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POLAND

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Telecommunication Market and Regulatory Developments

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Poland

1. STATE OF TRANSPOSITION OF THE REVISED EU FRAMEWORK

Development of the sector

The competitiveness at the market has generally been preserved with seven mobile network operators MNOs (Polkomtel, PTC, PTK, P4, Mobyland, CenterNet, Aero2) and the number of alternative operators competing with the incumbent (Telekomunikacja Polska – TP) in fixed telephony and broadband (e.g. Netia).

The revenues of entire sector slightly increased, unlike in most of the EU Member States. Yet, mobile operators' investments were smaller than in the previous year. *[section 3]*

In **fixed telephony**, in line with the general trend of 'fixed to mobile substitution' TP's market share for fixed access lines continued to decrease. Also, in the fixed broadband market TP suffered from the competition decreasing the market share compared to the previous year to the benefit of new entrants.*[section 5.2]*

On the **mobile market**, the tendencies observed in previous years continued in 2011, with relatively low prices, a steady increase of mobile penetration and increase of data traffic comparing to voice services. In the course of 2011 the national regulatory authority (UKE) entered into agreements with mobile operators (PTC, PTK, Polkomtel, P4) with a view to boosting investment in exchange for a slower glide path towards lower mobile termination rates. In January 2012, plans to introduce symmetry as of 2013 were eventually confirmed in a common declaration of the President of UKE, BEREC and the Commission. In 2011 the Polish mobile market witnessed a significant take-over of Polkomtel, one of the biggest MNOs with 29,3% market share in terms of subscribers. Finally, LTE services have been commercially launched, including fast internet (up to 100MBps) in certain urban areas.

The three largest MNOs (PTK, Polkomtel and PTC), which were the first entrants historically, had a stable revenue market share over 90%. Most of the remaining market share was owned by P4, which by extending systematically its position since its entry in 2007, reached in July 2011 8.4% in terms of revenues. *[Section 5.1]*

With the increase of data traffic over the voice services, the future allocation of remaining spectrum became crucial for operators.*[Section 6]*

Number portability in mobile was usually done within one-day while in fixed telephony it required up to 7 days. With 330 259 transactions on fixed numbers between January and September 2011, the overall number of fixed portings decreased, whereas mobile porting transaction continued to increase, totalling 696 526 transactions. This, however, corresponded to a small share of 1.73% of all mobile numbers. *[Section 7.5]*

Progress in broadband deployment and take-up

The developments in broadband take-up were smaller than in the previous year. As a

result the gap between Poland and the EU average remained considerable. The broadband penetration in Poland was below the expectations with 17.3% as of January 2012. This figure remained significantly below the EU average (27.8 %). In addition, a large part of the broadband subscriptions continued to be at speeds in the lowest range of 144 KBps – 2 MBps (26.2% in January 2012), making the accomplishment of Digital Agenda for Europe targets challenging. On the other hand the competitive situation on the broadband market noted some improvements in the reporting period with a relatively better access to wholesale products along with increased investment in the local loop and further decrease of the LLU prices.

In January 2012 half of the fixed broadband lines were based on DSL technology, while the rest was split between cable operators' DOCSIS and other technologies. The investment in next generation access networks was still very limited, with the strategic plans not finalised. In 2011 LTE services has been commercially launched. The Broadband Law (Megaustawa) started bearing fruits, in particular with regard to Rights of Way. In line with the Law UKE and the Ministry continued developing the mapping of electronic communications networks with a view to providing an updated electronic tool with information on broadband infrastructure (SIIS). [Section 4.1]

Independence and effectiveness of the NRA

Despite the lack of transposition of provisions reinforcing the independence of the NRA, the Polish NRA continued to be perceived as independent, both in terms of performance of its day-to-day activities, and from an organisational and financial point of view. After the end of the term of office at the position of the President of UKE, the new President was nominated. [Section 2]

Implementation of the framework

Poland has not yet transposed the revised regulatory framework¹, which was due by 25 May 2011. Further to the lack of notification of the measures transposing the regulatory framework by that date, infringement proceedings were therefore ongoing by the end of the reporting period.

Spectrum management

The process for the final assignment of rights of use for broadcasting is still on going. In particular, the preparations to the allocation of frequencies in the 800 MHz-band progressed. The operators did not show any interest in refarming within the 900 MHz band. [Section 6]

Citizens and consumer protection

Availability of 116 harmonised numbers has been good in Poland, while awareness levels remained low.[Section 7.1] There is still room for improvement with regard to the functioning of the European emergency 112 number. Despite that, the level of awareness of 112 is very good. [Section 7.2] With regard to net neutrality, Polish authorities involved very much in works at the EU level during Polish Presidency.[Section 7.3] The

¹ Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 OJ L 337, 18.12.2009, p.11 and Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 OJ L 337, 18.12.2009, p.37

consumers continued complaining on erratic commercial offers. UKE continued developing the certification action with a view to promoting consumer friendly standards. [Section 7.4] Pending the new rules on Universal Service, none of the operators has been designated to provide it despite the expiry of the previous arrangements. [Section 7.6] No major issues on e-Privacy were reported. [Section 7.7]

2. NATIONAL REGULATORY AUTHORITIES (NRA)

Despite the lack of transposition of provisions reinforcing the independence of the NRA, the Polish NRA continued to be perceived as independent, both in terms of performance of its day-to-day activities, and from an organisational and financial point of view. After the end of the term of office at the position of the President of UKE, the new President was nominated.

The work on the amendment of the Telecommunications Law with a view to transposing the EU Regulatory Framework triggered some discussion on the selection procedure of the President of UKE. The final draft of the amendment preserves the current mechanism where the President of UKE is appointed at the request of the Prime Minister by the Sejm (lower chamber of the Parliament), after an approval of Senat (upper chamber).

The 5-year term of office of the President of UKE finished in May 2011. Due to upcoming Parliamentary elections at that time the President of UKE remained in office until the beginning of 2012. A new President was appointed by Sejm on 27 January 2012 and was confirmed by Senat on 1 February 2012.

