

FINLAND

MAIN MARKET DEVELOPMENTS

The total turnover of the Finnish telecommunications sector in 2009 was around €4.73 billion, which was up from €4.26 billion in 2008 and which reversed the declining trend identified over the previous two years. The fixed market, which generated €1.69 billion (36% from the total sector turnover) registered an increase in revenues of 5.0% compared to 2008, whereas the mobile market, with €2.1 billion (44%), registered a lower increase of 3.6% in comparison to 2008. The share of the electronic communications sector revenue in GDP was 0.3%, which is equal to the EU average.

The amount of investments made in the sector increased by 25.9%, totalling €550 million in 2009 compared with €437 million in 2008. The ratio of investments over revenues was 11.6% in Finland, comparable with the EU average level. The main investments continued to be made in order to develop the mobile networks to enable faster mobile broadband, which is the most rapidly developing sector, as well as the rollout of fibre.

While the competitive environment has been quite intense, it is also stable in Finland, with four main market players. Furthermore, some market consolidation has taken place in 2010.

MAIN REGULATORY DEVELOPMENTS

The extension of the scope of universal service to broadband connections of an average speed of 1 Mbps from 1 July 2010 constituted a significant regulatory development in Finland, even if, according to the latest market data, approximately 76% of Finnish fixed broadband subscribers use broadband speed above 2 Mbps. The Commission noted that no affordability measures have been introduced by the Finnish authorities for the provision of services over the universal broadband service connection.

Supervision of unbundled local loop prices was among the top priorities of the regulator in 2010, as most operators with significant market power seem to have too high access prices for local loop unbundling. According to the Communications Market Act, those prices must be cost oriented. Finnish prices for monthly average total cost per fully unbundled and shared access loop are amongst the highest in comparison with the other EU Member States.

Finland is well advanced in the transposition of the revised regulatory framework for electronic communications. The draft legislation has been the subject of a public consultation and was sent to the Parliament in October 2010, where it was approved on 18 January 2011. The entry into force of the legislation is foreseen for 25 May 2011.

NRA

In general, market players considered that the Finnish Communications Regulatory Authority (*Viestintävirasto*, FICORA) was successful in carrying out its tasks during the reporting year. The NRA's operational budget and staff number has been stable despite newly acquired responsibilities. The cooperation between the NRA and the Finnish competition authority (*Kilpailuvirasto*) does not seem to raise any concerns at the moment.

The Finnish national regulator continued with the third round of market analyses in the course of 2010, and withdrew ex ante regulation in three fixed retail markets of which two are no longer listed in the Recommendation of relevant markets. After having issued these decisions, the authority is now better able to focus its resources on the regulation of wholesale markets. No further significant market power decisions on wholesale markets have been taken in 2010. Therefore, the monitoring of wholesale broadband markets, and in particular pricing issues in the wholesale (physical) network infrastructure access market, was raised as the highest priority among FICORA's supervision duties. Following from this, irregularities were detected in the pricing practices of several telecom operators.

ECONOMIC REGULATION

Broadband

Broadband plans

In accordance with the National Broadband Action Plan for 2009-2015, which envisages an upgrade of communications networks to cover the whole country with 100 Mbps connections by the end of 2015, the Finnish Government notified to the Commission a state aid project which aimed to use public funds to deploy high-speed broadband networks in the country's rural districts. The Commission decided not to raise objections against the project. Under the Finnish scheme, 800 projects across rural areas of the country will be implemented until 2015. Projects are planned in about 250 of Finland's 340 municipalities. The aim is to have nearly 100 % coverage of broadband networks, with speeds of at least 100 Mbps. In particular, permanent residences and businesses should be no more than two kilometres from an access point for a fibre-optic or cable network. Commercial deployments are expected to ensure that 95 percent of the country is covered in this way, and approximately 132 million Euros of public funds should be used to cover the remaining 130 000 households in rural areas. The national government will contribute €66 million, co-financing from the EU rural development funds €24.6 million, while the municipalities concerned will contribute the remaining €41.4 million. At least 34% of the eligible project costs of the Finnish broadband measure, estimated in total at €200 million, shall be financed by private parties. The NRA is responsible for the handling of applications for public financial aid, the payment of the financial aid and monitoring the use of this aid. A review of the scheme will be carried out in 2011-2012 to assess whether any changes need to be made.

