEVELOPMENTS

For the first time, in 2007, the increased revenues in the mobile sector (1.4%) did not offset the reduction in the fixed sector (-3.7%). As a consequence, the revenues of the overall electronic communications sector had declined to €43.7 billion (the majority of which, €22.9 billion, came from the mobile sector), compared to €44.18 billion in 2006⁵². Mobile UMTS subscribers continue to grow (+18% since January 2008) and as of January 2009 there were almost 29 million subscribers, representing 32% of the active SIM cards.

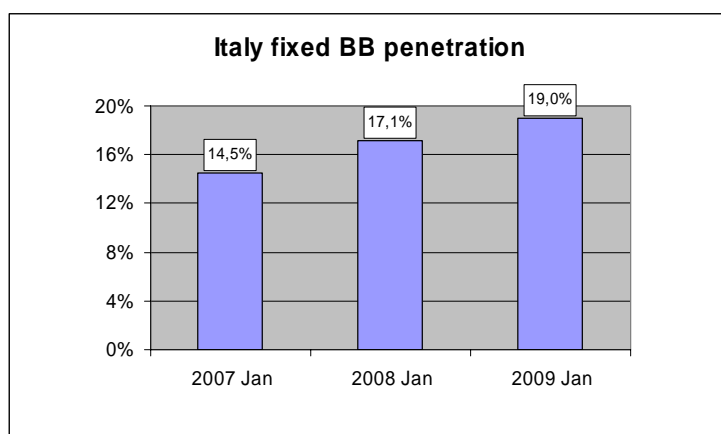
Investments by operators in the sector during 2007 (€6.9 billion) grew by 2.8% since 2006 and were mainly focused on fixed networks (54%). Investment by alternative operators on fixed network (€1.1 billion) represented around 34%.

The deployment of New Generation Access (NGA) is at a relatively early stage as current investments still relate mainly to advanced DSL technologies on copper network. However, Italy has a relatively high number of fibre to the home (FTTH) connections, with around 300 000 active fibre lines and around two million homes connected in December 2008. The incumbent estimates that the deployment of NGA will cost above €6.5 billion (including various types of fibres). During the period 2009-2010, investment will be mainly focused in metropolitan areas (covering 50-60% of the access lines). One alternative operator planned to launch a new Internet access service at 100 Mbit/s by the end of 2008 in the larger cities.

A significant number of operators are now providing double (12), triple (5) and quadruple play services (1), with more than 8 million users overall (13.8% of the population).

Broadband

Market situation



As of January 2008, the number of broadband lines stood at 11.3 million, which represents a penetration rate of 19%. In spite of an increase of almost 10.75% since January 2008, the penetration level in Italy remains below the EU average (of 22.9%).

The usage of mobile broadband services in Italy is quite strong: as of January 2009 the penetration rates of both mobile broadband for

general usage (13.6%) and mobile broadband based on data cards (2.9%) were above the EU average (13% and 2.8% respectively).

ADSL remains the most widely used technology, representing more than 96% of the broadband lines. As of January 2009 almost 68% of the existing fixed broadband lines offers high speed connections (i.e., speed over 2 Mbit/second). The incumbent's market share on the broadband market has declined from 63.4% to 59.8% during the period January 2008 -

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These data are not comparable with AGCOM's Annual Report 2008 (table 1.3 and 1.6).

January 2009, although it is significantly higher than the EU average (45.6%, excluding resale lines).

Italy remains one of the EU leaders in Local Loop Unbundling (LLU) and, as of January 2009, active full LLU wholesale lines reached 4.7 million (+31% with respect to January 2008). Investments by alternative operators on LLU have increased and, at mid-2008, more than 60% of the population was connected to a local switch where alternative operators could provide broadband services using LLU.

Although one-off fees for LLU have increased by 11% since October 2007, the monthly average total cost (that includes both one-off fees and monthly rental) for full LLU continued to be among the lowest in the EU (€8.75 per month in October 2008, compared to the EU average of €10.88 per month).

