

GREECE

MAIN MARKET DEVELOPMENTS

Despite the adverse economic climate in Greece, the electronic communications market continued to grow albeit with lower growth rates, especially during the second half of the reporting year. Retail market competition has driven retail prices down, with bundled offers increasingly being made available in the market. The fixed broadband market exhibited rapid growth which was mainly driven by LLU. A competitive mobile market, with a high penetration rate, is currently showing signs of maturity. Fixed broadband penetration which still increases, it remains below the EU average. Mobile broadband remains at low levels, depicting very slow growth rates.

The total revenue of the Greek electronic communications sector for the year 2009 decreased by 4.43% to €7.80 billion (€8.17 billion in 2008), €3.46 billion of which came from the fixed market and €4.33 billion from the mobile market. Notwithstanding the general economic crisis, and the reduction in EBITDA, market operators maintained nearly the same investment activity during 2009 as one year ago; the total investment in telecom networks in 2010 decreased slightly by 1.68%, reaching €1.34 billion. The incumbent's investments, mainly directed towards its NGA network, contributed to the total amount of investments by 38%, while the share of alternative operators' investments, mainly in acquiring access to collocation facilities, reached 25% (compared to 23.4% in 2008). Mobile operators continued with their network investments, with almost 100% of the country's population having network coverage.

More Greek subscribers opted for bundled offers this year (13.3% of population in July 2010 compared to 8.5% in December 2008) mainly for double play offers including mobile voice telephony and broadband internet (reaching 12.25% in July 2010 from 7.7% in December 2008). Preference to triple play offers (including fixed voice telephony) is depicting positive growth (1% of the population in July 2010) but is well below the EU average of 3.5%. Quadruple play offers are also available in the market (including IPTV and VoD).

MAIN REGULATORY DEVELOPMENTS

At the outset of the reporting year, the Ministry of Infrastructure, Transport and Networks set out several targets to pursue by the end of the year relating to broadband development, the efficient use of spectrum, and the formation of a legislative framework for licensing the installation and operation of antenna constructions. While progress with regard to all these targets has been recorded during the reporting year, it is still necessary to take certain measures to ensure their full realisation.

A public consultation was launched on 22 December 2010 on a draft law revising certain provisions of the national law 3431/2006 'Περί Ηλεκτρονικών Επικοινωνιών και Άλλες Διατάξεις 3431/2006 (Law on Electronic Communications and Other Provisions). The relevant articles on electronic communications provide for the establishment of a National Observatory for Electromagnetic Fields to address public health concerns, for a new Directorate in the Ministry responsible for the monitoring of the development and security of network deployment as well satellite policy issues, and for an extension to the national regulator's responsibilities in spectrum management, licensing of types of antennas, and network neutrality. Earlier intentions by the government according to which the President and Vice-President of EETT were to be appointed by qualified majority-voting in the

Conference of the Presidents of the Parliament instead of the current means of appointment by the Council of Ministers were dropped.

Developments regarding the handling of appeals against EETT's decisions have been much awaited by market operators. In the context of a case examined by the Council of State in December 2009, a division of it decided that the Administrative Court of Appeal would only have the competence to annul or repeal the regulatory decisions (e.g. regulatory obligations following market analysis) taken by the Greek national regulator, and not to amend these decisions. As for individual administrative decisions (such as decisions relating to specific undertakings), the said Court would have the competence to amend the decisions without having to request EETT to issue a revised decision. The case is still pending in front of the Council of State's Plenary.

Greece intends to transpose the telecom reform package of 25 November 2009 by adopting a core new law revising law 3431/2006. The completion of this draft law was expected to be finalised by March 2011. The draft will firstly be subject to the Council of the Ministers. A public consultation is expected to take place by mid April 2011, before the draft law secures final approval by the competent Ministers. There is therefore a risk that the adoption of this law may be delayed beyond the 25 May 2011 deadline.

NRA

While it is generally considered that the Greek national regulatory authority Εθνική Επιτροπή Τηλεπικοινωνιών & Ταχυδρομείων, (EETT) has executed its regulatory and monitoring tasks in a satisfactory manner, increasing criticism has been noted on the part of the operators regarding transparency, the timeliness of regulatory intervention, and the consistency in regulation.

Following EETT's approval, the 2010 prices for regulated retail and wholesale services for which the incumbent was imposed obligation of cost-orientation were made available to the market. For the first time, the incumbent published its cost-oriented tariffs on its web-portal. This constitutes a positive step towards ensuring transparency of wholesale prices, while also enhancing the credibility of the regulatory accounting system.

