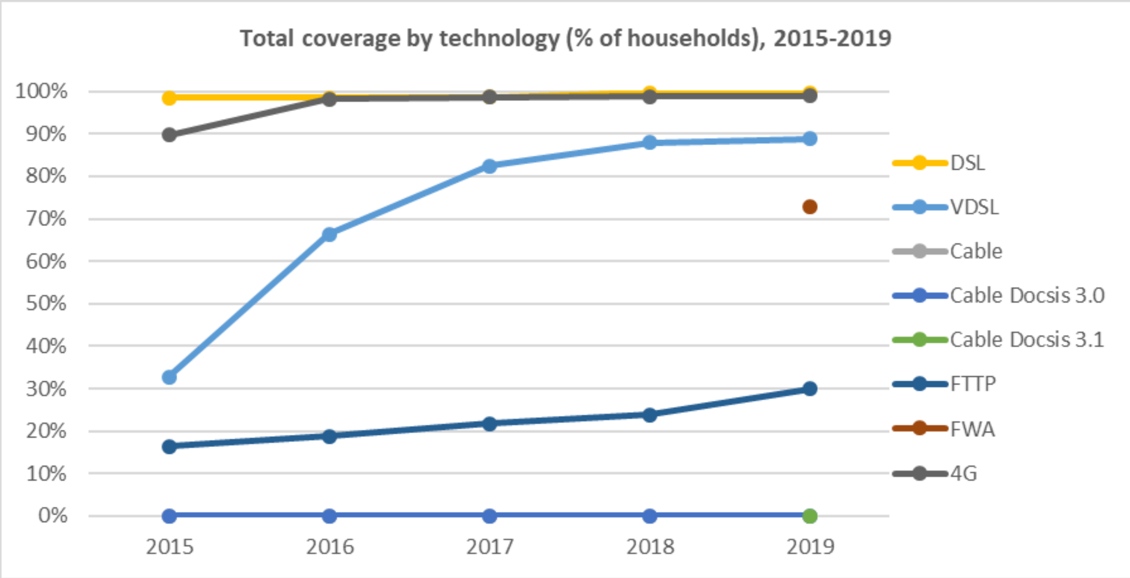
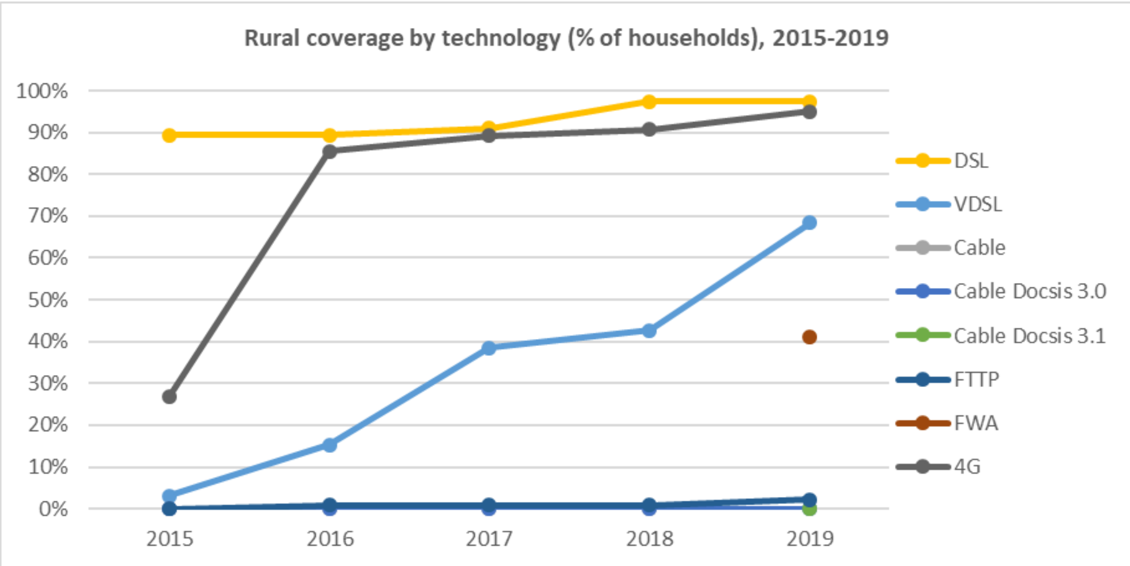
Italy

Italy is steadily increasing its FTTP coverage (from 24% in 2018 to 30% in 2019). It has upgraded roughly 90% of its DSL networks to VDSL.



