

## **IRELAND**

### **MAIN MARKET DEVELOPMENTS**

The economic environment in Ireland is extremely challenging and has negatively affected the telecoms sector which saw revenues fall again in 2009 by around 11% since the previous year. GDP has experienced a rapid fall over the last few years and unemployment rose to 11.8% by the end of 2009. The difficult economic environment has adversely impacted the financial position of some operators and has contributed to a significant decline in investment by the Incumbent and mobile operators.

The total turnover of the Irish telecommunications sector declined significantly to €3.85 billion as of 31 December 2009, compared to €4.3 billion one year earlier representing a drop of almost 11%. This compares to a drop of less than 6% for the EU as a whole. The fixed segment contributed €2.0 billion, a drop of almost 10% on 2008 while the mobile segment saw an even greater decline of almost 12% to €1.8 billion. Investments in telecommunications networks also declined from €516 million at the end of 2008 to €442 million in 2009 a drop of over 14% overall. Investment in the fixed sector declined by over 26% while investment in the mobile sector fell by over 18%. Investment by alternative operators rose significantly by 120% although this figure accounts for only 14% of investment overall. Following on from significant consolidation and acquisitions last year, there has been some further consolidation in the market.

The prospects for investment in NGN remain uncertain although cross-industry discussions are progressing well and trials are being undertaken by the incumbent operator. The Telecommunications and Internet Federation (TIF) has called for a new approach to broadband funding in Ireland. Notwithstanding current financial pressures, TIF insists that investment in next-generation broadband networks must remain a priority. The incumbent is planning to invest €20 million in a trial of ultra-high speed fibre-optic broadband services capable of data speeds of up to 150Mbps. The pilot, which is due to begin in 2011, is targeted at 10,000 residences and businesses.

### **MAIN REGULATORY DEVELOPMENTS**

Preparations are underway for the timely transposition of the new telecoms framework which must be transposed by into national law by 25 May 2011. No major problems were reported with this process. There have been no appeals against ComReg decisions since the beginning of 2010. One appeal, in relation to bundling, which was lodged by the incumbent in 2009 and remained active at the start of 2010, was settled and the contentious bundle was withdrawn.

Following the Irish Government's announcement that the digital switchover will now take place before the end of 2012, ComReg is now considering holding a competition for the 900 MHz band and the 800 MHz band (and also possibly for the 1800 MHz band) during 2011. ComReg has also assigned more licences in the 3.6 GHz, 10.5 GHz and 26 GHz bands.

### **NRA**

In early 2010 the Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010 ("the 2010 Act") was enacted which amended the 2002 Act. The most notable amendment is the conferral of a new function on ComReg,

namely to regulate premium rate services (“PRS”), a function relating to an area outside the telecoms framework.

Significant progress was reported in ComReg's handling of inter-operator disputes and compliance. Combined with a drop in the number of appeals this has enabled greater forward movement on key issues. Operators did express a desire for greater predictability and certainty regarding ComReg's work plan which is published at the start of each year.

In May 2010, ComReg published its final decision on its analysis of market 4. The Incumbent was designated as having significant market power in this market (which includes copper and fibre physical access) and a number of regulatory obligations were imposed on it. ComReg has imposed a full suite of detailed remedies with respect to its copper network and, in order to provide certainty to the market has also imposed high level obligations with respect to the incumbent's NGA infrastructure.

In October 2010, ComReg commenced the consultation phase of its review of market 5 with the publication of its preliminary views in this area.

## **ECONOMIC REGULATION**

### **Broadband**

Following completion of the National Broadband Scheme, Ireland now has 99% coverage for the whole country. The scheme provides a current minimum download speed of 1.6Mbps and maximum of 6.8Mbps and is available for 235,000 premises across every county (with the exception of Dublin) in Ireland. Built into the contract is a provision that speeds will be increased to a minimum of 2.3 Mbps and a maximum of 10.4 Mbps by October 2012. A new Rural Broadband Scheme to be launched shortly will ensure that the remaining 1% of the country will be covered

### **Market situation**

Consumers are benefiting from more intense competition and the number of broadband lines grew by around 4.5% and total broadband subscribers increased by 13%, with mobile broadband growth being particularly strong, up 27.1% in the year to December 2010. Ireland continues to lag slightly behind the EU average penetration rates for broadband.