Market situation (including NGA)

The Finnish broadband market can be characterised by strong trend to fixed-to-mobile substitution in broadband services, with a continuous decrease of DSL subscriptions and a strong growth in mobile broadband subscriptions, the latter representing approximately 51%¹ of all broadband subscriptions in January 2011. DSL technology have remained the leading technology for providing fixed broadband services, representing 71.4% of all fixed broadband subscriptions with 1 112 700 subscriptions. The share of cable modem subscriptions stood at 15.4 % in January 2011 and fibre to the home represented 1.3% of all fixed broadband subscriptions.

¹ FICORA market review 2010

http://www.ficora.fi/attachments/suomimq/5xam7PDL3/Markkinakatsaus_1__2011.pdf

Fixed broadband penetration continues to decrease for the third consecutive year, and reached 29.1% in January 2011, placing Finland tenth in the EU. On the contrary, mobile broadband penetration measured by use of dedicated data cards/modems/keys has increased, stood at 30.6% in January 2011. This was up from 17% in January 2010, and makes Finland the EU top performer in this area once again.

2010 saw a considerable rise in faster broadband subscriptions. In January 2011, approximately 75.6 % of all fixed broadband subscriptions had a download speed of at least 2 Mbps, whereas this figure was 14.4 percentage points lower in January 2010. The share of those with download speed of at least 10 Mbps grew in particular – 16.4 percentage points and stood at 32.8% in January 2011. This trend was partly driven by a simultaneous decline in the monthly charges for faster Internet packages. A low demand for very high speed products was noted by the industry.

Regulatory issues

During the year, FICORA investigated the pricing practices of telecom operators in the wholesale (physical) network infrastructure access market, and, more specifically, the price level of the charges imposed for local loop access. In Finland, 29 operators are designated as having significant market power in this market in their respective traditional operating areas and they are obliged by legislation to provide broadband access services at reasonable prices and on reasonable terms. Notwithstanding this, the authority has discovered overpricing in the local loop charges of several network operators. FICORA has therefore launched a number of investigations in order to assess the compliance of local loop pricing practices with imposed pricing obligations, and to reduce these prices to a reasonable level. In several cases, the operators voluntarily cut their prices during the investigation. However, three operators appealed FICORA's decisions to the court, arguing that FICORA's price assessment method should be transparent and non-discriminatory. The authority expected to continue to monitor this issue.

As many operators have not followed FICORA's decisions relating to the wholesale (physical) network infrastructure access market, but also due to significant changes in the market regarding used technology and number of market players, the regulator is expected to re-analyse the competitive situation in this market most likely in 2011. The previous analysis of this market dates back to 2009.

An appeal to the Supreme Administrative Court which challenges the inclusion of fibre in this market definition was still pending at the end of the reporting period.

New bitstream access obligations came into force in January 2010. However, an unsatisfactory situation in Finland was noted by operators with regard to the wholesale broadband (bitstream) access market. This was mainly due to the lack of price obligations for fibre in this market, which has led to a situation whereby only a limited capacity of services were offered. The Commission has earlier invited FICORA to reconsider imposing a price obligation, as its absence would create a risk of access regulation being de facto annihilated if the established operators can set prices above a competitive level. Notwithstanding this, the authority expected to re-analyse the competitive situation in this market in 2011.