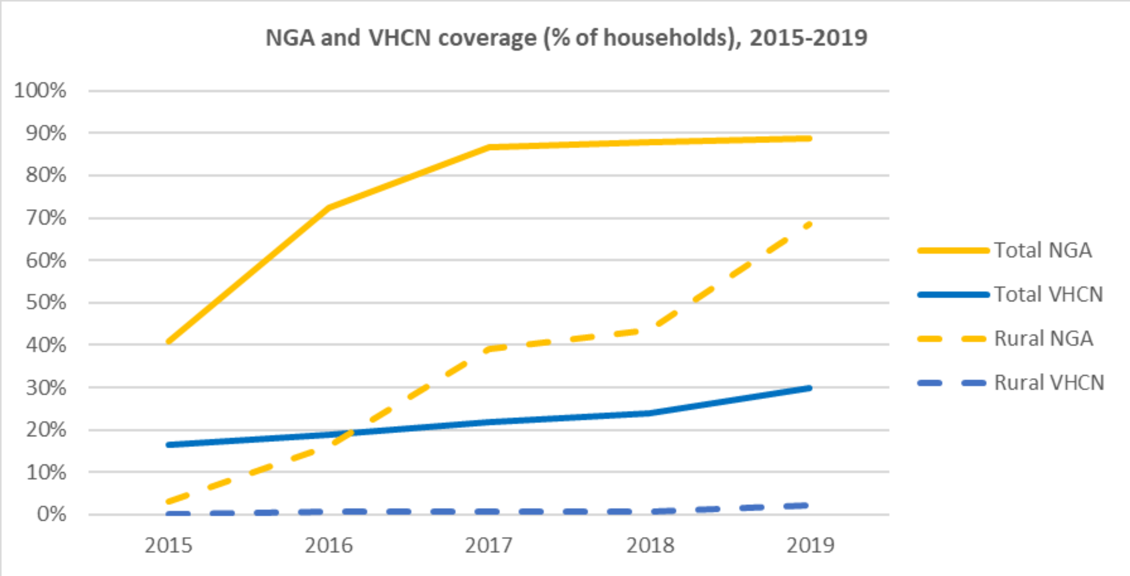
Source: IHS and Point Topic, Broadband coverage in Europe studies

The graph above shows a high level of deployment of FWA technologies, reaching 73% in 2019, significantly above the EU average (49%). The use of FTTP has steadily increased (reaching 30% of households, an increase of 6 percentage points since the previous year). It is still below the EU average (34%) but the gap has significantly narrowed.