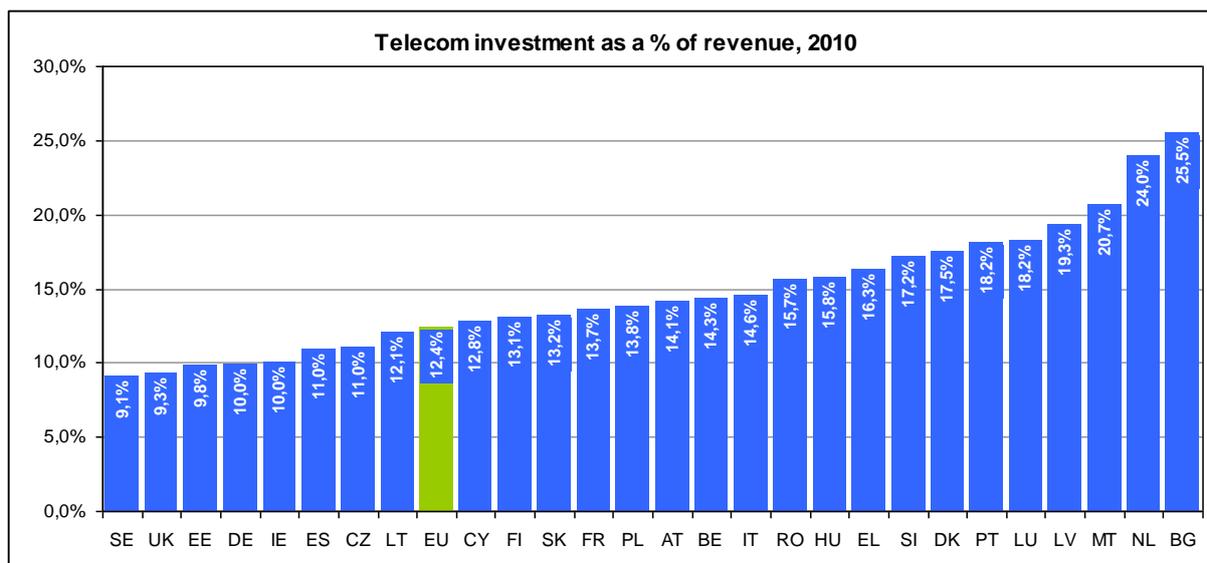
The regulatory objectives of the President of UKE in 2011 were as follows: to address major shortcomings in relevant markets, to improve service availability and penetration, as well as to improve access conditions for alternative operators. The President of UKE continued exploring different incentives to stimulate investment in broadband infrastructure.

The budget of UKE is balanced. The budgetary autonomy is ensured by a distinct line within the state budget. Currently, UKE employs 668 persons (both in central and in local branches) and this number is still growing despite the anti-crisis cuts in other central institutions. Wages in UKE were above the average in the public sector but below the average of the private sector in electronic communications.

As of January 2012 there were 312 complaints and appeals with regard to UKE's decisions pending before administrative and general Courts, the majority of which were appeals against decisions of the President of UKE (212). The length of the procedure has been subject to the same criticism as in the previous year. The proposed amendments to the Telecommunications Law would not address this issue.

3. REVENUES AND INVESTMENTS

The revenues of entire sector slightly increased, unlike in most of the EU Member States. Yet, mobile operators' investments were smaller than in the previous year.



Source: Commission services

As of December 2010 revenues in the electronic communications sector totalled €10 900 million, representing a slight increase compared to the previous year when they amounted €10 832². The ratio between investments and revenues remained slightly above the EU average (13.8% compared to 12.4%³), yet the total value of investments continued decreasing but less than in the previous year reaching €1 503 million in December 2010, in comparison to € 1 514 million in December 2009 (a year to year decrease of less than 1 %). The investments by mobile operators kept being the highest in absolute amounts but unlike in previous years these investments also decreased by one fourth. At the same time, the investments of fixed operators visibly increased approaching the investments of mobile operators, what can be put down to the Agreement of 2009 between the incumbent and UKE on cooperation and investments.

4. BROADBAND

The developments in broadband take-up were smaller than in the previous year. As a result the gap between Poland and the EU average remained considerable. In addition, a large part of the broadband subscriptions continued to be at speeds in the lowest range of 144 KBps – 2 MBps, making the accomplishment of Digital Agenda for Europe targets challenging. On the other hand the competitive situation on the broadband market noted some improvements in the reporting period with a relatively better access to wholesale products along with increased investment in the local loop and further decrease of the LLU prices.

In January 2012 half of the fixed broadband lines were based on DSL technology, while the rest was split between cable operators' DOCSIS and other technologies. The investment in next generation access networks was still very limited, with the strategic plans not finalised. In 2011 LTE services has been commercially launched. The Broadband Law (Megaustawa) started bearing fruits, in particular with regard to Rights of Way. In line with the Law UKE and the Ministry continued developing the mapping of electronic communications networks with a view to providing an updated electronic tool with information on broadband infrastructure (SIIS).

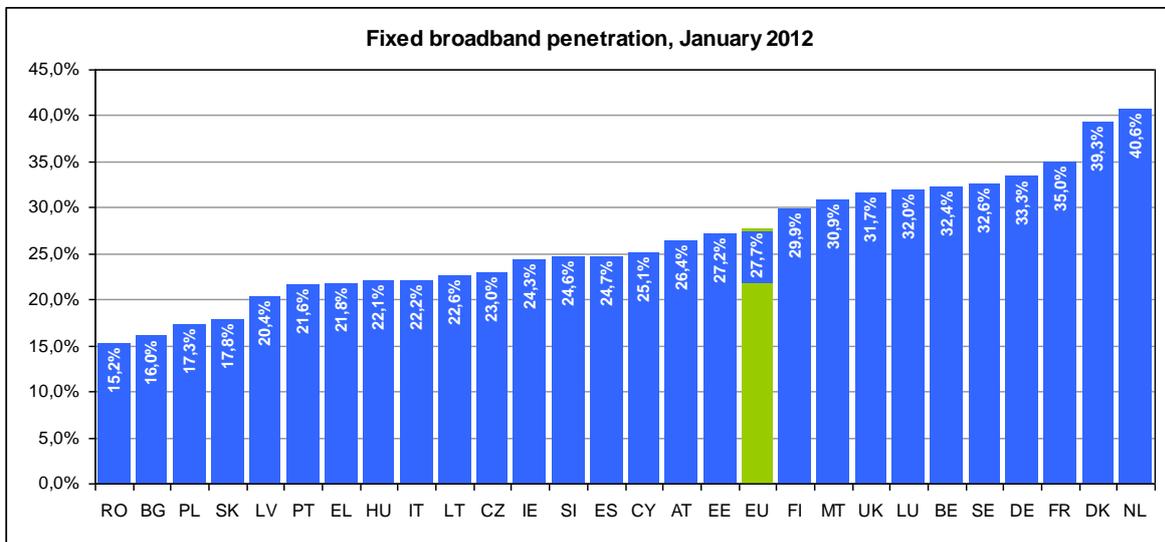
² With the exchange rate in 2009 of 1 EUR = 4.32 PLN and in 2010 – 1 EUR = 3,99 PLN

³ This result gave PL 15 position in EU-27.

