ITALY

EU Telecom rules: Where are we now?

The positive trends have continued in terms of growth in the broadband and mobile markets (including in particular 3G) and improvements in the competitive situation in all markets. Thanks to an effective regulatory and price environment, broadband penetration and local loop unbundling have grown substantially since last year. The national regulatory authority (NRA), AGCOM, has been rather effectively reorganised, and the efficiency in monitoring and enforcing the regulatory obligations has significantly improved. All markets have been notified although some obligations (namely on bitstream) still have to be implemented. AGCOM has dealt with a number of regulatory challenges resulting from convergence (e.g. voice over IP, integrated fixed-mobile services, IP-TV, mobile TV, bundled retail offers) and on the asymmetry in the wholesale fixed termination market and there have been persistent problems with ineffective emergency services. There is a substantial delay in taking decisions on spectrum assignment, bitstream, wholesale line rental, and incumbent's accounting reports and persistent problems with ineffective emergency services and granting of rights of way. The Commission launched an infringement proceeding regarding the law addressing digital switchover.

Overview

Broadband

Italy is among the Member States with the highest number of fully unbundled lines (1.8 million wholesale lines in October 2006) and among the lowest wholesale tariffs (€8.05/month). The total broadband lines – over 8 million in October 2006 - had increased by more than 2 million lines since October 2005, a growth of 37%. While the penetration rate for retail broadband access has increased considerably reaching 13.6% in October 2006, nevertheless it remains lower than EU average of 15.7 Alternative operators have improved their market share of total broadband lines from 30% the previous year to 32% in October 2006 (this percentage would be significantly higher if 3G connections were included). New incumbent's obligations upon the results of the market analysis include the access to digital subscriber line access multiplex for sites not opened to local loop unbundled and wholesale line rental.

Mobile

Continues to be one of the EU countries with the highest mobile penetration rates (almost 134%), with an increase by almost 15 percentage points since October 2005. UMTS subscribers continue to increase at a very high rate and AGCOM estimated that at the end of 2006 they would reach 12 million. AGCOM has imposed to all but one a maximum mobile termination rate with a 3-year glide path. For the UMTS operator AGCOM considered that a price control could currently constitute an excessive burden.

Fixed telephony

The overall market share of alternative operators in the fixed voice telephony market in terms of revenues (32.6% in December 2005) has increased by 1.9% since December 2004. Nevertheless it is almost 2% lower than the EU average. Due to significant network investments, the percentage of subscribers using alternative operators for direct access in July 2006 was 9.2%, 74% higher than in July 2005. AGCOM established asymmetric termination charges (€0.154/min for termination to alternative operators' networks, €0.073/min for termination to the incumbent's network at single level) and a 5-year glide-path towards symmetric tariffs. Nevertheless it has undertaken to review its current position taking into account the need for alternative operators to become more efficient over time.

Broadcasting

In September 2006 there were 4.3 million digital decoders sold, almost double than in July 2005. Nevertheless, only 5.2% of households have a digital TV set, while 87.8% still hold a traditional analogue TV (25% received satellite TV services). The switch-off date at national level has been postponed to the end of 2012. In July 2006 the Commission opened an infringement proceeding for the non conformity of the Italian broadcasting law as regards the advantages granted to existing TV operators during the transition to the switch-off. AGCOM has considered IP-TV as an emerging service and excluded it from the market of broadcasting transmission services.

Important consumer information

Tariff transparency	The fixed cost for re-charging mobile pre-paid card has been recently abolished. Furthermore, conditions have been imposed to operators to make it easier for consumers to change operators. AGCOM included information on roaming on its website.
Data Protection	The Privacy Authority has been very active in carrying out inspections on several operators' databases retaining subscriber data. Furthermore, specific measures have been imposed on a major operator, to improve the security of subscribers' personal data, as the procedure in place had been found to be insufficient. The above initiatives are partly a consequence of alleged unauthorised use of such data kept by the incumbent.
Directory services and enquiry directory services	Since 2003 directory and directory enquiry services are no longer part of the universal service obligation and from the end of 2005 the market is effectively open to competition. To solve the problem of persistent high prices for calls from mobile networks, AGCOM conducted a market analysis on mobile call origination and proposed each mobile network operator as having Significant Market Power (SMP) in these markets. The Commission had serious doubts about AGCOM's market definition and SMP findings. Based on these doubts AGCOM decided to withdraw its market analysis.
Emergency services	Caller location information is still not available to emergency services for calls from mobile phones and therefore the Commission has taken Italy to the European Court of Justice.
Number portability	The successful operation of mobile number portability was further confirmed in 2006. From its launch in 2002 to 31 August 2006 more than 9.6 million customers have changed operator using mobile portability, of which about 4 million in the last year. To solve the persistent and important problem of delays, AGCOM forced operators to increase their daily capacity of executing MNP. As regards fixed number portability, the procedures for porting numbers between alternative operators continue to be difficult and expensive.
Premium rate services	Despite inspections and sanctions imposed by the Italian authorities, it seems that there have continued to be serious problems of abusive behaviour of some premium rate service providers. In March 2006, the Ministry of Communications approved a decree regulating voice and data premium rate services delivered via fixed or mobile networks, aimed at preventing abuses. Furthermore, a revision of the numbering plan, currently under way, would seek to further clarify the type of services that can be provided within each category of numbers and make the sanctioning of inappropriate use easier.
Activation of non-requested services	There were persistent problems of activation of non-requested services, although to a smaller degree than in 2005. In 2006 AGCOM imposed high fines on four telecom operators and a new regulation on non-written contracts is currently under analysis. Sanctioning proceedings by the privacy authority against some telecom operators for activation of non requested services are ongoing.

Infringement proceedings pending under the EU Telecom Rules: 2

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