Public and private investments in broadband networks have helped to significantly reduce the digital divide. At the end of 2007, ADSL coverage of the population in the urban area was almost 100%, while in rural area it was 81.7% (+31 percentage points relative to December 2006). The DSL rural gap with national coverage decreased from 38.5% in 2006 to 12.3% in 2007⁵³.

In order to strengthen the roll-out of a broadband network throughout the country significant public initiatives have been taken. The "Programme for infrastructural broadband coverage (2007-2009)", amounting to €197.5 million, aims to provide broadband connections to 99% of the population (94% at 4 Mbit/s as minimum). A draft legislative bill (currently under discussion in the Parliament) earmarks a further €800 million for the period 2009-2013 for the roll-out of the new generation network. In this connection a task force bringing together the Ministry, the main stakeholders, experts and market analysts will be established in order to coordinate the different initiatives.

Regulatory issues

The postponement of the second round of market analyses implies that the price cap for LLU (that expired in 2007) has not been renewed. The reference unbundling offer (RUO) for 2008 (approved by AGCOM in October 2008) increases the price for the one-off fees by 11% (currently at €40.08), and re-introduces a cost for line-testing (suppressed temporarily a few years ago) for lines not already used for x-DSL. On the other hand, other cost elements, like the price for collocation, have been reduced. AGCOM estimated that alternative operators would benefit from an overall saving of around 2%, in comparison to the year 2007. Despite the fact that it constitutes an amendment of the LLU price, this measure was not notified to the Commission. Besides, alternative operators questioned the absence of a public consultation prior to AGCOM's approval.

In December 2008, AGCOM's draft decision concerning the incumbent's RUO for 2009 (that proposes an 11% increase in the monthly rental for LLU) was notified to the Commission. The new value is based on the analysis of the incumbent's regulatory accountancy for the year 2006, that has not been audited.. Alternative operators claim that such increases are not justified by costs duly approved by AGCOM and would significantly reduce their ability to invest in the network. The Commission notes that using the most recent audited data is essential to ensure legal certainty for all market players. Therefore, the Commission invited

⁵³ Source: IDATE 2008. Broadband coverage in EU.

AGCOM to adopt the final measure with regard to the LLU only once the audited data are available.

The incumbent's 2008 offer for bitstream services still needs to be approved by AGCOM. Alternative operators claim that the replicability of the incumbent's convergent retail offers is not always assured and, in November 2008, AGCOM set out specific guidelines for this purpose. Alternative operators are also concerned about the incumbent's proposal for a significant price increase for some components of the service (up to +21%), and by the fact that the technical conditions for bitstream services on Ethernet networks do not allow them to provide innovative convergent services to their customers.

The new migration procedure between different types of LLU started to be implemented in mid June 2008. In particular, it has become possible to migrate between alternative operators while maintaining the same number. The new procedure is also aimed at reducing the illegitimate use of wholesale information for win-back activities by the incumbent, and putting an end to the non-requested migrations between operators. Consumer associations welcome AGCOM's measure that puts the client at the centre of the whole process.

Mobile market

Market situation

Although mature, the mobile market in Italy is still growing and, in October 2008, mobile penetration reached 152.86%, which is the highest in the EU (88% are pre-paid cards).

During 2008 the mobile market was characterised by an increase in traffic volume, mainly driven by mobile data services (+140% relative to the previous year), and by the lower rate of growth in revenues, due to the reduction in both wholesale and retail prices. From 2006 to 2007 revenues for the mobile sector grew by +1.4% (from €22.6 billion to €22.9 billion).

Thanks to the wide diffusion of enhanced terminals able to support mobile data services such as mobile TV, mobile e-mail, and instant messaging, as of January 2009 UMTS users numbered almost 29 million (+18% since January 2008).