In January 2011, fixed broadband penetration reached 23.25% compared to around 22.2% in January 2010, while the EU average stood at 26.6%. Ireland has performed better on mobile broadband (by dedicated service cards/modems/keys) where penetration now stands at 12.8% of the population compared to the EU average of around 7.2%. The incumbent's broadband market share is approximately 49.1% which has fallen slightly from 50.6% in January 2010 and compares to an EU average for incumbent market share of 43.3%.

Although increasing, broadband speeds are relatively slow in Ireland compared to other Member States. For example, 16.2% of broadband lines are between 144 Kbps and 2Mbps compared to the EU average for this category of 13.3%. Only 13.4% of broadband lines are above 10Mbps compared to the EU average of 38.9%.

The share of non-DSL broadband lines has increased with most of the growth coming from cable broadband. DSL accounts for 71% of fixed broadband lines in Ireland; a drop of just

over 1 percentage point on last year. The incumbent operator holds a 68.2% market share which compares with an EU average incumbent market share for DSL of 54.4%.

#### *Regulatory issues*

The price for Line Share fell from €8.41 to €0.77, in conjunction with ComReg issuing a final decision on the reduction in monthly LLU charges from €16.43 to €12.41 in February 2010, and has resulted in significant reductions in wholesale prices which is expected to lead to an increased interest in and take-up of unbundling services and a subsequent rise in the number of unbundled lines.

In May 2010, ComReg published its final decision on its analysis of market 4. Eircom was designated as having significant market power (which includes copper and fibre physical access) and a number of regulatory obligations were imposed on it. ComReg has imposed a full suite of detailed remedies with respect to its copper network and, in order to provide certainty to the market has also imposed high level obligations with respect to Eircom's NGA infrastructure. Included within such obligations are requirements to prevent the occurrence of margin squeeze issues. Following the publication in September 2010 of the European Commission's NGA Recommendation, ComReg intends to consult in early 2011 regarding the detailed implementation of NGA remedies.

In October 2010, ComReg commenced the consultation phase of its review of market 5 with the publication of its preliminary views in this area. The proposed product market includes virtual products provided over copper and fibre (deployed by the incumbent operator). The draft decision proposes that Eircom has SMP as it currently possesses, *inter alia*, a market share of close to 100%. It has been proposed that a full suite of remedies is imposed with regard to the SMP operator's current generation copper DSL network. ComReg has also proposed a similar set of remedies for Eircom's potential roll-out of a fibre next generation network; however it proposes to consult further on the specific nature of these remedies in 2011. Included within the obligations are requirements to prevent the occurrence of margin squeeze issues.

## **Mobile**

#### *Market situation*

Mobile revenues for 2009 were around €1.8 billion which accounts for 47% of total retail revenues. However this is a 12% drop on the previous year. The mobile penetration rate has dropped slightly to around 118% which is below the EU average of 124%. All four mobile network operators provide commercial third generation (3G) mobile services. The mobile price per minute of voice communication, at €0.08, compared favourably with the EU average of €0.10. Irish mobile average revenue per user (ARPU) fell by 8% over the year but remains among the highest in the EU at €356 compared to €244 at EU level.

#### *Regulatory issues*

Following voluntary commitments entered into during 2009 all four mobile network operators in Ireland agreed to reduce their MTRs annually to reach an average rate of 5 cents per minute no later than the end of 2012. ComReg had reserved the right to intervene where rates are materially out of line with EU best practice. However average MTRs are among the highest in the EU and stood at €0.082 compared to €0.055 at EU level in October 2010. ComReg has commenced the data gathering phase to support its upcoming review of the market for voice call termination on individual mobile networks. It is expected that ComReg's preliminary views on these markets will be publicly consulted on in June 2011. The Commission

emphasises the need for ComReg to review this market as soon as possible and to impose appropriate remedies instead of relying on voluntary commitments.

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#### *Roaming Regulation*

In December 2010, ComReg published a Report on the implementation of the Roaming Regulation by Irish mobile operators. In general, Irish retail roaming prices for calls made and received continue to indicate compliance with the regulatory price ceilings. Ireland's "Eurotariff" price per calls made and received is lower than the EU/EEA average and the retail price for sending a text message while roaming remains below the regulated cap of 11 cents (excl VAT; in Ireland 13 cents including VAT)

Irish mobile operators have advised ComReg that they have implemented the appropriate transparency requirements, including the default data roaming cut-off limit of €50 ex. VAT. ComReg has received a small number of consumer complaints with respect to bill shock. ComReg also issued consumer research with regard to international roaming in December 2010.