During the reporting year, EETT conducted hearings and imposed fines exceeding, in total, €13.5 million for violations of the electronic communications law. No fines were imposed for violation of competition law.

Currently, EETT has a staff of 201 employees who have experienced considerable salary reductions during the reporting year in line with the general public administration salary cuts carried out in response to the country's current economic situation. The cutting of salaries in this manner risks posing a threat to the efficiency of personnel and to EETT's ability to maintain its staff. In 2010, EETT transferred €71.2 million to the government's budget from its financial resources, based on fees (e.g. spectrum, numbering).

ECONOMIC REGULATION

Broadband

Broadband plans

In terms of broadband development, the Ministry pursued certain objectives aimed at ensuring the rollout of broadband networks in rural areas. Plans were made for the exploitation of the

existing optics metropolitan area networks which are present in 72 Greek cities. A project on the development of a public broadband network infrastructure in Greek 'white' rural areas to support broadband service delivery in the targeted areas was envisioned. The proposed network would be realised with the development of both access (including last mile if needed) and transmission networks in white rural areas. With regard to the government-announced project for the creation of a nation-wide fibre optic network infrastructure, its initial parameters were being revisited. The government will still need to select a techno-economic and a legal advisor to re-design this fibre-to-the home (FTTH) project, as was first announced in May 2008 (the final decision on the selections remains pending) in order to render this project more economically viable and attractive to potential investors. Though its re-evaluation was generally welcomed by market operators, who questioned the feasibility of its initial form, the repeated delays in its realisation, coupled with the ambiguity of its design, has an impact on potential network deployment by market operators. While the said projects, which form part of the national broadband strategy, may have each defined broadband targets and coverage requirements, the national broadband strategy itself does not seem to have specific nationwide targets or binding timeframes.

The Greek incumbent initiated the deployment of its new optical access network (FTTC with the use of VDSL2 technology). The project was initially developed in a limited number of urban areas, and will progressively expand to cover other areas in order to provide end users with speeds up to 50 Mbps along with improved quality characteristics. Alternative operators have continued to invest in LLU. These operators have also sought EETT's formal views on the implementation of an NGA regulatory approach that would enforce a level playing field for all operators in this new environment.

Market situation

While the broadband market in Greece continued to grow throughout 2010, its growth rate in the second quarter of the year seems to have been affected by the economic circumstances in the country. Broadband penetration increased to 19.9% in January 2011, compared to 17% in January 2010 (total retail broadband lines at 2 252 653 in January 2011), which remains considerably behind the EU average of 26.5%. This increase was driven by investments in the LLU (mainly full unbundled lines), which were brought about due to an increase in collocation sites (there were 173 sites with physical collocation and 778 sites with distant collocation in October 2010, compared to 168 and 609 sites respectively one year earlier), and to the alternative operators' investments to acquire access in collocation facilities.

LLU lines reached 1 104 168 in January 2011 (67.4% being full unbundled lines). This marked a significant increase of 39% within a year, with the contribution of LLU to the total number of retail broadband lines reaching 49% in January 2011. xDSL continues to be the predominance access technology (99.6% of the total retail broadband lines – the highest in the EU). The number of broadband lines based on bitstream access decreased by 40.3% amounting to 37 493 lines in January 2011. The development and coverage of fibre access is still very limited with a marginal 0.2% of the total broadband lines being fibre-to-the-home in January 2011.

The incumbent's market share of retail broadband connections decreased to 49% in January 2011 (decreasing from 55.4% a year ago), while alternative operators increased their presence on the overall fixed broadband market, with the market share of 51% (44.6% in January 2010). In July 2010, almost half of the alternative operators were using full unbundled local loops, 33.3% were using shared access, and 19% were using proprietary infrastructure.

Mobile broadband in Greece continued to grow but at a very slow pace reaching a penetration level of 2.6% in January 2011 (calculated as the number of dedicated data services via modems, card, and USB keys). This slow growth compares negatively with the increase of the EU mobile broadband average which increased to 7.2% in January 2011 (5.2% a year ago).

Significantly improved were the national access speeds of broadband lines. Within a year to January 2011, 1 218 822 broadband lines had speeds higher than 10 Mbps (57 348 lines in January 2010) becoming the most popular amongst Greek end-users (54% of the total broadband lines). None of the retail broadband lines have speeds above 30 Mbps in Greece.