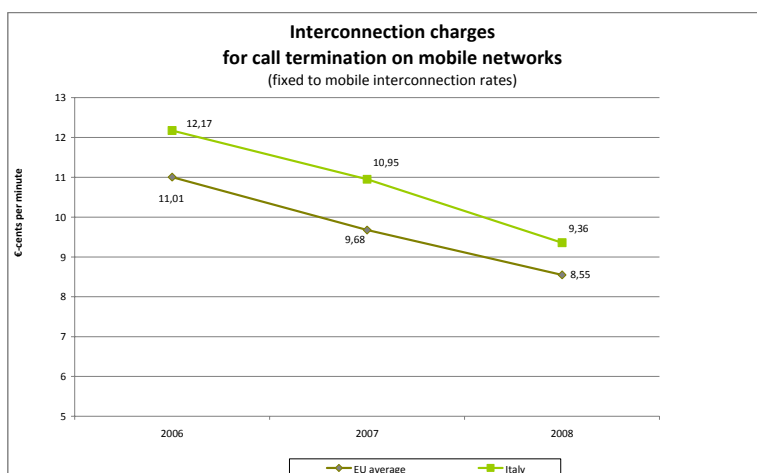
The market shares of the four mobile operators have remained more or less stable since October 2007 with a rather high level of concentration on the overall market (GSM and UMTS). In October 2008 the two main operators held, respectively, 38.8% and 33.2% of the market, while the third operator had around 18% of the market. The later new entrant (using UMTS technology only) had around 9%.

As of October 2008, 15 mobile virtual network operators (MVNOs) agreements had been signed with the four mobile network operators. While the bulk of MVNOs are large distribution chains and utility companies, three fixed operators will provide integrated fixed-mobile services. As of October 2008, the overall market share of MVNOs was around 1%.

Regulatory issues

Although decreased by almost 11% since October 2007 as at October 2008 the average mobile termination rate in Italy (€0.0936) is still above EU level (€0.0855). MTRs have been set by AGCOM at different levels for the mobile operators, due to factors outside the control of the operators, such as the up-front cost for the use of frequencies and the technology used. Furthermore,

the latest entrant in the market (using UMTS technology) has not yet been fully able to develop its own economies of scale. Price control on the MTRs of this later entrant was imposed by AGCOM in March 2008 (at €0.16, reduced to €0.13 as of November 2008).



In December 2008 AGCOM adopted a three-year glide path for MTRs from 2009 to 2011 in order to reduce the existing asymmetry between the mobile operators. The Commission considered that the initial price caps for 2011 suggested by AGCOM (€0.059 and €0.07 for the later entrant) were still high compared to those in other EU Member States, and invited AGCOM to develop a cost model whereby the MTRs should be reduced to the cost level of an efficient operator employing efficient technology with a view to eventually arriving at a symmetric rate for all operators by 2012. AGCOM's final decision lowered the MTRs for 2011 to €0.053 and €0.063 for the later entrant. AGCOM also undertook to revise (downwards) in 2010 the values applicable in the period 2011-2012 on the basis of a "bottom-up long-run incremental cost" model developed in accordance with the forthcoming Commission Recommendation on the regulatory treatment of fixed and mobile termination rates.

The result of the second round of analyses for the mobile access market (notified to the Commission in December 2008) confirmed that there is no evidence that the market will not tend towards effective competition over time. Since the three-criteria test for ex ante regulation is not fulfilled, mobile operators have not been subject to remedies. MVNOs do not share AGCOM's conclusion, considering that the market is highly concentrated and needs regulatory intervention in order to create a level playing field. According to them the greater part of retail offers provided by mobile network operators (in particular for mobile data services) are not replicable. Furthermore, network providers are not willing to renegotiate economic/technical conditions and MVNOs are *de facto* prevented from changing network providers, since numbering ranges belong to network operators (according to the current rules numbers can be assigned only to "real" MVNOs while operators currently active in the Italian market belong to the category of Enhanced Service Providers).

In July 2008, AGCOM and AGCM launched a joint investigation on SMS (short message services), MMS (multimedia messaging services) and mobile data services, with the aim of verifying the competitiveness of the retail market (the standard price for SMS is €0.125, one of the highest in the EU) and the transparency of information provided to customers. Mobile operators maintain that SMS and MMS services are mainly provided through promotions and bundled offers, at significantly lower prices than the standard price.