Mobile

Market situation

The Finnish mobile market is highly competitive, with 8.1 million subscribers at the end of October 2010. This market currently has a penetration rate of 150.8% (compared to 144.6% in 2009) which is the third highest in the EU. A significant part of the growth on this market is based on new mobile broadband subscriptions, which are primarily meant for data transmission. According to a market study, about 99 % of people use a mobile phone, while 75 % of households use only a mobile phone. Calls from the mobile networks represent 86.7% of all voice traffic, which is significantly more than the EU average of 50.8%. The share of prepaid subscriptions for all mobile subscriptions has remained at around 10 per cent.

Finnish mobile retail prices are among the lowest in Europe. In this regard, the average price per minute of mobile communications, excluding VAT, was €0.07, compared with the EU average of €0.10. The average annual revenue per user in 2009 was €273. While this figure is €41 less than a year ago, it is nonetheless above the EU average for 2009 which stood at €244.

Three large network operators and one virtual network operator are active on the mobile market, together with a large number of resellers. The market shares of the three mobile operators were approximately 38%, 37% and 23% of the total number of subscriptions by the end of June 2010. All operators hold both, GSM and UMTS licences.

According to FICORA², the volume of data traffic generated on mobile networks continued to increase strongly throughout the year, and was 30 % higher in the first half of 2010 than it was in the latter half of 2009.

While three out of the four main market players in Finland provide both fixed and mobile services, the fourth, an associated group of local fixed incumbents – operates only on the fixed markets. The frequency auction held in the autumn 2009 enabled these operators to also enter the mobile market. A new company, which combines 11 members of the group, plans to roll-out a network using the 4G mobile Wimax network solution, and to offer mainly broadband services. Their network will be gradually rolled out during the next two to three years, and, when complete, will cover 70% of the population.

Regulatory issues

In April 2009, following the publication of FICORA's guidelines for the assessment of the pricing of mobile voice call termination, Finnish mobile market players reduced the level of mobile termination charges for the forthcoming period up until end of November 2011. In addition to the setting of a symmetric price level, a 10% drop of termination rates was agreed upon to take place in 2010, according to which all operators dropped their prices from 4.9 eurocents per minute to 4.4 eurocents per minute. Notwithstanding this, the price drop in mobile termination charges is not, in FICORA's view, sufficient in the long run. Consequently, in December 2010, FICORA issued its view on the development of prices for call termination services on mobile networks for 2011 and 2012. In this respect, FICORA maintains that mobile termination rates should develop in such a way that the maximum price would be 3.5 eurocents per minute in 2011, reaching a maximum price of 2.8 eurocents per minute in 2012. FICORA's view on reasonable mobile termination rates is based on the cost and volume data that the authority has collected from mobile operators in 2010. In order to establish its opinion on the assessment of mobile call termination rates, the authority has applied the FIFAC model (Ficora Fully Allocated Cost Model), which produces estimates of cost-oriented prices for the provision of call termination services. The authority presumes that

² FICORA market review 3/2010 http://www.ficora.fi/attachments/englantiaiv/5uqZ0T7OB/English_3_2010.pdf

mobile network operators will take the authority's view into consideration when negotiating on call termination rates, primarily in their commercial negotiations.

Roaming Regulation

All Finnish mobile operators seemed to comply duly and on time with the obligations of the amended Roaming Regulation. In most cases, the retail prices were set at or very close to the maximum level indicated by the Regulation. It was noted by the operators that the most challenging issue was the requirement to set cut off limits for data.

Fixed

Market situation

Fixed line subscriptions and traffic continued to decline over the year, reflecting the continuous trend of fixed-to-mobile substitution. The regulator noted that only about 1 % of the households had a fixed telephone only. With only 13.3% of fixed voice traffic, Finland holds the lowest rate of fixed voice traffic in the EU, where the average rate of fixed telephony traffic stands at 49.2%. At the end of July 2010, the number of fixed-line telephone subscriptions in Finland totalled less than 1.4 million. The market share of VoIP operators on fixed calls underwent little increase since last year and stood at 3.4% in 2010, which was well below the EU average of 16.6%. There have not been any significant changes in the market shares of the main market players. The Finnish fixed market has a unique structure, comprising a number of small local fixed incumbents operating in their traditional operating areas with very high market share. Taking into account all types of calls by traffic volume, the incumbents' market share stood at 96% in December 2009.