Regulatory issues

In July 2010, EETT approved the incumbent's new Reference Offer for wholesale leased lines, the new Reference Broadband Offer (RBO) for the provision of wholesale broadband access, and the new Reference Unbundling Offer (RUO). In addition, it amended the collocation regulation as adopted in 2008. This amendment included a reference agreement outlining the conditions and procedures for the provision of collocation, and the installation and operation of base stations as a way to effectively promote collocation and facility sharing with regard to base station installation and operation. One operator has appealed this Regulation.

In the context of the price control and cost accounting obligation imposed following its second round of analysis of the wholesale broadband access market in 2009, EETT set out, in its decision of 2 September 2010, the methodological principles and the parameters for monitoring the economic space between wholesale line access and wholesale broadband access. Such economic space was deemed necessary to create incentives for new entrants, to allow operators further climb the ladder of investment and to promote infrastructure-based competition (based on LLU). The incumbent doubted this new measure in ensuring an increase in the investments made by alternative operators, which were mainly investing in LLU.

The Greek national regulator has been following developments in the deployment of fibre access networks in Greece. It intends to proceed during 2011 with the third round of market analysis of the wholesale network access at fixed location and the wholesale broadband access, as its second market analysis concluded in 2009 excluded such developments.

Mobile

Market situation

The mobile penetration rate in terms of active subscribers reflected a strong decrease over the first half of 2010, which was later partly regained. In this regard, the mobile penetration rate stood at 116.2% in October 2010, compared to 125.1% in 2009. This change seems to be related to compliance with national law on the identification of mobile users. Mobile penetration in Greece was lower than the EU average of 124.2% in October 2010. This stands in contrast to preceding years, where mobile penetration in Greece was above the EU average

(122.3% in October 2009). Consumer preference towards pre-paid cards marginally changed (65.3% in October 2010 compared to 64% in October 2009); similarly, the use of post-paid contracts decreased to 34.7% in October 2010 (35.9% a year ago). According to the mobile operators, the use of voice minutes continued to increase throughout 2010, in spite of the economic crisis. This increase did not, however, lead to an increase in revenues due to the decrease in average price per minute (APPM decreased to €0.09 in 2009 from €0.14 in 2008).

Regulatory issues

With regard to the glide path for the reduction of the mobile termination rates (MTRs) imposed in the light of EETT's decision on the wholesale market for voice call termination on individual mobile markets, MTRs in Greece have been reduced from 6.24 €-cents to 4.95 €-cents as of 01 January 2011. The appeal of the third mobile operator against the imposition of symmetry on the MTR market was still pending at the end of the reporting year. This operator argued that there is still a need for the re-analysis of this market, as market distortions have not been addressed in the scope of EETT's market analysis.

All three mobile operators complied with their obligations under national law 3783/2009 on the Identification of Mobile Telephony Equipment and Service Holders and Users, which imposed a deadline of 30 June 2010 for the identification of mobile pre-paid subscribers. The operators considered that this exercise increased their operational costs at a time when the general economic environment was not positive, and in light of the government's new fiscal measures (the VAT rate increased to 23% in October 2010) which reduced the value of the mobile services provided to the subscribers. A significant decrease in the number of active subscribers in September 2009 to March 2010 could potentially stem from compliance with this law.

Fixed

Market situation

The sizeable increase in investments undertaken by alternative operators in the provision of services through local loop unbundling (1 104 168 LLU lines in January 2011) intensified retail competition on the fixed market. This trend ensured that an increasing percentage of Greek consumers are now subscribed to the network of an alternative operator for direct access (22.1% in October 2010 compared to 14.7% a year ago - this figure remains less than the EU average of 26.23%). The gains are evident in the percentage of subscribers using an alternative provider for national calls (an increase of 2% points reaching 23% in July 2010) as well as for international calls (25% in July 2010 compared to 22% in July 2009). The market share of the incumbent in the fixed telephony market (by traffic volume) decreased slightly to 69.4% in December 2009, which accounted for a 2.2% points over the year.

Termination rates in Greece for local interconnection decreased by 12.5%, reaching 0.42 €-cents in October 2010 (EU average 0.47 €-cents). Similar decreases are recorded for the termination of single transit traffic (decreasing from 0.82 €-cents to 0.71 €-cents in October 2010- EU average: 0.68 €-cents). Termination rates for double transit traffic decreased by 17.7%, reaching 0.88 €-cents in October 2010 (from a rate of 1.07 €-cents one year earlier), which remained above the EU average of 0.80 €-cents.