Fixed market

Market situation

Revenues in the fixed electronic communications sector (€22.3 billion as of December 2007) continued to fall mainly because of the reduction in revenues for intermediate fixed wholesale services, and the migration towards double/triple play broadband services. An increasing number of customers have dismissed the fixed line, having chosen to use mobile service only.

While the incumbent still holds a strong position on the access market (82.5% at October 2008), the percentage of subscribers using alternative operators for direct access has grown from 12.4% to 18.3% since October 2007.

The incumbent's market share on the fixed telephony calls market decreased from 63.8% to 62.1%⁵⁴ during the period December 2006 - December 2007 and, as of December 2007, is below the EU average (64.8%). On the same date the main four alternative operators had market shares ranging from 11.5% to 3.4%.

Regulatory issues

In February 2008, AGCOM notified to the Commission a cost model for fixed termination rates based on the LRAIC (average Long Run Incrementation Cost) bottom-up model. A subsequent notification of May 2008 set up a glide path for alternative operators that should lead to symmetric termination rates with the incumbent by July 2010 (at the maximum level of €0.057).

Alternative operators contested the measure, claiming discrimination in comparison to the methodology used for mobile termination rates (which include also some historical costs) that allows mobile operators to subsidise the integrated fixed-mobile services. Some alternative operators have challenged AGCOM's decision before the national court.

AGCOM has approved the incumbent's offer for trunk and terminating leased lines setting up a price cap for the period 2006-2008. Furthermore, AGCOM has extended the validity of the offer for wholesale direct circuits also to 2008, with a price decrease of 8-10% compared to 2006.

AGCOM is trying to catch up on the delay in approving the incumbent's regulatory accounting and accounting separation by summer 2009 (the latest certified year was 2004). The Commission services are looking into the matter. AGCOM is aware of the need for a more coherent set of regulatory accounting rules (principles, criteria and reporting rules) and discussions with the incumbent are ongoing.

The incumbent's wholesale line rental offer became effective as from January 2008. Alternative operators note that, in practice, the service is not offered for non-active lines.

Broadcasting

Market situation

⁵⁴ These data are not comparable with AGCOM's Annual Report 2008, table 1.25.

As of October 2008 there were 13.3 million households with digital TV access, representing 55% of the households equipped with TV. Digital terrestrial decoders have significantly increased by more than seven percentage points since October 2007 (currently used by 24.8% of households), while IPTV and satellite platforms increased only slightly (used by 1.6% and 29.4%, respectively, of households).

By Law 101/2008 of September 2008 Italy has set a timetable for the complete switch-off of analogue TV transmission by the end of 2012 (but already in 2010 70% of households will receive digital transmissions only). The switch-off has already taken place in the pilot region of Sardegna (in October 2008, covering 1.6 million inhabitants). The transition process allowed the release of new frequencies in the pilot region and similar resources are expected to become available in the rest of the country. While no final implementation plan for attribution of the digital dividend is in place, it is expected that these new frequencies will be attributed to new TV network operators.

Regulatory issues

In January 2008, in the context of a reference for a preliminary ruling (Case C-380/05, "Centro Europa 7"), the European Court of Justice ruled that the Italian system for awarding analogue TV frequencies is not in line with EU law, insofar as it makes it impossible for an operator holding rights to broadcast in the absence of broadcasting radio frequencies granted on the basis of objective, transparent, non-discriminatory and proportionate criteria. In December 2008, the Italian authorities assigned the use of channel E8 within the band VHF-III throughout the whole territory to the operator concerned in order to roll out a national network (analogue or digital). The operator has challenged this attribution before the national court because of the alleged limited coverage of channel E8 (20% of the territory, according to their estimates). The Commission's services are following the issue.

In the context of an infringement procedure under Article 226 EC, in July 2007 the Commission requested Italy to bring into line with the EU rules its legislation allowing existing incumbent broadcasters to get a privileged position during the "switch-over" period from analogue to digital terrestrial television broadcasting. The Commission's services are currently analysing some amendments to the existing legislation (namely Law 101/2008), which Italy considers an improvement from the point of view of opening the digital terrestrial television market.