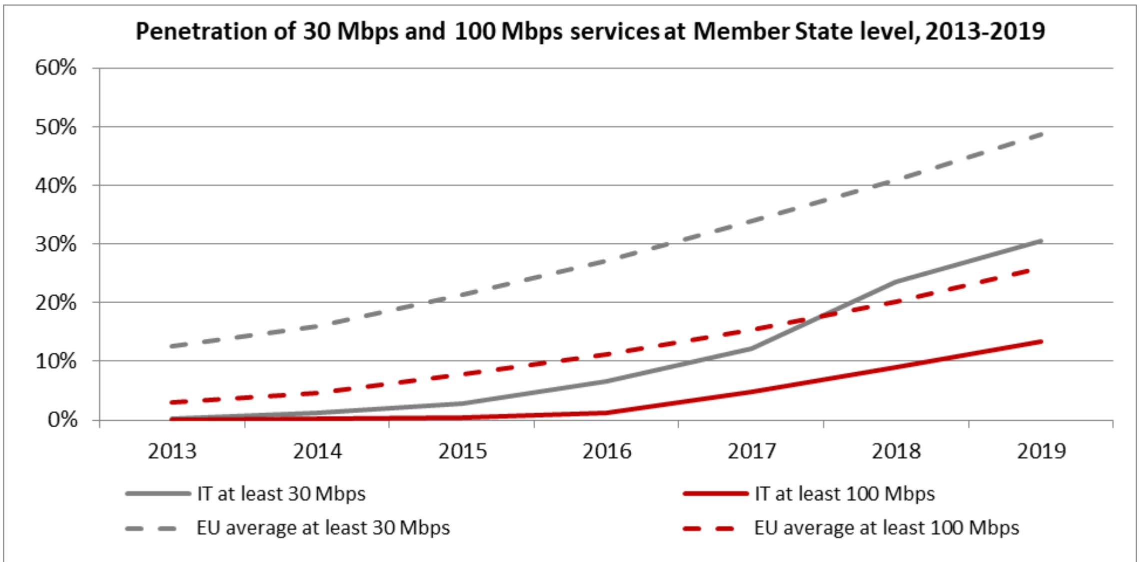


Source: IHS and Point Topic, Broadband coverage in Europe studies

Regarding rural coverage, the tables above and below show that, except for DSL (already over 90%), rural coverage of all the other technologies is increasing. Although NGA rural coverage increased significantly from 2018 (43%) to 2019 (68%), VHCN coverage increased by only 1 percentage point to reach 2% in 2019, well below the EU average (20%).



Source: IHS and Point Topic, Broadband coverage in Europe studies



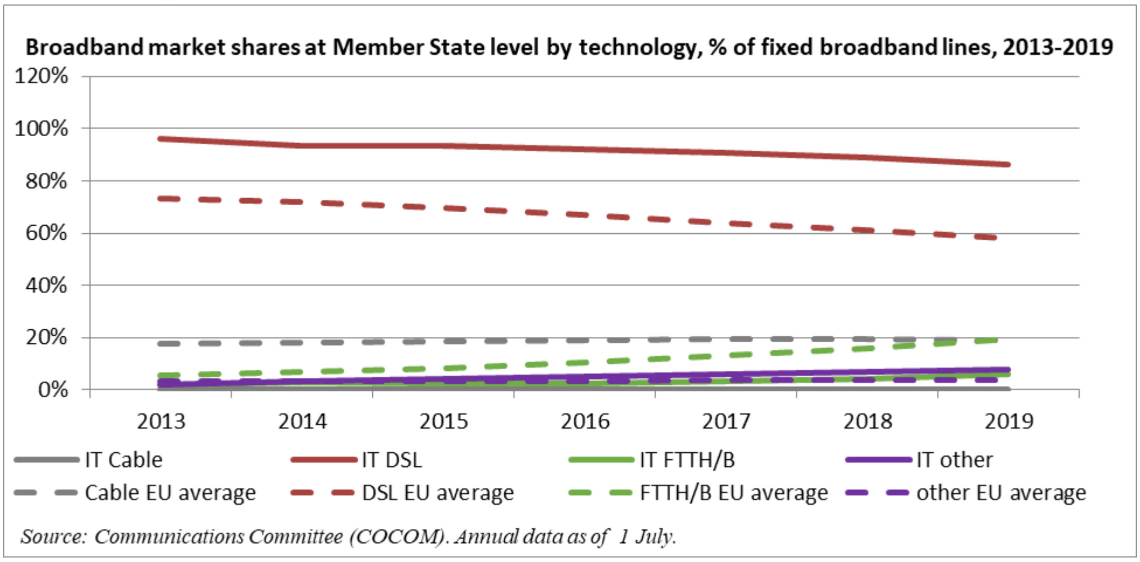
Source: Communications Committee (COCOM). Annual data as of 1 July.

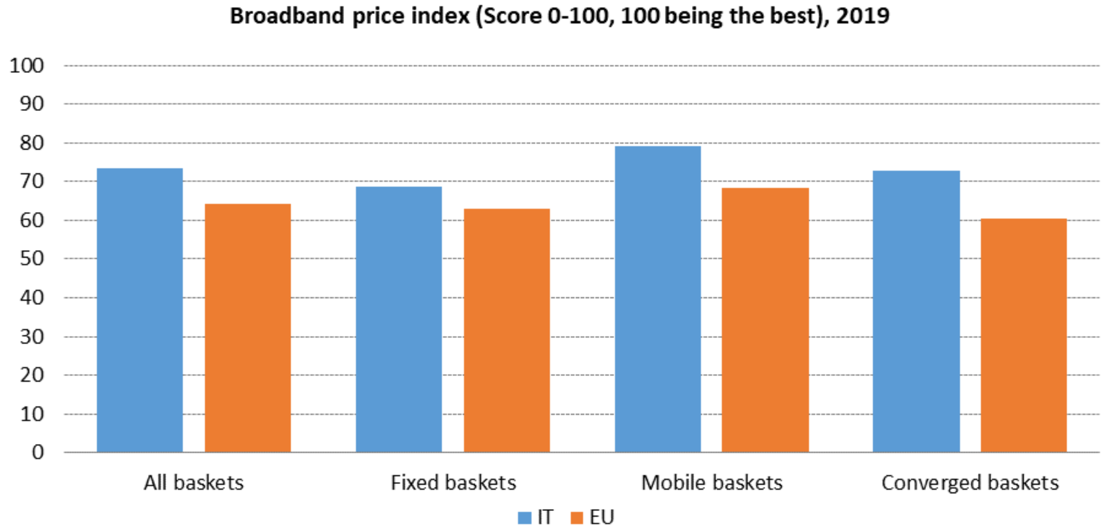
Both the “at least 30 Mbps” (30.6%) and the “at least 100 Mbps" (13.4%) penetration in Italy, despite a significant increase, remain below the EU average (respectively 48.7% and 25.9%). It is important to note the steady increase in use over the last three years in parallel with an increasing infrastructure competition at national level. Nonetheless, there remains a gap between Italy and other EU countries in terms of take up.