Interestingly, VoIP telephony in Greece did not manage to sustain the small market share it had in October 2009 (2.1%), which dropped this year to 1.7%. Greece is therefore third from last with regard to the take-up of VoIP services in the EU (EU average: 16.6%).

Regulatory issues

The Greek national regulator adopted final decisions following the completion of a second round of market analysis for the wholesale markets for call origination, call termination on the public telephone network provided at fixed location and transit services in the fixed public telephone network in Greece (for which EETT applied the three criteria test concluding that it warranted *ex ante* regulation). The incumbent was designated as having significant market power (SMP) in the market for call origination and transit services. It was also designated with SMP in its individual call termination market, as were each of the other 12 fixed network operators. A full set of obligations were imposed on the incumbent for the three analysed markets, while a more limited list of remedies was imposed on the other 12 fixed network operators on the termination markets (cost accounting and accounting separation are not proposed to be imposed).

EETT envisages introducing a methodology for the margin squeeze test and predatory pricing tests within the context of the transparency obligation imposed following the analyses of the relevant markets for retail access to the public telephone network and retail markets for local and national calls undertaken in 2006 in order to analyse single or multi-play offers of electronic communications products and/or services. The adoption of the decision was still pending at the end of the reporting year.

During the reporting year, EETT amended the regulation on general authorisations and the national numbering plan.

Broadcasting

Market situation

The distribution of market shares among the different platforms in Greece for the provision of broadcasting services remains unchanged. Terrestrial broadcasting television is used by 99.7% of viewers, which is amongst the highest in EU. IPTV offerings did not seem to have attracted consumer interest, with penetration stalled at 2.2%.

Regulatory issues

The switchover to digital terrestrial transmission in Greece is legally governed by the application of national law 3592/2007 on the Concentration and Authorisation of Mass Media and Other Provisions, and on the Joint Ministerial Decision 21161/2008 which specifies 23 digital transmission centres. The passing of secondary legislation and the presidential decree deriving from law 3592/2007, which among other things sets the licensing procedures for digital terrestrial TV, was still pending. EETT finalised its work under this law by adopting a Regulation on the obligation of operators regarding access to Application Program Interface (API) and to Electronic Programme Guides (EPG). The two platforms offering digital broadcasting services (the state-subsidised broadcaster and a digital network provider) both extended their population coverage (the national broadcaster intended to switch from MPEG2 to MPEG4 encoding, as used by the second digital network operator). Fifteen other operators also obtained a general authorisation to offer digital terrestrial network broadcasting services, mostly at regional level.

As secondary legislation was still pending at the end of the reporting year, and given the fact that broadcasters in Greece need to firstly be licensed for digital transmission, there is a great risk that Greece switch-over to full digital broadcasting after the EU target date of 2012.

HORIZONTAL REGULATION

Spectrum management

A Joint Ministerial Decision implemented the spectrum harmonisation decisions 2009/381/EC, 2009/343/EC, 2010/166/EC, 2010/267/EC and 2010/368/EC. Its publication was pending at the time of drafting this report.

The amended GSM Directive (by virtue of Decision 2009/114/EC) was transposed into the national frequency plan by a Ministerial Decision which was adopted in June 2010. On 4 January 2010, the Greek regulatory authority launched a public consultation on the process of removing existing technology constraints for the provision of mobile services in the 900MHz and 1800MHz and the procedure for granting UMTS licenses in the 900MHz band. The existing 2G licenses (2x20MHz) are due for renewal by September 2012. The Greek military forces are still occupying spectrum both in the GSM-band and in the 800MHz band. It is intended to complete the implementation of the GSM Directive in parallel with the issuing of the new spectrum rights.

As for the digital dividend in Greece, the Ministry commenced a public consultation in May 2010 for the selection of a consultant to calculate the value of the digital dividend following the switchover, and to propose a strategy for its use. The Ministry of Finance recently organised a call of tenders for the selection of a consultant for the evaluation of spectrum.

According to information available to the Commission, not all of the necessary preparation has been made in Greece which would facilitate the granting of an authorisation to the operators of systems providing mobile satellite services selected by the Commission in accordance with European Parliament and Council Decision No 626/2008/EC.

