

GREECE

Note: This document is an excerpt from the Staff Working Document attached to the Communication 'Towards a Single European Telecoms Market – 13th Progress Report (COM (2008(153)). The Communication and the Staff Working Document, as well as the corrigendum of 28th May 2008 can be found on Europa at the following url address: http://ec.europa.eu/information_society/policy/ecomm/library/communications_reports/annualreports/13th/index_en.htm

INTRODUCTION

Throughout 2007, new trends have been observed on the Greek electronic communications market. Broadband penetration has increased significantly. This sudden increase has, however, caught the market unprepared, leading to a huge rise in users' complaints to EETT. Convergence has brought some consolidation to the market in the form of fixed-mobile alliances and the first fixed-mobile converged products.

The Greek telecommunications law has been applied at a rapid pace with the completion of the analysis of all markets and the application of remedies and in some cases sanctions. Secondary legislation in the form of Ministerial Decisions is still pending, whereas EETT has completed all the requisite secondary legislation. Two long-standing problems persist regarding the procedures for granting rights of way and inadequacies in the existing appeal system.

REGULATORY ENVIRONMENT

Main regulatory developments

The Greek Law on Electronic Communications and Other Provisions 3431/2006, in force since February 2006, has been applied at a rapid pace, bringing considerable legal certainty and giving the Greek national regulatory authority, the Hellenic Telecommunications & Post Commission (EETT), the powers to carry out its duties in the interest of market competitiveness.

The Greek authorities notified in July 2007 the new bill entitled "Concentration and Licensing of Media Enterprises and Other Provisions", completing primary transposition of the regulatory framework.

The adoption of all secondary legislation in the form of NRA decisions or regulations as specified by Greek law was completed. In contrast, the adoption of the majority of secondary legislation for which the Ministry of Transport and Communications is responsible is still pending. While the Greek telecommunications law provides for the adoption of 69 acts under the responsibility of the Ministry of Transport and Communications (or in collaboration with other competent ministries), only 23 acts had been adopted at the time of drafting of this report, thus leaving a considerable legal gap in the enforcement of the law.

The analysis of all relevant markets was recently completed with the notification of the last pending broadcasting transmission services market in September 2007. Responsibility for analysing the broadcasting transmission services market was finally assigned to EETT under the new Greek law on the concentration and licensing of media enterprises adopted in July 2007.

The reporting year has seen an improvement regarding the immediate availability of approved cost-oriented tariffs for regulated wholesale and retail services. The introduction of cost-oriented prices in past years was delayed mainly because of the late submission of data by the incumbent. This resulted in EETT setting temporary tariffs until cost-orientation was approved. Once prices were approved, alternative operators were asked to modify their payments retroactively for the relevant year. However, in early 2007, the audit of the regulated prices for the years 2006 and 2007 was completed, making 2007 the first year that the market had cost-oriented prices in the middle of the relevant year. Although alternative operators expressed satisfaction with this development, they noted that there was no real wholesale-retail cost accounting separation in the incumbent's accounts.

Following a new legislative measure submitted by the government to the Greek Parliament in December 2007, private investors seeking to obtain more than 20% of the incumbent's shares will need prior government approval. The Commission departments concerned have contacted the Greek authorities on this issue.

Organisation of the NRA

EETT employs 165 people (as at the end of 2007) out of the 220 it is entitled to under Greek law. Often, EETT forms 'task force' groups of permanent and expert staff which are assigned specific responsibilities as per EETT's priorities. For example, a task force was created to deal with issues such as local loop collocation, with the issuing of the Reference Unbundling Offer or with the drafting of proposals on the rights of way submitted to the Ministry. These task forces have enhanced the dialogue with all operators.

In general, EETT has been successful in carrying out its tasks of implementing the new national telecommunications law and issuing the secondary legislation. In particular, EETT has successfully managed to complete the analysis of all relevant markets and to promote broadband services throughout Greece (through initiatives such as "broadband week", information campaigns and a dedicated website).