### **Fixed**

#### *Market situation*

Fixed line revenue and traffic continued to decline during 2009 reflecting both the effects of the poor economic climate and structural market changes. Fixed access paths declined by 5.2% while traffic is down by around 10%. The incumbent's market share (measured by retail revenues) in the fixed telephony market is around 63% as at Q4 2010 which represents a fall of 6% from the previous year and compares with an EU average of around 65% in revenue terms.

Approximately 24% of subscribers used an alternative provider for voice telephony services in July 2010 which is up 3 percentage points on the previous year. The number of alternative operators using proprietary infrastructure as a percentage of total alternative operators was 53.3% which is a significant increase on the previous year (13.6%). The market share in terms of traffic of VoIP providers rose slightly from 2% to 3.5% in 2010 although this is low when compared to the EU average of 16.6%.

#### *Regulatory issues*

The SMP operator's fixed termination rates were reduced, on average, by 8% on 1 April 2010 and will reduce by a further 7%, on average, from 1 January 2011. As of 2010 Irish rates were slightly above the EU average.

### **Broadcasting**

#### *Market situation*

The share of Irish TV viewers relying on analogue broadcasting had fallen from approximately 25% in 2008 to approximately 23.6% in 2009. Approximately 47% of subscribers use the satellite platform while around 33% of households use cable.

### *Regulatory issues*

Initial tests of DTT by RTÉNL commenced in October 2010. Analogue transmission will run alongside DTT until 2012 when the analogue signal is due to be switched off. The infrastructure necessary for DTT, which could in due course consist of six multiplexes (two public service and four commercial), is being built by RTÉNL throughout the country to provide 98% population coverage. RTÉNL plans to use a new satellite service which, while it will potentially reach all households, is intended to cover the remaining 2% of population which may not be able to receive the DTT signal.

In mid-2010 the Minister for Communications, Energy and Natural Resources announced that analogue switchover will occur during Quarter 4 of 2012 (in conjunction with analogue switchover in Northern Ireland). Secondly, on 5 August 2010, the Broadcasting Authority of Ireland (BAI) stated that it will not be feasible to introduce commercial DTT as originally intended in advance of analogue switchover. Accordingly, there will not be any digital broadcasting requirement for the use of 800 MHz spectrum in advance of analogue switchover.

## **HORIZONTAL REGULATION**

### *Spectrum management*

In light of the greater clarity outlined above, ComReg published a consultation paper in September 2010 to set out its preliminary views on the most appropriate process by which to release spectrum in both the 800 MHz and 900 MHz bands, and on the most appropriate process to assign rights of use of same. This consultation closed in late October 2010 and outlines how ComReg proposes will license the liberalised 900 MHz band and the 800 MHz (Digital Dividend) band. In addition, as part of that consultation, ComReg sought views on whether or not the GSM1800 band should also be included in the competition. Based on these inputs, ComReg believes that the reasons put forward to-date and other material currently before it support the inclusion of the 1800 MHz band into the proposed 800 MHz and 900 MHz spectrum release.

Although the final decisions have yet to be taken, ComReg is moving to hold a competition for the 800 MHz, 900 MHz and 1800 MHz bands in mid- 2011. The process aimed at releasing these frequency bands has been lengthy and the later addition of the 800 MHz band into the process has also had an impact on the timing of the project.

This latest consultation extended to late February 2010. Some market players expressed concern about the uncertainty arising from ComReg's general approach to handling these issues. It is essential that ComReg ensures that its future approach is fully in line with the requirements of the amended GSM Directive and Authorisation Directive.

According to information available to the Commission, not all of the necessary preparation has been made in Ireland 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.

## **THE CONSUMER INTEREST**

### **Consumer complaints**

In terms of management of contacts to ComReg from consumers of electronic communications services; approximately 18,700 issues are received by ComReg each year of which 27% are complaints. 88% of these issues were resolved within 10 days. Most consumer

complaints continued to be focused on billing issues in 2009, the other frequently aired subjects being quality of service and contractual terms.

### **Tariff transparency and quality of service**

In December 2009, ComReg notified the Designated Universal Service Operator (USP) of its opinion that it had not complied with its obligation to achieve, and fully comply with, specified quality of service performance targets in respect of its provision of the universal service for the annual performance period 2008/2009.

Following parallel discussions, in June 2010, the Designated Universal Service Operator established a Quality of Service Performance Improvement Programme, with associated annual performance targets and bonds. In addition, the Designated Universal Service Operator estimated that it would make an annual investment of over €30m in 2010/2011 and 2011/2012. ComReg decided that it would not take enforcement action for non-compliance while reserving its right to do in respect of any non-compliance for future periods.