In Italy there is no cable. The other technologies are distributed as follows: 86.1% DSL technologies (of which 48,6% represented by VDSL lines[1]) against an EU average of 57.8%, showing that in terms of technology, Italy still mainly relies on DSL though the share is slowly decreasing (down 10 percentage points since 2013)[2]. Although it covers slightly under a third of households, FTTH/B technology has only 6% market share, very low in comparison to the EU average of 19.3%.

Other technologies account for 7.9% market share against an EU average of 3.8%.

[1] AGCOM reported that 73.3% of the VDSL lines are marketed at a commercial advertised speed ≥100 Mbps.
[2] According to AGCOM, in Italy, thanks to the short copper lines and the use of VDSL2 technology (whose coverage - not included in the chart – stands at 56% against an EU average of 28%), at least two thirds of the FTTC lines support the speed of 100Mbps.





Source: Commission services based on Empirica (Retail broadband prices studies)

On prices, Italy performs above the EU average in all price baskets illustrated in the table above. The difference is more evident in the mobile market price index, where Italy scores 79 against an EU average of 68.

1. Progress towards a Gigabit Society[3]

In 2019, Phase I of the Italian Ultra Broadband Plan for white areas (so called "C&D areas") was launched in all Italian regions and the last of the three relevant tenders was assigned to the wholesale-only operator Open Fiber. The practical roll-out of the plan is now fully ongoing but it is still subject to very serious delays and the target to roll-out 80% of the plan by 2020 will most probably be missed. Some of the reasons behind these delays are linked to difficulties in accessing existing infrastructure and persisting difficulties in obtaining permits despite the implementation at national level of the Cost Reduction Directive. A partial solution has been found thanks to the *Conferenza di Servizi*, a legal instrument that aims to simplify procedures where the public administration is involved, which produced positive results, limited to the regions where it was implemented. In addition, Italy brought in a new legal provision in the 2019 Simplification Decree with the aim of accelerating the permit-

[3] It is noted that statements regarding planned or potential State aid measures record intentions declared by Member States and do not pre-judge or pre-empt the assessment of such measures by the Commission under the relevant state aid rules. The DESI report is not meant to provide any assessment of the compliance of such measures with state aid rules and procedures.

granting process. According to the Italian authorities, in mid-April 2020, work had begun in over 2,600 municipalities and the infrastructure has been completed in 600 municipalities

'Phase II' of the Italian broadband plan involves issuing vouchers to encourage take-up of broadband and an investment plan for grey areas. In July 2019, the Committee for ultra-broadband (CoBUL), a ministerial committee involved in the implementation of the national broadband strategy, approved the launch of the above mentioned Phase II.

At the beginning of 2020, the Italian competition authority closed its investigation into whether TIM's competitive behaviour in white areas breached competition rules by hampering the entry of Open Fiber. The competition authority concluded that TIM had implemented an anti-competitive strategy aimed at preserving its market power in the supply of fixed network access services and telecommunications services to end customers and had hindered the entry of other competitors. The authority imposed a fine of around €116 million[4].

Black NGA areas[5] are facing increasing infrastructure competition, confirming the trend seen in recent years.