The Greek NRA has been particularly active in addressing consumer complaints which, this year, have been considerable, as the rapid take-up of broadband services offered by the operators found the supply side of the market unable to fully satisfy the demand for these services. As a result, consumers were losing confidence in the operators and the quality of services offered. EETT responded quickly to consumer complaints, launching hearings and imposing fines on operators.

EETT has commissioned a strategic study on the regulatory strategy for the Greek electronic communications industry for the next five years. At the time of writing, the results of the study were under evaluation.

Decision-making

The majority of EETT's decisions related to the specification and implementation of the imposed remedies. These are the Reference Interconnection Offer RIO (June 2007), the Reference Broadband Offer RBO (June 2007) and the Reference Unbundling Offer RUO (April 2007), which were all approved with modifications. Moreover, the adoption of the retail-minus methodology has been approved in the wholesale broadband market. The pending decisions regarding imposed remedies, such as the approval of the Reference Offers in respect of the incumbent's leased lines and the Wholesale Line Rental, were expected to be taken by the end of 2007.

Despite some improvement, concerns have been expressed about the continued inefficiency of the Greek judicial appeals system. The Greek telecommunications law makes provision for appeals either to the Administrative Court of Second Instance or to the highest administrative court, the Council of State. It seems that the Administrative Court has taken some decisions relatively rapidly. Yet, in some cases, operators do not adhere to obligations imposed on them due to the long delays in reaching appeal decisions.

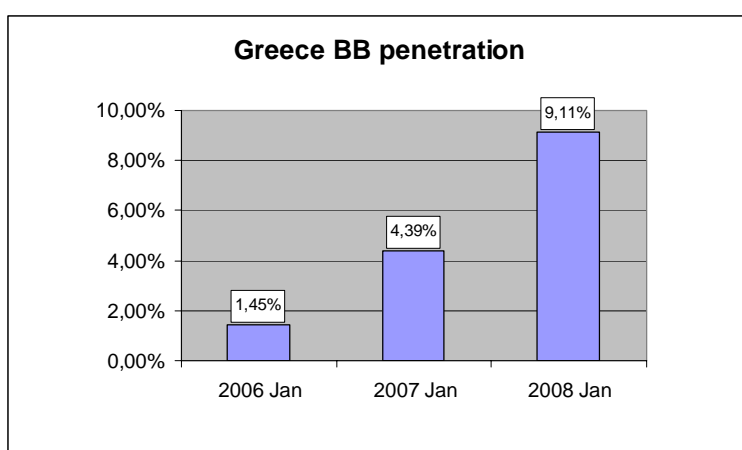
Some alternative operators have noted that a significant number of appeals remain unresolved because the substance of the appeal is found to go beyond the competence of the Administrative Court and the Council of State procedures have proved to be extremely long.

MARKET AND REGULATORY DEVELOPMENTS

The total turnover of the Greek telecommunications sector in 2006 was €3.32 billion. Revenues on the fixed market amounted to €3.79 billion and to €4.53 billion on the mobile market. Investments in the telecommunications sector totalled €0.804 billion, of which €0.225 billion were made by the incumbent in the fixed telephony network, €0.102 billion by alternative operators and €0.47 billion by mobile operators.

Broadband market

Market situation



In 2007 there was significant growth in broadband penetration, which reached 9.11%, partly as a result of effective regulation.