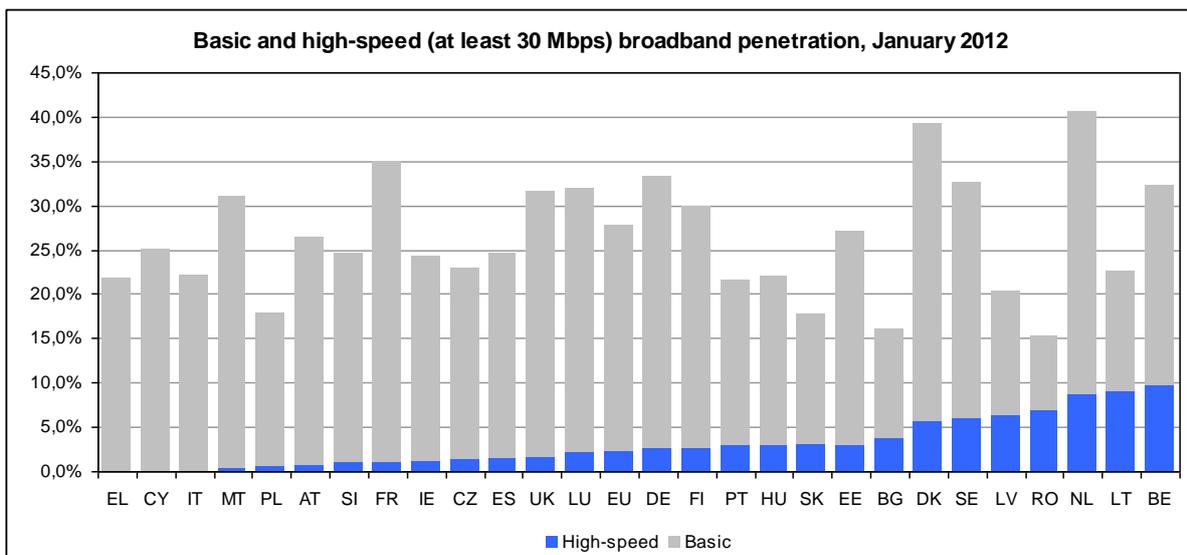
4.1. Market situation and regulatory developments

Broadband penetration, at 17.3% in January 2012 remained significantly below the EU average (27.8 %). A large part of the broadband subscriptions continued to be at speeds in the lowest range of 144 Kbps – 2 MBps (26.2% in January 2012). In January 2012 still almost half of the fixed broadband lines were based on DSL technology (48%, while the rest was split between cable operators' DOCSIS (27%) and other technologies (25%). In the cable sector consolidation continued. During the third quarter of 2011 the biggest cable operator (UPC) increased its market share in the cable market to 32.46% due to the take-over of a competitor (Aster). This has increased the competitiveness of the cable sector (increasing to 27% market share in fixed broadband) vis-à-vis other broadband operators.

The market share of new entrants in fixed broadband lines increased in January 2012 comparing to the previous year (from 67.4% to 69.5% while the incumbent's market share regressed from 32.6% in January 2011 to 30.5% in January 2012).

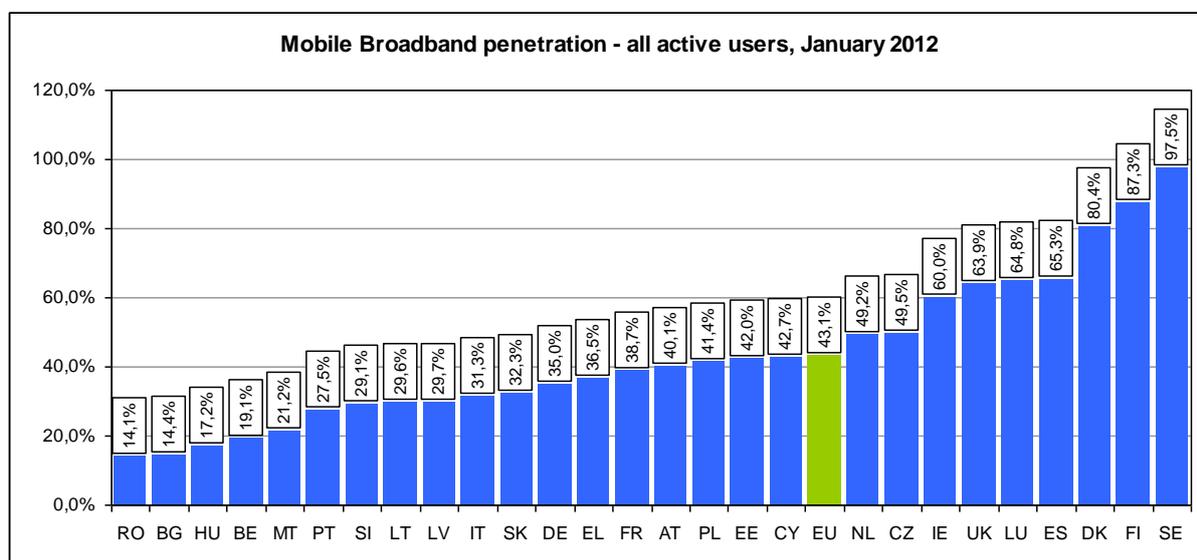


Source: Communications Committee



Source: Communications Committee

The penetration of mobile broadband continued to be slightly above the EU average with 8.3% for dedicated cards/modems in January 2012, whereas the EU average was at 8.1%. At the same time the rate of penetration in terms of dedicated cards/modems decreased compared to the previous year when it was at 9.1%, while in terms of all active users, the penetration marginally grew with 41.4 % in January 2012 comparing to 41% a year earlier, remaining however below the EU-27 average of 43.1%.



Source: Communications Committee

The positive trend in local loop unbundling continued, steered by the Agreement between UKE and the incumbent as well as the active use by the President of UKE of the regulatory measures on the markets 4 and 5⁴. Still, the alternative operators urged for further improvements. In June 2011 the Commission condemned the incumbent with regard to its abusive practices⁵ (refusal to supply) in providing access to its networks and to supply Bit Stream Access (BSA) and Local Loop Unbundling (LLU) wholesale products (Decision COMP/39.525)⁶.

Also positively, the LLU prices in Poland remained the lowest in the EU with €5.34 in October 2011 per fully unbundled loop comparing to the EU average at € 9.70, while the price for shared access at € 1.67 was fourth smallest in the EU (after NL, BE and IE).