The main private investment plans for the deployment of fibre-based networks in Italy are from TIM, Open Fiber and Fastweb. These investments mainly focus on the deployment of FTTH networks; only Fastweb is still expanding the coverage of its FTTC network, until 2020, with the objective of covering a further 1 million households and reaching a total FTTC coverage of 5.5 million households.

TIM, through Flash Fiber (the joint venture with Fastweb), is in the process of upgrading its FTTC network to FTTH; the objective of Flash Fiber is to build FTTH coverage of 3 million of households in 2020.

Lastly, the wholesale-only operator Open Fiber is building a FTTH network.

5G trials started in 2017 and are still ongoing both as part of the programme launched by the Ministry of Economic Development '5 cities for 5G' and based on voluntary agreements between operators and municipalities. In 2019, some Italian operators started marketing 5G offers in the main cities.

In 2019, in the context of the WiFi.Italia.It project, the Italian government launched the 'Piazza Wi-Fi Italia' project. This has a dedicated fund of €45 million and envisages installing new public Wi-Fi hotspots, extending the previous intervention fund of €8 million euros aimed primarily at small municipalities (with fewer than 2,000 inhabitants) and at the municipalities affected by the 2016 earthquake. At the end of March 2020, 2,896 municipalities had joined the project and the authorities launched the procedure to install Wi-Fi hotspots in 1,112 of them. In March 2020 Infratel Italia launched the 'Wi-Fi Italia Ospedali' project, an initiative for the installation of up to 5,000 Wi-Fi Access Points in public hospitals, in order to provide free digital support to users in hospital structures during the COVID-19 emergency. 510 Italian municipalities were issued vouchers following the second WIFI4EU tender in April 2019 and 142 Italian municipalities were issued vouchers following the third tender in September 2019, covering a total of 652 municipalities in 2019.

2. Market developments

With regard to the mobile market, in 2019, one operator, Fastweb (previously operating as MVNO) officially became the fifth Italian mobile operator, after having acquired spectrum.

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[4] See https://en.agcm.it/en/media/press-releases/2020/3/ICA-TIM-fined-116-million-for-hindering-fiber-development

[5] The Black areas are geographical zones where there are or there will be in the near future at least two basic broadband networks of different operators and broadband services are provided under competitive conditions (infrastructure-based competition) and therefore it can be assumed that there is no market failure. See EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks in OJ C 25, 26.1.2013, p. 1–2

In 2019, two network-sharing agreements were signed:

In June 2019, Fastweb and Wind Tre announced an agreement leveraging on the operators' respective assets, aimed at the roll-out of a nationwide shared 5G network supporting next-generation mobile services. The shared 5G network will include Wind Tre and Fastweb macro and small cells, connected through dark fiber from Fastweb, to be deployed nationwide, with the target to cover 90% of the population by 2026. Wind Tre will manage the 5G network, and both operators will remain independent in the commercial and operational use of the shared infrastructure. Under the agreement, Wind Tre will provide Fastweb with roaming services on Wind Tre's existing network (4G and legacy technologies), thus allowing Fastweb to extend its mobile coverage to national level. Fastweb will provide Wind Tre wholesale access to Fastweb's FTTH and FTTC networks. The agreement has an initial duration of 10 years. The Ministry, with the positive opinion by AGCOM, authorised the agreement, subject to compliance with certain conditions. A competitor filed a court case before the Administrative Court, which is still pending.

In July 2019, TIM and Vodafone agreed to expand their existing passive sharing agreement and entered into an active mobile network sharing partnership to jointly roll-out 5G infrastructure (including active sharing of their existing 4G networks to facilitate 5G active sharing). The aim is to allow more efficient deployment of the new technology over a wider geographic area and at a lower cost. TIM and Vodafone will combine their passive networks within the tower operator INWIT, creating Italy's biggest tower company and the second largest in Europe, with more than 22,000 towers. The agreement was notified to the European Commission which gave clearance for the deal on 6 March 2020, subject to the acceptance of certain commitments.

It is also worth mentioning the growth of the operator Iliad which represented 3.7% of all mobile lines and 4.7% of the 'human' mobile lines in June 2019.