Regulatory issues

In November 2010, FICORA issued decisions with regard to the market for access at a fixed location and the markets for local call services. Based on the application of the three criteria test, FICORA removed the ex ante regulation that had previously been imposed on the SMP operators in all of those markets.

Broadcasting

Market situation

The all-digital switchover had already been completed on 1 September 2007 (in cable on 1 March 2008). In July 2010, approximately 44.8% of households received TV broadcasting via cable TV (compared to 42% in July 2009). Satellite and IPTV platforms, with a market shares of 4.1% and 1.2% respectively, were mainly supplementary to cable and terrestrial TV platforms. While Finland is lagging behind other Member States with regard to IPTV uptake, the two biggest incumbent operators started to promote the take-up of IPTV, offering it in bundles with broadband services.

Regulatory issues

The Finnish Government has reached a decision on the renewing of four television programme licences for multiplexes B, C and E. These licences will be valid until the end of 2016.

HORIZONTAL REGULATION

Spectrum management, including refarming, digital dividend

A report on future demand for radio frequencies which estimates the expected frequency and radio equipment needs of different radio communication services and wireless applications up until 2017 was published in June 2010. The aim of this report was to ensure that a sufficient amount of frequencies is available to meet the demand at any time. The report concludes that no significant frequency shortage may be expected in Finland within the following decade; it is also expected that the building of mobile communication networks will focus on cost-efficient low frequencies in the beginning of the period and after this on higher frequencies in areas where additional capacity is required; moreover, there is no need for a significant rearrangement of frequencies; finally, growing importance of the frequency bands below 2.5 GHz was also noted.

While the use of the 800 MHz frequency band has, prior to now, been restricted in Finland due to military use of that range by Russia, an agreement has been reached between both the latter country and Finland to commence mobile communications tests within the 800 MHz frequency band. In Finland, a decision had already been made at an earlier stage to allocate the 800 frequency band to new, high-speed mobile communications networks. In Russia, the same frequency band is used by air navigation systems, which is why the use of this band in Finland requires frequency coordination. As a result of the negotiations, Finland is now able to begin the construction of LTE (Long Term Evaluation) test networks within this frequency band.

In addition, the Ministry of Transport and Communications has launched a study on use of radio microphones in 800 MHz band. The study aims to find an alternative solution in order to release the 800 MHz band for mobile communications. Most of the wireless microphones in Finland are currently operating in the 800 MHz band.

Rights of way and facility sharing

In December, the Best Finnish Practices on Joint Construction of Infrastructure Networks was published which gives examples of the coordinated construction of transport infrastructure, water supply networks, electricity and electronic communications networks in Finland. Joint construction of infrastructure was strongly supported by the Cabinet Committee on Economic Policy. This guide provides information on common experience, best practices and the acquired benefits of the joint construction of infrastructure networks, and helps to motivate the parties to commence joint construction projects for the benefit of all those involved.

THE CONSUMER INTEREST

Consumer issues

The Consumer Disputes Board registered a general decrease in the number of complaints received in 2010. While the authority has issued a decision in approximately 60% of cases, the remaining cases are closed in accordance with a settlement reached between the parties. These complaints mainly concern Internet issues, such as the actual speed of the connection, traffic congestion, coverage of mobile networks in rural areas, as well as issues related to ambiguous agreement-making processes. Over the half of cases received in 2010 which related to the provision of telephone services concerned mobile content services (SMS entertainment services in particular).