In the context of its market review of the wholesale broadband market, UKE identified different levels of competitive conditions in various geographical regions of Poland. These differences, although not stable enough to justify defining separate relevant markets, prompted UKE to regulate differently in certain administrative units with more competition at a retail level.

The incumbent seemed to continue investing in broadband lines in accordance with the conditions set out in the 2009 Agreement with UKE⁷. Under a new Annex signed on 31

⁴ Market 4 - wholesale (physical) network infrastructure access (including shared or fully unbundled access) at a fixed location; Market 5 - market for national wholesale broadband access.

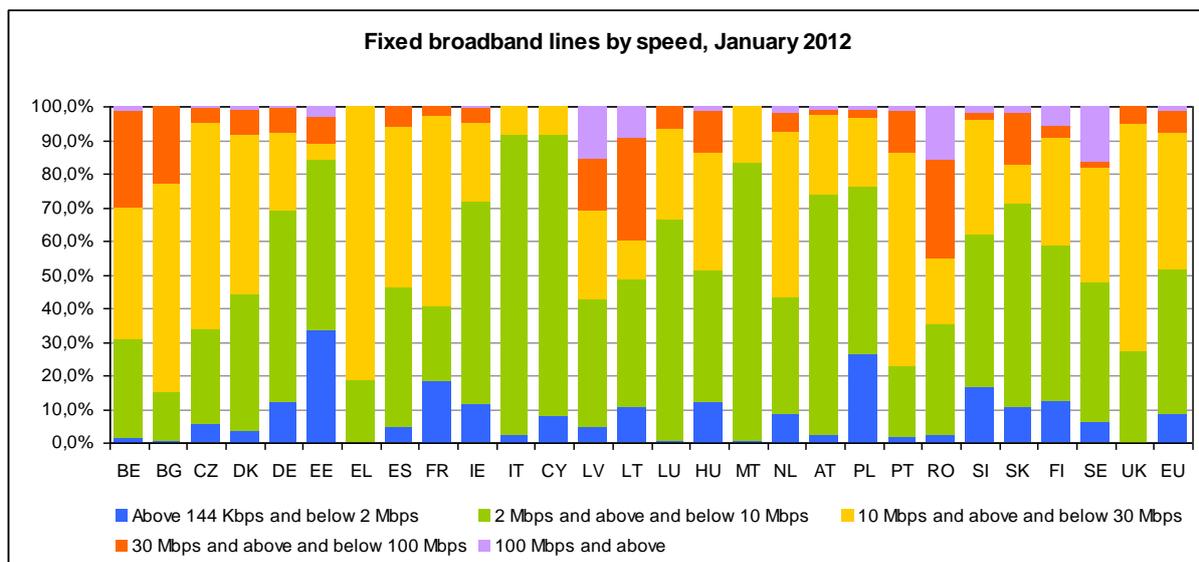
⁵ The decision concerned the period 2005-2009.

⁶ The appeal of the incumbent is pending, see Case T-486/11

⁷ The incumbent was bound to deliver 1,2 million broadband lines by the end of 2012.

January 2012, the timeframe for investments has been extended from 31 December 2011 to 31 March 2013, in exchange for higher speeds (220 thousand lines - 30 MBps instead of 6 MBps regarding the broadband lines scheduled for 2012), however still on copper.

In 2011 investment in next generation networks (NGN) remained very limited. Cable operators were upgrading to DOCSIS 3 in a bid to retain customers. Competition from the fibre sector mainly targeted business users in larger cities. Both the incumbent and the main alternative operator were further developing VDSL2 as the attempts to agree on co-investment in NGN had failed. UKE continued attempts to agree with the providers on the FTTx strategy but to no avail. Positively, by its decision of 4 October 2011 the President of UKE modified the reference offer of the incumbent in order to encourage better use of VDSL technology (allowing for 40 MBps and 80 MBps speeds).



Source: Communications Committee

4.2. National Plans, private & public investments

While work on the National Broadband Plan continued, by the end of January 2012 the document had not yet been adopted. The project is currently being further developed by the Ministry of Administration and Digitization. Poland's broadband plans are currently based on the 2008 Government's 'Strategy for the Development of the Information Society in Poland until 2013' and the long term strategy "Poland 2030" of 17 November 2011. Neither of these documents however set clear broadband targets. On the other hand the Broadband Law, among others introduced the requirement of localisation of duct infrastructure along new and rebuilt roads.. The Law also helped to remove from the local zoning plans different types of bans for deployment of the telecoms infrastructure which was appreciated by the operators. In line with the Law UKE, National Institute of Telecommunications and the Ministry of Administration and Digitization continued developing the mapping of infrastructure of telecommunications network with a view to providing an updated electronic tool with information on broadband infrastructure (SIIS).

The absorption of the structural funds improved compared to the previous years. The 'Eastern Poland' project (€ 323,4 millions), after the positive clearance from the European Commission in November 2011, entered into the stage of preparation of tenders for contractors. The

Ministry launched the 'systemic project' intended to speed up the implementation of specific broadband projects and promote Internet facilities.