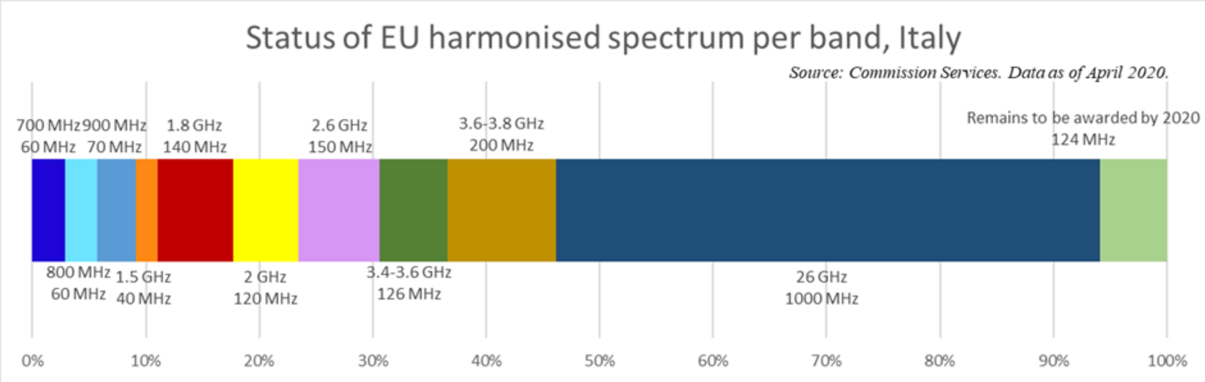
Once again, 2019 saw dynamism in the wireless fixed access (FWA) segment, with the number of FWA lines (7% of fixed access lines) exceeding the number of FTTH lines (6% of fixed access lines)[6]. Part of the UBB plan in white areas has also been implemented making recourse to FWA technology.

3. Regulatory developments

3.1. Spectrum assignment

In Italy, 94% of the spectrum harmonised at EU level for wireless broadband has been assigned. The auction of the three '5G pioneer bands' was completed in 2018. With regard to these bands, whereas 3.6 GHz and 26 GHz are already assigned and available, the Italian authorities are still in the process of taking the steps needed to make the 700 MHz band available by 2022; its refarming is ongoing. The delay in comparison with the deadline of 30 June 2020 under the UHF Decision (EU) 2017/8991 is mainly due to the complexity of the refarming process. 5G commercial services have been launched in some of the assigned and available bands. The 26 GHz band is currently being used mainly for 5G FWA testing. Some operators have reported that they could soon offer 5G FWA services with the FTTA technology (fibre to the antenna).

[6] See AGCOM Communication Markets Monitoring System N. 4/2019 available here: https://www.agcom.it/documents/10179/4386532/Allegato+23-1-2020/7b245499-7f9f-45af-80c0-76b41a197b7c?version=1.0



In July 2018, on the basis of an opinion issued by the national regulatory authority (AGCOM), the Ministry of Economic Development extended the existing rights of use in the 3.4-3.6 GHz band, originally intended for broadband wireless access, until 2029. This was a measure taken under the Italian Electronic Communications Code, with the aim of aligning the new deadline with the deadline for right of use granted in other bands (900 MHz, 1800 MHz and 2100 MHz). When the extension was granted, the Italian authorities set the price for those extensions in line with the reserve price set for the assignment of the rights spectrum in the 3.6-3.8 GHz band in the context of the then planned 5G auction. Both decisions by the Ministry and by AGCOM gave rise to appeals before the Italian courts. In November 2019, the Italian administrative tribunal decided that, though the extension itself was lawful, the price to which such extension should have been granted must be adjusted to the market value of the frequencies as it resulted from the outcome of the subsequent 5G auction (significantly higher than the reserve price). The decision has been appealed and is now pending before the Supreme Administrative Court.

In August 2019, the Ministry of Economic Development assigned rights of use of broadcasting frequencies to national network TV operators on the basis of the criteria defined set out AGCOM (Decision n. 129/19/CONS).

An assignment of additional capacity for the broadcasting service resulting from the spectrum refarming process in the 700 MHz band (‘*procedura onerosa senza rilanci competitivi*’) should have taken place by November 2019. However, the process is still ongoing, since meanwhile AGCOM had to implement rulings n. 5928/2018 and n. 6910/2019 issued by the highest administrative court. In particular, the implementation of ruling n. 6010/2019, issued on 11 October 2019 (following the appeal for clarifications presented by AGCOM), requires AGCOM to carry out further analyses.