In 2010, the NRA reviewed the fixed broadband contract terms offered by the four major operators. In this regard, FICORA reached the conclusion that the connection speeds are defined in the contracts by telecom operators in such a broad fashion that, in practice, the customer will not often be in a position to effectively challenge the poor broadband service provided, thus availing of compensation required by the Communications Market Act. The authority forced the operators to give a more transparent determination of the connection speed included in their contracts. Moreover, an amendment to the Communications Market Act, which entered into force at the beginning of 2011, requires service providers to include the range of data transmission rates to the agreements concerning broadband connections.

The NRA launched a new website for consumers in March 2010. This site pulls together consumer-oriented matters, offering information and services in a clear and an easy-to-read form.

Tariff transparency and quality of service

The changes in relation to consumer protection in the Communications Market Act, adopted in 2010, increasing the amount of compensation to be paid for the users of communications services in situations where services have been delayed or interrupted, became effective at the beginning of 2011. The standard compensation and standard reimbursement will increase to €20, while the maximum amount will increase to €160. In addition, there is a new requirement relating to the terms of a contract for the provision of a broadband connection, which will become more detailed. The range of variation in the data transmission speed must always be mentioned.

Number portability/switching

Approximately 439 247 porting transactions of mobile numbers took place between January and October 2010, which is 7253 transactions less than the previous year. Notwithstanding this, the percentage of total mobile numbers ported over the number of mobile subscribers remains high, currently standing at 53.9%. On the contrary, fixed number portability is not widely used. Approximately 34 966 fixed portability transactions took place between January and the October 2010. In Finland, the time needed to port a fixed or mobile number is 5 days, compared with the EU averages of 7.7 days for fixed numbers and of 4.2 days for mobile numbers.

Net neutrality

Net neutrality seems not to be an issue so far in Finland. The regulator is of the view that traffic management is in principle allowed, if communicated to users. Due to the strong increase of traffic volumes in mobile broadband, the mobile network operators have announced that traffic management activities (capping) are foreseen.

Universal service

The Finnish Government has decided to extend the scope of universal service to broadband connections. The obligation to provide access to a reasonably priced and high-quality connection with a downstream rate of at least 1 Mbps is in place as of 1 July 2010. The broadband connection may be implemented by fixed or wireless technology, and its price and delivery time must also be reasonable. 26 telecom operators were assigned as universal service providers in various parts of Finland. One contested the decision in the Supreme Administrative Court of Finland, which dismissed the operator's claim on the suspension of enforcement of the decision while the case is pending.

In September 2010, the Finnish authorities indicated in a consultation document that they plan to regulate the maximum prices for the connection to a network providing functional internet access (at the moment 1 Mbps) and for the use of services over that connection. However, this initiative has been abandoned following a dialogue with the Commission, and the agreement of industry commitments. No price cap has therefore been introduced for the time being due to the voluntary agreement of market players on maximum price levels for broadband universal services.

European emergency number 112

Around 4.2 million enquiries have been received annually by 15 Finnish Emergency Response Centres, of which 3.0 million are emergency calls. In terms of the awareness of the 112 number, more than 44% of respondents in Finland knew that they can reach emergency services from anywhere in the EU by calling the 112 European emergency number (compared to an EU average of 25%).

In 2010, the Commission services were seeking clarification regarding the availability of caller location information to authorities handling emergencies, in particular for calls made by users of international roaming services.

Harmonised numbers for harmonised services of social value (116)

By the end of July 2010 one harmonised number for harmonised services of social value - 116111 (Child helplines) - was functioning in Finland. While the other number -116006 (Helplines for victims of crime) - has already been assigned to the service provider, this is not yet operational. Other harmonised numbers for harmonised services of social value are also available for the provision of the service, but have yet to be assigned.

e-Privacy

Market players reported that the 2009 amendments to the Finnish Act on the Protection of Privacy in Electronic Communications, enabling employers to examine the traffic data of employees' e-mail messages in the cases of alleged breaches of business secrets, had not yet been put into practice.