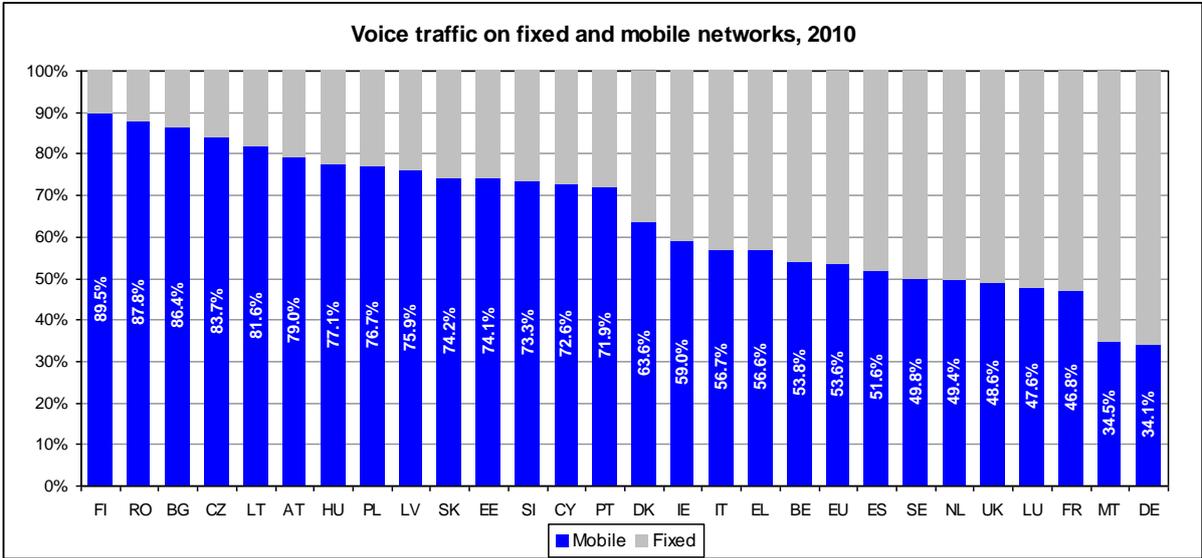
5. VOICE AND OTHER e-COMMUNICATION SERVICES

On the mobile market, the tendencies observed in previous years continued in 2011, with relatively low prices, a steady increase of mobile penetration and increase of data traffic comparing to voice services. In the course of 2011 the national regulatory authority (UKE) entered into agreements with mobile operators (PTC, PTK, Polkomtel, P4) with a view to boosting investment in exchange for a slower glide path towards lower mobile termination rates. In January 2012, plans to introduce symmetry as of 2013 were eventually confirmed in a common declaration of the President of UKE, BEREC and the Commission. In 2011 the Polish mobile market witnessed a significant take-over of Polkomtel, one of the biggest MNOs with 29,3% market share in terms of subscribers. LTE services have been commercially launched, including fast internet (up to 100MBps) in certain urban areas.

In fixed telephony, in line with the general trend of 'fixed to mobile substitution' TP's market share for fixed access lines continued to decrease. The process of introducing Digital TV progressed, with the adoption of the relevant legal framework, and further decisions on multiplexes (MUX) allocation.

5.1. Mobile services

Market situation

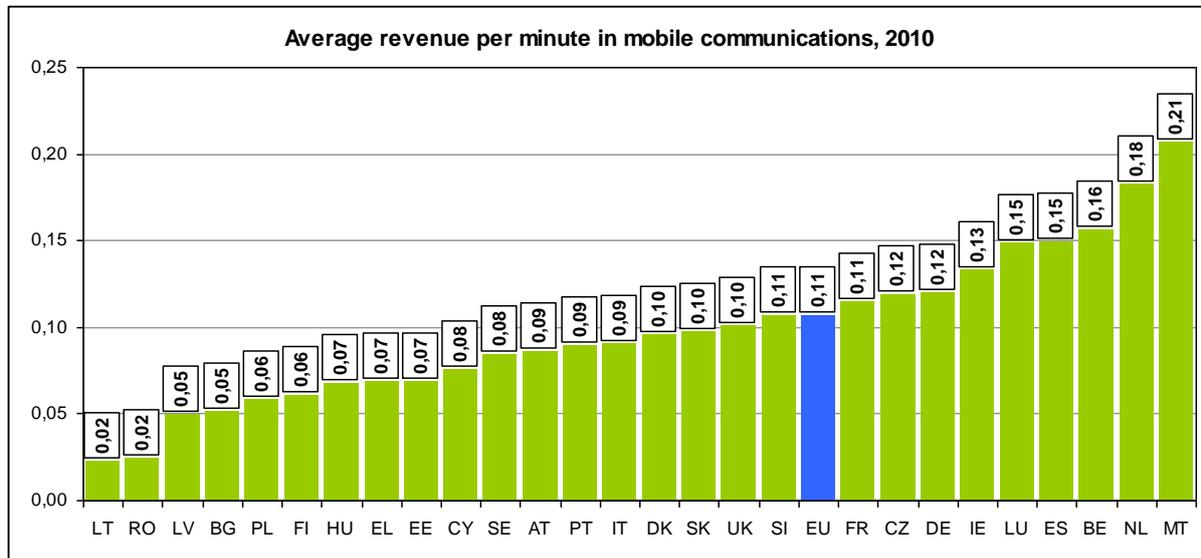


Source: Commission services

The mobile price per minute of voice communication at €0.10, was at the level of the EU average⁸. The mobile average revenue per user (ARPU) remained among the lowest in the EU with €113 in 2010 which is below the EU average of €221, decreasing by another 27%

⁸ With a currency exchange rate of €1 = PLN 3.99 in 2010 in average.

compared to the previous year (€156). The mobile penetration increased for more than 6 percentage points to 120.4% in October 2011, comparing positively with the previous year when mobile penetration amounted 114.3% and grew 4 percentage points. This increase can be mostly attributed to ownership of multiple SIM cards. Yet, this result remained below the EU average of 124.2%.