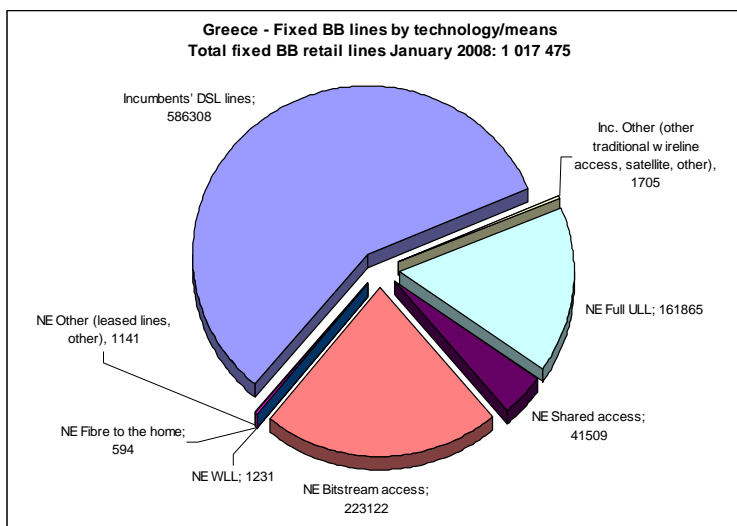
The total number of broadband lines increased from 369 653 in October 2006 to 1 017 475 in January 2008. Nevertheless, Greece is still below the EU

average penetration rate, which is 20.0%.

The incumbent's market share of retail broadband connections in January 2008 was 57.8% compared to 63.1% a year earlier.

Market participants have either invested in local loop unbundling (LLU) or increased their DSL lines in the market via bitstream access. A significant increase is observed in the uptake of local loop lines, which soared from 12 176 lines in January 2007 to 232 582 lines in January 2008. In the same period, new entrants' DSL lines by means of shared access have more than quintupled, rising from 7 328 lines to 41 509 lines. High uptake of bitstream access lines has also been recorded, increasing from 158 415 lines to 223 122 lines.

LLU accounts for 16% of broadband lines (compared to 4% in December 2006) and is currently growing by approximately 10 000 lines per week but EETT is expecting an even greater growth rate. A significant contributor to this growth is the availability of new physical collocation facilities. The number of the incumbent's sites increased from 30 (October 2006) to 97 (September 2007).



Furthermore, the number of local exchanges with distance collocation reached 114. According to EETT, the target was to reach 150 local exchanges with physical collocation by the end of 2007.

In an attempt to promote broadband and alternative infrastructures, the Greek NRA held a public auction for WiMAX at the beginning of 2007. The winner has the rights of use for a period of ten years and can develop a network of Fixed Wireless Access of at least 384/128 Kbps speed to final users. The undertaking is required to provide electronic communication services to at least 20% of the population in seven geographical areas of Greece and within four years from licensing.

To stimulate the delivery of next-generation broadband services, EETT is currently investigating the options available for the installation of optical networks as close as possible to the customers' premises.

DSL coverage in rural areas is 10% and the gap with respect to the national coverage is 18%.¹

Regulatory issues (including market analysis and remedies)

Some alternative operators commented that EETT's regulatory measures in the wholesale broadband access market were discouraging the option of bitstream access in order to encourage local loop unbundling. They considered broader use of bitstream – especially in rural areas where there are no alternative networks – as necessary.

¹ Source: IDATE, October 2007, Broadband coverage in Europe. Figures as of 31 December 2006.

The approval, with modifications, and the adoption of the new Reference Unbundling Offer (RUO) in April 2007 and the Reference Broadband Offer (RBO) in May 2007 marked two long-awaited regulatory developments in the broadband market. The incumbent's Reference Offers for wholesale terminating segments and trunk segments of leased lines were also concluded. EETT was working on their approval when this report was being drafted.

In August 2007, EETT approved the Discounted Cash Flow (DCF) model as the basis for calculating the retail-minus factor and establishing retail-minus wholesale broadband access tariffs. The decision set the minimum margin for ADSL access at 20.58% between retail and wholesale rates. The retail-minus methodology has already been used in the 2007 cost audit of the incumbent.

Following a significant number of complaints filed by Greek consumers against Greek telecommunications operators regarding LLU and other relevant matters (5 100 in the first quarter of 2007 only, compared to 5 500 in the whole of 2006), EETT conducted hearings and imposed fines (for breach of electronic communication or competition law) on the incumbent and performed on-site inspections at the incumbent's sites concerning physical and distant collocation and relevant facilities. As a result, the incumbent was fined, under competition law, for abusing its position in the broadband market as it was found to have adopted a "margin squeeze" practice. The incumbent expressed its intention to appeal against this decision.