Rights of way and facility sharing

In June 2010, the Ministry commended a public consultation on a new draft legislative measure on the framework and procedures for the granting of rights of way. The approval of this draft legislation by the competent Ministries was to start anew, with no specified deadline of its final adoption. In practice, lacking of the Joint Ministerial Decision (defining the rights of way), local authorities set ad-hoc procedures for the granting of rights of way, the simplicity and speed seem to depend on the different local administrations. Thus, the deployment of networks in a timely manner, and in line with the budgetary provisions, has remained a challenge for market operators (for both the deployment of new networks and the use of existing infrastructure). The Commission services are examining the issue.

The Ministry has finalised draft legislation on the licensing of antenna installations (i.e., on the exclusion of small antenna constructions from licensing requirements, and on the extension of the 18 month period for the examination of existing antennas), the adoption of which was expected to improve procedures and to boost network investment.

While public consultations have been held on these draft decisions, their adoption as Joint Ministerial Acts by the respective competent Ministries was still pending. It is worth

mentioning that, to date, only 30% of the base stations in Greece have been licensed, and that half the amount of fines imposed by EETT during 2010 related to antenna licensing.

THE CONSUMER INTEREST

Consumer complaints

Consumer complaints continued to decrease during the reporting year. There was a shift in the content of complaints which tended to relate more to billing issues this year (high prices, unjustified billing or the inability of consumers to pay invoices) rather than on technical problems and connections to the networks. Following an increase in the number of complaints concerning the premium rate SMS subscription services, EETT amended the Code of Practice introducing new obligations on providers regarding the provision of premium SMS subscription services in particular on the proper provision of information to users entering a subscription services. The amended Code came into force by the end of 2010.

Tariff transparency and quality of service

In September 2010, EETT commenced a public consultation on a draft regulation for the determination of the minimum level of charging information for publicly available telephone services.

Number portability/switching

On June 2010, EETT issued a decision reducing the maximum time allowed for number portability both for fixed and mobile numbers from 10 to 3 days. This decision also incorporated measures facilitating the execution of parallel requests, i.e., number portability and unbundling of the local loop, so that the porting of a number takes place at the same time as the loop would be delivered. The Decision was enforceable as of 1 December 2010. Fixed portings increased by 18.7% to reach a total of 466 890 in October 2010, while mobile portings totalled 484 385 - a substantial increase from 355 484 in October 2009 (36.2% increase). The wholesale price per fixed number porting is 1.9€, and per mobile number porting is 9.6€ (third highest in the EU).

Net neutrality

The net neutrality debate is not heated in Greece. Market operators claim that they do not prioritise traffic and emphasise the importance of transparency of information, concerning the different types of products/ services offered to end-users. EETT introduced a set of services that enable Internet users to measure the quality characteristics of their Internet connection and assess plausible problems, relating among others to traffic prioritisation.

Universal service

Following the call for expression of interest for the provision of the whole, or part(s), of the US in Greece which was organised by EETT in 2009, one application for participation was submitted for the provision of directory enquiry services and directories. This was, however, later withdrawn. Given the non participation in this procedure, and based on the Ministerial Decision of 2007 which establishes the requirements, selection criteria, and procedures for the selection of the US provider, EETT designated the incumbent as the US provider in November 2010.

In March 2010, EETT adopted a regulation on the general costing principles of universal services. A request for compensation by the designated US provider was not, however, examined by EETT as the submission of data for all US services was not complete.

European emergency number 112

During 2010, intensive efforts were undertaken to raise public awareness for the 112 emergency number. Interviews were given with leading newspapers and free-to-air nationwide TV channels, which included links to social network websites. According to national statistics, 98% of calls to 112 were made from mobile phones. The ‘pull’ technique for the provision of caller location information currently used in Greece is planned to be replaced by a ‘near-to-push’ model during 2011.

Harmonised numbers for harmonised services of social value (116)

The 116 000 and 116 111 number have been assigned to two non-profit organisations and are operational since October 2008 and December 2009 respectively. The assignment of the 116 123 number has been assigned to the non-profit organisation since July 2010 and is operational since the beginning of 2011, although the provision of the services is not fully implemented yet. The Greek national regulator has still not assigned the 116 006 and 116 117 numbers.

Data Protection

Draft legislation for the transposition of Directive 2006/24/EC on data retention into Greek legislation was expected to be adopted in February 2011.