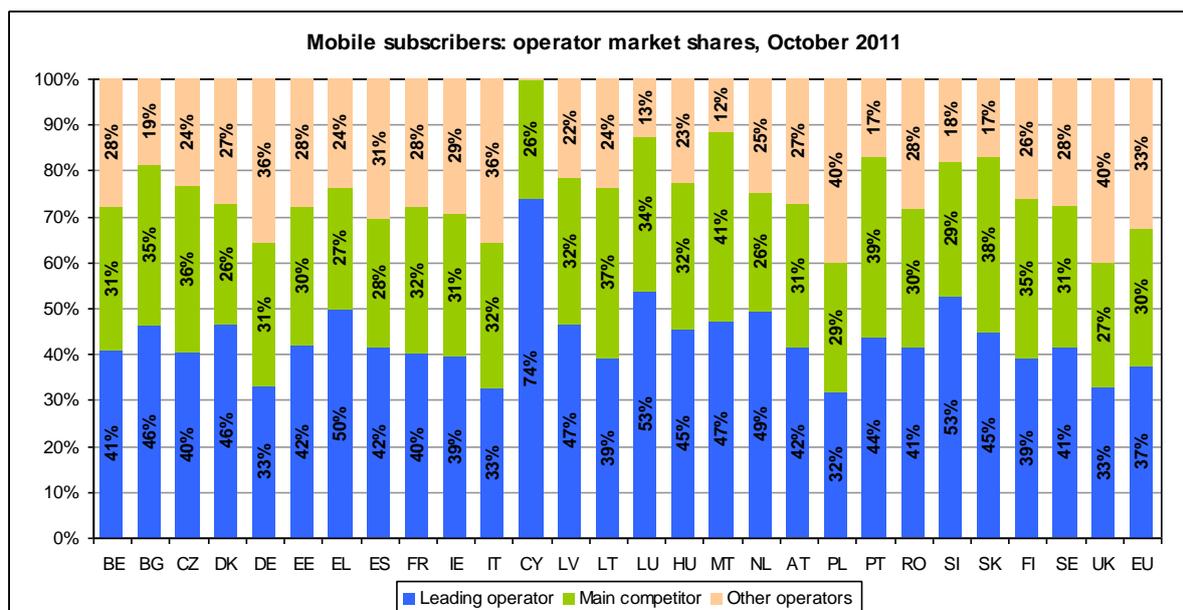


Source: Commission services

The Polish mobile market is well developed with seven mobile network operators MNOs, the last entering the market in December 2010. The position of the market leader remained unchanged, with a market share in terms of subscribers of 32% in June 2011. The competitors had respectively 29 % and 27%. The fourth operator, which is on the market since 2007, further extended its market share, reaching 12% in July 2011, representing an increase of approximately 3 % compared to its 9.4% market share at the same time in 2010, according to the NRA data. At the end of 2011 the number of mobile virtual network operators (MVNOs) had further increased from 15 to 18. However, their cumulated market share remained below 1%, with only one MVNO (Cyfrowy Polsat) exceeding 100 000 active subscribers, thanks to a strong customer base and the distribution network of the big satellite broadcaster that belongs to the same capital group.

In June 2011 the second biggest operator was taken over by a capital group that already had 3 other MNOs and the biggest MVNO. The transaction was cleared by the National Competition Authority (UOKiK) following consultations with UKE, on the grounds, among others, that such a concentration might boost the development of 4G telephony (LTE and HSPA+). Shortly after the approval of the transaction by the NCA, the new member of the group introduced an offer of LTE services with coverage of approximately 22% of the population, available in 16 cities.

In July 2011 two operators signed an agreement establishing a joint-venture with a view to enhancing infrastructure development and saving the infrastructure costs incurred individually by both operators. Operators expected that the deal would reduce overall expenditure by 29% in the first three years from a reduced capex for network development as well as a lower opex.

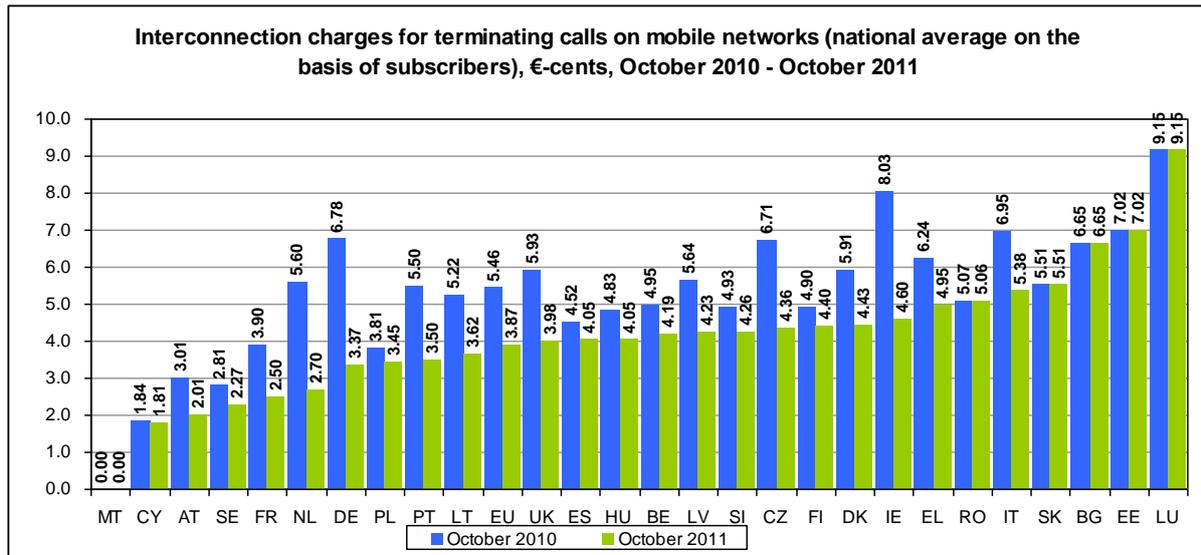


Source: Commission services

Regulatory issues

In an attempt to improve coverage, UKE entered in May and June 2011 into agreements with four main operators concerning investment in so-called white spots (where there is no 2G coverage) and in sparsely populated areas (where the roll-out of a 3G network would not be economically justified) in exchange for a lighter MTR glide path. The objective was to eliminate white spots and to roll out 3G to 80% of the territory as a minimum. In addition operators agreed to withdraw a number of appeals pending at that time against the individual decisions setting MTRs. While UKE consulted its draft decisions on remedies with the Commission, the Commission expressed comments as to the compliance of the proposed price levels with the EU Termination Rates Recommendation⁹ and the principles and objectives of EU law. Despite the Commission's negative comments⁹, UKE adopted the measures resulting from the agreement between UKE and the mobile operators and at the end of 2011 the operators were subject to the same MTR of 0.152 PLN (€ 00.038), excluding the operator, that was subject to the asymmetric MTR of 0.27208 PLN (€ 00.068). For the first time since the amendment to the Telecommunications Law in October 2010, these agreements have been legally binding.

⁹ The European Commission could not at that time use its powers under Article 7a of the amended Framework Directive.



Source: Commission services

UKE's plans with regard to the MTRs as of 1 January 2013 triggered doubts by the European Commission as to the compatibility with EU law. As a result the European Commission decided to use for the first time its new powers under Article 7a of the Framework Directive¹⁰ which gives it the right to scrutinize remedies proposed by national regulators. Eventually, in the common statement of the President of UKE, BEREC and the European Commission of 20 January 2012, the three parties agreed that MTRs, as of 1 January 2013, will be symmetric, and be set at a level based on a PURE LRIC bottom-up model.

Roaming Regulation

All operators aligned in 2011 with new roaming tariffs, whereas in most of the cases the average retail roaming prices for voice and SMS were still just below the retail caps. As regards roaming for data transfer (not covered by the Regulation) the average price in June 2011 ranged from 2.21 to 4.45 for 1 MB and as such was above the EU average¹¹.

5.2. Fixed

Market situation

With incumbent's market share at 57.4% (in terms of all types of calls by traffic volume) in December 2010 the decrease of the fixed market continued (in December 2009 the market share amounted 63.3%). This tendency, which can be attributed mainly to 'fixed to mobile substitution', did not however affect much the market share of the incumbent in terms of revenue, which increased over 2010 from 64.8% in December 2009 to 68.4% year later. At the same time the incumbent experienced further competition from the biggest alternative fixed network operator (Netia) and other operators, including the cable ones (with almost 5 percentage points of subscribers more using an alternative operator at the end of 2010 than in the previous year with regard to national calls and almost 7 percentage points with regard to

¹⁰ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive)

¹¹ Source: NRA information

international calls). There is still ample room for growth for VoIP, as its market share (by traffic volume) was still below the EU average (5.8% compared to 23.4%), despite the fact that as of December 2010 the market share of VoIP by traffic volume had almost doubled, compared to the previous year when it was at 3%.