ComReg continues to operate and enhance its website informing consumers of tariff offers. In December 2010, ComReg published a new Quality Standard for Complaints Handling. The Commission has also intervened on behalf of consumers to assert the right to individual notification in cases of contract changes, and their right of assent in relation to changes in billing medium.

### **Number portability**

In the 12 months to December 2010, more than 352,000 numbers were ported between operators. Fixed number portability takes approximately ten days in Ireland and on average costs approximately €4. Almost 15,000 non geographic numbers have been ported, with an average cost of approximately €6.

A GNP forum was created to optimise inter-operator number porting processes in those cases where narrowband and broadband services are supplied to retail consumers by two separate service providers as well as for single services which bundle narrowband and broadband services. The forum completed the implementation of the revised GNP process in Feb 2010.

The GNP forum reached a consensus in September 2010 on the process amendments required to meet the objective of one day porting. The implementation phase of the project has now started, which is scheduled for completion in Q2 2011.

### **Net neutrality**

As noted in last year's report the incumbent had operated a "3-strikes" policy against illegal downloading at the behest of the entertainment industry (i.e. Irish Music Rights Organisation) until this concept was struck down in the courts when IMRO attempted to extend it to the main cable operator.

### **Universal service**

In June 2010, following a public consultation, the incumbent was re-designated as the Universal Service Provider (USP) for a period of two years, until 30 June 2012.

In June 2010, the USP withdrew its applications for funding of the net costs involved in meeting universal service obligations for 2006/2007 and 2007/2008. In November 2010, ComReg commenced a public consultation process on the principles and methodologies of costing the USO. The Commission believes that this process should be completed as soon as possible.

The European Commission contacted ComReg during the year regarding two issues which had been raised in complaints to the Commission. The first of these concerned the compliance of mobile operators' contracts with the requirements of the Universal Service Directive regarding the items specified in the contract. ComReg had initiated an investigation into this issue in 2007 which had not been completed. Following the Commission's request ComReg confirmed that it had now concluded its investigation and that mobile operator contracts were now compliant. The Commission is continuing to monitor this issue.

The second issue concerned the manner of notification by operators of changes in customer contracts. The general practice had been to provide such notifications by means of a notice in a national newspaper one month in advance of the change. The Commission considers that this approach is not adequate in terms of the requirements of the Directive and, in particular, insists on the need for direct notification of consumers. ComReg has indicated that it agrees with this analysis and has contacted operators with a view to ensuring future compliance. The Commission service will continue to monitor progress.

### **European emergency number 112**

In February 2009, the Minister for Communications, Energy and Natural Resources entered into a contract with BT Ireland to provide the Emergency Call Answering Service (ECAS) operation in Ireland. BT Ireland commenced live operations of the ECAS in July 2010 and, in October 2010, formally replaced the Incumbent as the ECAS provider.

Under national legislation ComReg is responsible for monitoring, and reporting to the Minister for Communications, Energy and Natural Resources, on the quality of service of the ECAS provider and for reviewing the call handling fee that the ECAS provider may charge. The volume of emergency calls is expected to be approx. 3.3m in 2010. In October 2010, ComReg commenced a process, aimed at eliciting the views of stakeholders with respect to the input calculations to the maximum call handling fee chargeable by the ECAS provider. Following the review of the reasonable costs incurred by the ECAS provider, ComReg has decided to adjust the maximum call handling fee permitted to €3.35 per emergency call for the period 12 February 2011 to 13 February 2012.

ComReg has launched a new consumer website ([www.112.ie](http://www.112.ie)) to assist in promoting awareness of the 112 European emergency number to Irish consumers and to promote the proper use of the national emergency call answering service.

Following a letter from the Commission, the Irish Ministry has confirmed that a roaming caller is treated the same as a domestic caller and the same location information is passed on to the emergency services as would be delivered for a domestic caller.

### **Harmonised numbers for harmonised services of social value (116)**

The number 116123 for emotional support helplines has already been assigned. However it is delayed for funding reasons. The number 116111 for child helplines has been assigned, and is in-service since March 2009. The number 116000 has not been assigned yet.

## **Must-carry**

According to the legal framework in place, the must-carry obligations apply currently to cable and MMDS (Multipoint Microwave Distribution System) operators in Ireland. The new Broadcasting Act 2009 extends the 'must-carry' obligations to all appropriate network providers.