Mobile markets

Market situation

The Greek mobile market continues to maintain its high growth rates, with mobile operators reacting to competition by way of synergies with fixed operators and introducing bundled offers (fixed and mobile telephony and internet) in an effort to gain market share. As a result of a recent merger, there are currently three mobile operators on the Greek market with market shares of 38.11%, 34.88% and 27.01% respectively.

The number of subscribers reached 11 814 529 in October 2007. Mobile penetration continued to rise, from 100% in October 2006 to 105.76% in October 2007.

Regulatory issues (including market analysis and remedies)

All mobile operators have 3G licences and are expanding their services using HSDPA. However, the problem of obtaining authorisations to install base stations and antennae for 2G or 3G persists, mainly because of the lack of secondary legislation.

In addition, all mobile operators were unhappy about an adjustment in the calculation of a special levy in November 2006 on post-paid mobile subscriptions but not on fixed communications. The levy, which is imposed on top of the 19% VAT, is directly proportional to the monthly bill. Operators also complained about a tax relief provision for companies which includes 100% of fixed telephony and only 50% of mobile telephony expenses.

Roaming

All mobile operators were quick to react to the Roaming Regulation 717/2007/EC by lowering their roaming charges to the maximum level indicated by the Regulation before 30 August 2007. However, they all expressed concerns about the possibility of extending the Regulation to SMS and data services.

Fixed markets

Market situation

The national fixed calls market is dominated by the incumbent, which maintains a high market share of 75.13% (on the basis of retail revenues) in national fixed calls and 69.08% for calls to mobile networks. International calls amount to a 71.46% market share. There is a slight decrease compared to last year's data.

The fixed market was consolidated through mergers in 2006/07 amongst fixed-line and wireless operators as well as acquisitions of virtual telephony and broadband operators by alternative operators, possibly leading to their fixed-line presence.

There were 25 alternative operators offering public voice telephony services through direct access, 11 of them through fully unbundled access to the local loop and 14 through own local access infrastructure.

Interconnection charges for call termination on the incumbent's fixed network decreased in the year prior to October 2007 for both single and double transit, from €0.86 to €0.80 and from €1.10 to €1.009 respectively.

Regulatory issues (including market analysis and remedies)

Though found to have significant market power in all fixed markets, the incumbent felt that it was being excessively regulated even in the retail markets. It considered that excessive regulation was acting as a disincentive to investment in own infrastructure by alternative operators.

Alternative fixed operators were concerned that mobile operators were entering the fixed market, offering converged services using fixed geographic numbers. They noted that this could raise questions of efficient spectrum management, consumer transparency and market definition. According to EETT, it is too early to know whether and to what extent converged fixed-mobile services would change the mobile market.

The incumbent's interconnection tariffs seem at last to have been submitted promptly. The alternative operators were, however, concerned about the fact that there were fluctuations in the leased lines every year, which created instability on the market and called into question the cost accounting methodology used.

Broadcasting

Market situation

In the Greek retail market for television and radio broadcasting, end-users predominantly rely on analogue terrestrial transmission (88% of all connections and a coverage of 98%) and satellite (10% of all connections) to receive television and radio services. Ten

television programmes (nine free-to-air and one pay-tv programme) – all with nationwide coverage – are offered via analogue terrestrial transmission. Alternative transmission platforms have less than 2% end-user penetration and are in the early stages of development. No commercial cable television networks exist in Greece.

Regulatory situation

The lack of transposition of regulatory competence for the market for broadcasting transmission services has been resolved by a law on audiovisual media, which has assigned this competence to EETT. This market analysis, notifying effective competition, was subsequently accepted by the Commission.

Horizontal regulation

Spectrum management

Adopted in March 2006, the National Frequency Range Allocation plan incorporates the majority of the Commission's harmonisation decisions on frequency bands and frequency usage. According to the Greek authorities, decisions issued after the adoption of the Greek national frequency plan will be incorporated into any future amendment of the national frequency plan.