In general, bundled offers including fixed telephony were much less popular (in July 2011 the penetration was at 5.5%) compared to the EU average of 22.2% but have considerably increased comparing to the previous year when they amounted 3.8%. The most common bundled offer was broadband combined with television whereas television offer was considered to be the most important factor in choosing such packages.

Regulatory issues

The alignment of the provision of the Telecommunications Law, which provided a general ban on bundled services, with the Judgement of the Court of Justice of the European Union in case C-522/08 was still outstanding.

5.3. Broadcasting

The Act on the introduction of digital terrestrial television, adopted on 30 June 2011, established, among others, the rules of selecting operators on multiplexers 1 and 2, and imposed on them certain obligations of public information campaigns about digital TV. Multiplex 1 has been granted in part to the national broadcaster (until the third multiplex would reach full capacity) and no later than until April 2014. For the remaining capacity (four channels) the media board (KRRiT) carried out a competitive procedure finalised in April 2011. Multiplex 2 has already been assigned to commercial broadcasters, and by the end of 2011 it had reached coverage of 94% of the population. As regards multiplex 3, it has continued pilot transmission, whilst at the same time increasing in coverage. The plan is still to switch-off analogue broadcasting on 31 July 2013.

The must-carry regime has been changed by the Broadcasting Act, resulting in an obligation for each operator to retransmit the public service channels, and one regional television channel broadcast by the public service broadcaster. Operators must also carry those channels which were broadcasted in analogue form by the four commercial broadcasters on the basis of a broadcasting licence on the day of the entry into force of the Act. These rules apply to all operators regardless of the technical mode of distribution. No compensation is provided for such retransmission.

Overall, the share of Polish TV viewers relying on analogue broadcasting continued to decrease as viewers switched to other platforms. As of July 2011, approximately 46% of subscribers used the satellite platform, while 27.5% used cable. This means an almost 16 percentage points' increase for satellite platforms and almost 9 percentage points' loss for cable. Internet television (IPTV) subscriptions were negligible (1.3%), yet noting a little increase comparing to the previous year.

6. SPECTRUM MANAGEMENT

The process of final assignment of rights of use for broadcasting is still on-going. The
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preparations to the allocation of frequencies in the 800 MHz-band progressed. The operators did not show any interest in refarming within the 900 MHz band.

Commission Decision 2009/766/EC on the harmonisation of the 900 MHz and 1800 MHz frequency bands was implemented by three ordinances of the President of UKE of December 2011 and January 2012. Currently, all existing decisions are technologically neutral. Updated information on rights of use in various frequency bands is available in the EFIS database and on UKE's website.

LTE was launched commercially in September 2011 by a MVNO (Cyfrowy Polsat), which is operating on the networks of the operators from the same group (CenterNet and Mobyland) within the 1800 MHz band while also offering HSPA+ in the 900 MHz band frequencies.

Despite the initiative of UKE from 2010, none of the operators requested refarming within the 900 MHz band. Instead, two operators started to look for other forms of cooperation which resulted in the conclusion of an agreement regarding co-sharing of the infrastructure and some frequencies (however without any prejudice to their respective property rights).

In October 2011 the tender procedure for two frequency blocks in the 1800 MHz band was repeated, following a successful appeal by a dismissed operator. Repeating the procedure did not impact on the original results of the auction.

At the beginning of January 2012 UKE started a consulting on an auction of frequencies in 1800 MHz band, scheduled for 2012. Furthermore, Polish authorities prepared changes to the National Table of Frequency Allocation reflecting the planned release of the digital dividend in the 800 MHz band. Accordingly, it is expected that the army will release most of the frequencies in the 800 MHz band by the end of 2012, with the exception of 860-864 MHz which would be in use only within certain military areas until 31 of December 2017. In 2011 UKE succeeded in signing additional agreements on international coordination. Currently, Poland has agreements with Belarus, Russia, Ukraine, Germany and Slovakia. Moreover, further to the World Radio Conference which started in January 2012 in Geneva, the use of 790-862 MHz in Poland is not anymore a subject to the prior agreement with Russia and Belarus. All aforementioned actions aiming to clear the 800 MHz band for mobile services should speed up implementation of the RSPP decision¹² in Poland.

7. CONSUMER INTEREST

7.1. 116 - Harmonised numbers for services of social value

Availability of 116 harmonised numbers has been good in Poland, while awareness levels remained rather low.

Three lines are currently available in Poland within 116 (116 000, 116 111 and 116 123). During 2011 UKE has continued promotion actions to increase their visibility.

¹² Decision 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme; <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:081:0007:0017:EN:PDF>

7.2. 112 – European Emergency number

While the functioning of the European emergency number 112 still requires improvements, its awareness in Poland remains the highest in the EU (60%).