Horizontal regulation

Rights of way

Alternative operators confirmed that the situation had not improved since last year as regards the high fees (€1 000 per km) for rights of way requested by the public entity Azienda Nazionale Autonoma delle Strade (ANAS) on non-metropolitan roads and motorways. ANAS informed the Commission that a proposal for reducing the fees had been sent to the Ministry of Economic Development for comments. The Commission services are looking into the matter.

Law 133/08 adopted in August 2008 aims at simplifying and facilitating the administrative procedures for laying down new fibre optic cables on public and private land.

Spectrum management

In September 2008, the national frequency plan was aligned with the requirements of the outcome of the World Radio Conference 2007. In addition, the new plan introduced in Italy the European raster for broadcasting TV services in VHF III agreed at the Regional Radio Communication Conference 2006 (Geneva-06 Agreement) allowing an additional channel (Ch 8) to be freed within this band.

In October 2008, AGCOM approved the criteria for reorganisation of the frequency already assigned within the 900/1800 MHz bands that will make it possible for the three current GSM operators to get adjacent nationwide blocks of frequencies up to a maximum of 25 MHz. Consequently, five MHz of spectrum within the 900MHz band will be available for assignment through competitive selection to new entrants.

AGCOM's decision also provides that use of the 900 MHz band for 3G-type services will be authorised, as soon as the relevant EU legislation is adopted. In order to avoid an undue advantage for existing GSM operators, AGCOM has clarified that the refarming will be authorised only after the 900 MHz block of frequencies has become available.

In anticipation of European legislation amending the GSM Directive to allow other technologies use the 900 MHz band, the Italian Ministry for Economic Development started a procedure to optimise the use of this band, which will ultimately lead to the release of 5 + 5 MHz at national level.

During 2008, one UMTS operator that had never started any operational activity returned the frequencies (15 MHz) to the Ministry. The Ministry has started the procedure for reassignment of the frequencies through competitive selection.

In May 2008 the Ministry assigned rights of use for frequencies at 3.4-3.6 GHz, amounting to a total of 35 local/regional authorisations (to eleven different operators, ten of which are new entrants on this market). The overall expenditure by operators was €138.3 million. The procedures to assign rights of use for Wi-MAX services were principally aimed at reducing the digital divide.

Italy has implemented all the Commission's decisions on spectrum harmonisation adopted before the end of 2007, except Decision 2007/344/EC on the harmonised availability of information regarding spectrum use within the Community.

THE CONSUMER INTEREST

Tariff transparency

In March 2008, AGCOM approved new rules on billing transparency: voice traffic should be billed separately from premium rate services and, in case of litigation on premium rate service, operators are obliged to keep the telephone line active until the resolution of the conciliation procedure. Many operators have appealed this decision because it does not set a clear deadline for recovering the credit.

The national antitrust authority has been very active in monitoring and sanctioning unfair commercial practices, in particular as regards the transparency of information for consumers. In the course of 2008 six operators were fined a total of around €4.6 million.

Generally speaking, fraud and incorrect use of premium rate numbers seem to have been a persistent problem for Italian consumers. During the past two years AGCOM intervened

several times by imposing selective call barring for call origination and by increasing transparency for fixed telephony billing. Finally, from October 2008, the opt-in model for premium rate services replaced the opt-out model used so far.

In July 2008, AGCOM adopted the New Numbering Plan in order to include new services (like nomadic services, integrated fixed-mobile, MVNO services) and to improve consumer protection with regard to the illegitimate use of voice and data premium rate services. The New Numbering Plan also provides that telecom operators' customer care services must be free of charge and that services with a social value are to be provided through the number 116, in line with EU requirements.

The decision taken by two mobile operators in summer 2008 to reduce the number of existing tariff schemes has the effect of a general price increase for more than 9 million users. After a temporary suspension, AGCOM asked the operators to provide additional information to the users concerned and to extend the deadline for changing operators without penalties.

Universal service

According to the Code for Electronic Communications the incumbent will continue to provide universal service until a formal designation under the current regulatory framework takes place.