Following the adoption of the National Frequency Range Allocation plan, EETT proceeded with the publication of a number of regulations regarding the use and allocation of rights of use of radio frequencies, licences for the construction of antennas on land, and transfer of rights of use of radio frequencies.

Rights of way and facility sharing

The lack of secondary legislation on rights of way renders any infrastructure network development particularly difficult and ultimately jeopardises infrastructure-based competition. Pending the adoption of this secondary legislation, authorisations to install base stations or antennae for 2G or 3G are not being granted.

When this report was being drafted, a proposal for a Common Ministerial Decision concerning the procedures for the allocation of rights of way, and a draft NRA Regulation on tariffs for the allocation of rights of way, were being prepared. The Commission services are looking into this matter.

Authorisations

In addressing the growth of VoIP services, EETT amended the regulation for General Authorisations adopted in June 2006, incorporating provision of VoIP services and/or voice services through the internet, provision of internet access services and protection of consumers.

Network roll-out

Some alternative operators proceeded with their investment plans to expand their networks based mainly on local loop while other operators invested in their own network. The year has been characterised by the introduction of bundled products, such as

ADSL+2 packages with internet speeds up to 20Mbps, wireless access to the internet and converged fixed-mobile products. One alternative fixed provider expanded its own fibre-optic network to offer new-generation services combining telephony, fast internet, and TV. Mobile operators were expanding their 3G services (using HSDPA) despite the persistent problems with base stations and antennae.

There has also been consolidation in the market with operators joining forces to face increased competition. An internet provider bought a fixed alternative operator and then signed a collaboration agreement with the second mobile operator in the Greek market introducing the first bundled products. A foreign telecommunications investor bought out the third mobile operator who in turn owns the fourth mobile operator, and also bought one of the main alternative fixed operators.

Some operators expressed criticism of the fact that new gas networks had been rolled out quickly under favourable regulatory conditions and an opportunity was lost to coordinate this with the roll-out of alternative fibre networks in the telecoms sector. Complaints were also raised concerning the bilateral agreement between one alternative operator and the Public Power Corporation which gave the former exclusive access to the fibre network of the latter.

With regard to the roll-out of the funded project for Broadband Access Development in Under-served Territories, which is aimed at co-financing broadband investment for local access across Greece, some operators expressed serious concerns about the obstacles they had to face in obtaining rights of way from authorities and the refusal of the incumbent to provide access to its locations for the setting-up of microwave access points.

THE CONSUMER INTEREST

Universal Service

EETT's proposals on the definition of universal service, the selection procedure in respect of the universal service provider, the cost calculation and the funding of universal service have been adopted as Common Ministerial Decisions by the Ministry of Transport and Communications. A draft proposal on the quality of universal service was under public consultation at the time of writing.

Directory service and directory enquiry services

Following a decision adopted by EETT, the problem with the conditions of access to the general subscriber database held by the incumbent was resolved with the per hit access price being set at 7.61 cents, down from 17 cents. This is a positive development, which should enhance competition in this segment of the market.

European emergency number 112

The infringement case against Greece, launched in 2005 on the grounds of non-availability of caller location information, was closed in October 2007. Caller location information is now available from both fixed and mobile networks in Greece.

Number portability

There has been a strong increase in ported numbers for both fixed and mobile numbers. In October 2007 the number of fixed ported numbers (including non-geographical numbers) amounted to 227 850, compared to 60 948 a year earlier. Mobile ported numbers increased from 141 154 to 428 599 in the same period, representing growth of around 303%.

Data protection

The Ministry of Transport and Communications, together with the Ministry of Justice, has submitted for public consultation a draft law aimed at strengthening privacy protection and public security in mobile communications, which requires that mobile operators ensure encryption of voice signals in every form of transmission media which is used to carry voice traffic. This proposal has raised concerns among the mobile operators as to its potential high costs and its technical feasibility.