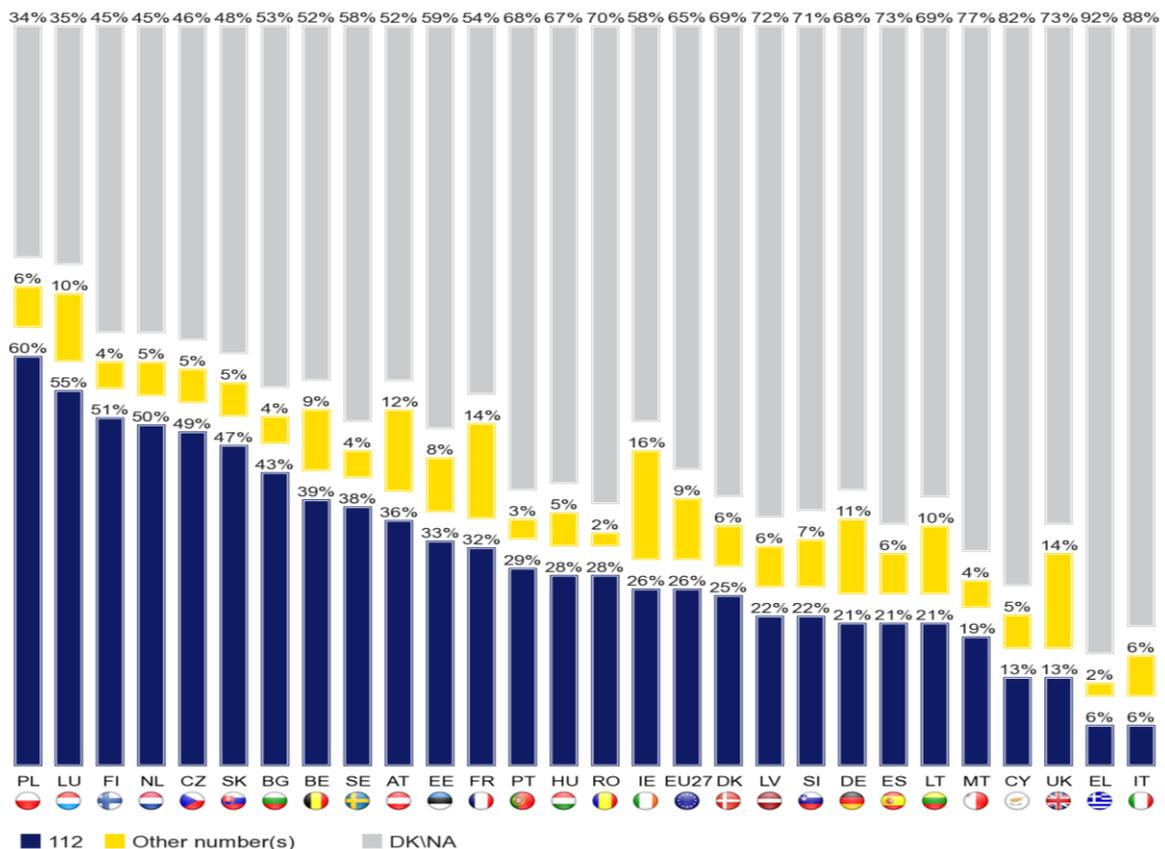
A central localisation and information platform connected with the central database (PLI CBD) started operating in March 2011. It is expected that the performance of caller location should improve once the system will be connected with the databases on ported numbers. Currently the time required for location of a caller is above the European average of 1 minute (71.83 seconds; only 64.88% within 1 minute), whereas time to obtain location information from the PLICBD is assessed by UKE to be less than 10 seconds

At the same time, neither consumers nor operators reported any problems with this service. With 60% of Polish respondents in the Eurobarometer survey of December 2011 identifying 112 as the number to call for emergency services from anywhere in the EU, Poland was at the top among the Member States.

Awareness of 112 as the EU-wide emergency number:

Can you tell me what telephone number enables you to call emergency services anywhere in the European Union?

(Base: all respondents, % by country)



Source : Eurobarometer 2012

7.3. Net neutrality and Quality of service

While the Polish Presidency very much steered discussions on net neutrality in the Council, national discussions organised by UKE have not yet been conclusive.

UKE continued organising debates, however without any clear outcome. Otherwise this topic did not draw much attention of consumers. Some discussions arose around a product which one of the operators considered introducing, with regard to the offering of an advertisement-free Internet. Net neutrality was one of the most important dossiers for the Polish Presidency which agreed the Council's position in this regard. On 13 December 2011 the Council adopted the Presidency Conclusions of the Commission communication on the open Internet and net neutrality in Europe.

On the other hand discussions on the quality of service were rather heated. This resulted from a proposed legal provision (Article 56, section 3, point 10) imposing guaranteed parameters (including speeds) for Internet access services. This idea was eventually dropped following comments from entrepreneurs and consumers submitted during the consultation on the draft amendments for the Telecommunications Act.

7.4. Consumer complaints, tariff transparency

The consumers continued complaining on erratic commercial offers. UKE continued developing the certification action with a view to promoting consumer friendly standards.

In 2011 consumers complained mostly on inconsistencies between the service as advertised (especially when presented by a telemarketer) and its effective parameters. This referred in particular to promotional offers, and to broadband speeds, which often proved to be significantly below the advertised one. The number of complaints related to white spots decreased, although there were still a significant number of complaints regarding poor coverage in certain areas. Consumers were also complaining on premium rate services and automatic on-line update by smart phones, also abroad, under roaming tariffs, as well as problems with the termination of contracts for bundled services.

The President of UKE pursued initiatives aiming at the certification of operators satisfying certain criteria and standards set out by UKE. In particular a new certificate for 'premium rate fair play' was introduced in 2011, with a view to better protecting customers of premium services. In late 2011 UKE held a consumer survey to collect customer feedback on the perception of the electronic communications services by Polish customers.

Consumer protection bodies have established good relations with main operators. The level of awareness of the customers was reflected in the increase of the amount of complaints referred directly to UKE (a year to year increase of 150%).

7.5. Number portability

Porting of mobile numbers was usually done within one-day while in case of fixed numbers the procedure required up to 7 days.

The number portability as set out in Article 30 of the Universal Service Directive¹³ has been already partially transposed into the Polish law. The amendment of the Telecommunications Law transposing the revised EC regulatory framework will supplement that transposition with regard to Art.30(5) of the Directive (maximum contract period).

¹³ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive)

Between January and September 2011 the number of fixed porting transactions decreased by almost 1 percentage point, amounting in total 330 259 transactions, compared to 344 830 in the same period a year earlier, while mobile porting transaction continued to increase, totalling 696 526 transactions. This, however, corresponded to a small share of 1.73% of all mobile numbers. Mobile numbers were ported in average in one working day, while this period was substantially longer for fixed numbers (up to 7 days).

7.6. Universal service

Pending the new rules on Universal Service, none of the operators has been designated to provide such service following the expiry of the previous arrangements.
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After the expiry of the Universal Service Arrangement on 8 May 2011, due to the delay in the adoption of the amendment of the Telecommunications Law, which sets out new rules also with regard to Universal Service, including the possibility of geographical designation of Universal Service provider(s) and possibility to limit the scope of the USO designation to certain service, none of the operators has been designated to provide such services. Nevertheless, the incumbent has continuously been providing the services without any specific legal basis.

7.7. ePrivacy

No major issues on e-Privacy were reported.

The new regime for installing cookies (Art.5(3) of ePrivacy Directive¹⁴) has not been transposed into Polish law yet.

In 2011 UKE was actively involved in initiatives aimed at increasing the awareness on security issues, ePrivacy or protection from spam. This included certification actions (safe Internet, safe Phone etc.), running a thematic portal (safer in Internet) and giving patronage to the third Conference on Safety in Internet which took place on 8-9 June 2011.

The amendment of the Telecoms Law transposing the revised EU Regulatory Framework designate the President of UKE as the authority to be notified on security breaches as required by Article 13a of the Framework Directive and the President of DPA (GIODO) with regard to personal data breaches, as set out in Article 4 of ePrivacy Directive.

¹⁴ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)