The incumbent is concerned about the delay in the definition of the net cost that has been carried out up to 2003 (€41 million net cost for that year). The evaluation dating from 2004 has also been delayed because of the new methodology approved by AGCOM in March 2008. The incumbent contests the retroactivity of application of the new definition of non-profitable areas for the years 2004 and 2005 and has appealed the decision.

Number portability

By December 2008 the total of fixed numbers ported was almost 4.3 million, with more than one million ported during 2008. The new migration procedure for users connected to an alternative operator using LLU has finally allowed users to maintain the fixed number while changing between alternative operators. The incumbent does not allow number portability in the case of fixed geographic numbers not assigned to a "single" voice service, like the fixed telephone number for ADSL double play services (voice and data) using VoIP technology. AGCOM is analysing the issue.

Mobile number portability (MNP) has been successfully used since its launch in 2002. As of October 2008, almost 20% of customers (more than 18 million) had changed operator using mobile number portability, with more than 4 million doing so during the period October 2007 - October 2008.

AGCOM has been forced to intervene regularly in order to increase the daily capacity for executing portability orders. The current capacity (12 000 numbers ported per day) seems to be attuned to the market trend and the inter-operator time taken for porting mobile numbers complies with the limit set by the regulation (five working days).

The new AGCOM proposal to review the rules on MNP (approved in November 2008) aims, inter alia, at reinforcing safeguards in favour of MVNOs, which have experienced excessive refusals to provide number portability for "non-technical" reasons (up to 85% of their requests). MVNOs are worried about the delay in the effective implementation of the above proposal.

The above decision cancels the inter-operators charge (currently €10) for porting mobile numbers and reduces from five to three days the inter-operator time limit for porting a number (including two days reserved by legislation for controls by the Ministry of Internal Affairs).

AGCOM has postponed the decision that would allow fixed operators to have access to mobile numbers. Fixed operators complain about the disparity of treatment, since mobile operators are already allowed to port fixed numbers on their mobile networks.

Consumer complaints

A significant number of complaints were made during 2008 concerning fraud and undue billing for traffic for premium rate services (mainly through illegal auto-diallers). In addition to the conciliation procedure before the regional entities (8 204 during the first half of 2008), a considerable number of disputes are settled through bilateral procedures between operators and consumers' associations (i.e. more than 7 000 conciliation procedures with the incumbent during the same period).

Furthermore, AGCOM eased the internal procedures with regard to consumers' complaints involving sums of less than €500.

AGCOM has obliged mobile operators to set up a common procedure by May 2009 to allow customers to transfer their residual credit on pre-paid SIM cards to the new operator in the case of mobile number portability. Getting residual credit reimbursed is still a hassle and particularly expensive with regard to some mobile operators (up to €8).

European emergency number

The Commission has opened an infringement proceeding against Italy for not having ensured that the handling and answering of 112 calls is as effective as for calls made to other national emergency numbers (in particular ambulance, fire and rescue services). In fact, call centres of the emergency service in charge of receiving 112 calls cannot transfer callers to the centres of other required emergency services. Another procedure, concerning the lack of 112 caller location information from mobile calls was pending before the European Court of Justice at the end of the reporting period.

Data protection

Directive 2006/24/EC (notably amending Directive 2002/58/EC) was transposed in Italy by Decree Law no. 109 of 30 May 2008 (which came into force in July 2008). Additional legislation on data retention (Decree Law no. 151/2008) aligns Italy with the rules harmonised at EU level by reducing the data retention period to 24 months for telephone traffic and to 12 months for Internet traffic in case of judicial proceedings. However, the entry into force of the data retention periods referred to above has been postponed until 1 April 2009, in order not to prejudice ongoing criminal investigations.

In September 2008 the Data Protection Authority (DPA) banned external service providers, in their capacity as controllers of databases used for telemarketing purposes, from using and selling the data collected without specific consent by the user for promotional activities. The DPA also prohibited alternative telecom operators from using such databases for promotional purposes. Alternative operators claim that this decision has significantly limited their commercial activities.