3.2. Regulated access (both asymmetric and symmetric)

In 2019, AGCOM notified the market analysis of the wholesale local and central access markets as well as its assessment of TIM's separation project. As there was a significant development of alternative infrastructures affecting the competitive situation on the considered markets since the previous market analysis in 2015, AGCOM carried out an analysis of the competitive conditions on a sub-national geographic basis. The analysis took into account in particular the number of operators, the number of alternative networks and their coverage, as well as the distribution and change in market shares over time. As a result, AGCOM defined two separate geographic markets for both wholesale access markets: Milan and the rest of Italy. Milan was found to be a competitive market and therefore regulation was withdrawn. For the rest of Italy, AGCOM set out criteria to assess the level of competition in the different geographic areas using the municipality as the geographic unit. AGCOM drew up a list of 26 more competitive municipalities in which to apply differentiated remedies. As the competitive situation is deemed to change significantly over the regulatory period, AGCOM will update the list of more competitive municipalities each year.

In March 2018, TIM notified to AGCOM its plan to create a legally separate wholesale company (NetCo). In 2019 AGCOM then conducted a coordinated analysis under Article 13b of the Access Directive assessing the impact of the potential separation on the markets for wholesale local and central access as well as on the market for wholesale high quality access. In 2019, AGCOM concluded that the separation would not affect the market definition of the analysed markets. As regards the assessment of significant market power, AGCOM underlined that, even after the legal separation, TIM will still benefit from vertical integration and therefore the impact is limited to some less relevant aspects of the remedies.

AGCOM also approved a plan proposed by Telecom Italia for the decommissioning of copper. In particular, two conditions must be met before announcing the decommissioning of a given local exchange: i) 100% coverage to be reached with FTTH/FTTC and partially FWA and ii) 60% of retail customers (from both TIM and OAO) must have already migrated to fibre. AGCOM also set the timeframe for the related migration process.

4. End-user matters

a. Complaints

From 1 April 2019 to March 2020, the Italian NRA received 130,417 applications via the *ConciliaWeb* online platform, to resolve disputes between users and operators. 94,705 procedures have already handled and concluded: 60% with an agreement between the parties, 14.5% with non-agreement, and 9.5% with user's withdrawal, 8% for inadmissibility, 2.5% for absence of the user at the hearing and 0.02% for lack of operator participation. Over the same period, AGCOM received 3,395 complaints reporting breaches of consumer protection provisions, and around 10,000 informal complaints. The main sources of consumer complaints are linked to costs for contract termination (18%), modifications of contractual conditions (12.5%), delays in terminating the contracts (11.5%), service interruptions (10%) and problems in the switching process (10%).

Although the Supreme Administrative Court issued a final decision for the mandatory reimbursement of additional sums payed by end-users due to the (unlawful) introduction of 28-days billing period tariffs, operators are still not automatically reimbursing customers who are still obliged to submit specific requests to this end. AGCOM launched and concluded a penalty procedure against non-compliant operators and has imposed penalties for around €9 million.

b. Open Internet

In 2019, the Italian administrative court confirmed AGCOM's 2017 decision setting penalties on an offer including a zero-rated music app because it was still functioning even after the data bundle was used up.

c. Roaming

In 2019, AGCOM authorised four sustainability derogations, without any change to the amount of surcharge[7]. AGCOM started investigating one non-compliance case regarding zero-rated offers. In particular, in that case, the operator was charging, while roaming, the zero rating traffic as normal Internet traffic. After discussions with the NRA the operator took measures that the NRA considered to be compliant with the existing rules and did not deem it necessary to take a formal decision on the case.

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[7] According to Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (recast) (Text with EEA relevance), Article 6c and Commission Implementing Regulation (EU) 2016/2286 of 15 December 2016 laying down detailed rules on the application of fair use policy and on the methodology for assessing the sustainability of the abolition of retail roaming surcharges and on the application to be submitted by a roaming provider for the purposes of that assessment. For the relevant decisions see: https://www.agcom.it/roaming-internazionale

d. Emergency communications – 112

In 2019, the Italian authorities deployed a new system ensuring access to 112 emergency services to people with hearing impairments[8]. In addition, the 'Where Are U app' has been updated to support real-time chat. Italy is now taking preliminary steps to implement AML solutions for localisation. In particular, in April 2019, the Ministry of Interior, supported by the committee defined under Article 75bis of the Italian Electronic Communications Code, decided on the implementation of a handset-based location technology based on AML/ELS technology. The service is expected to be fully available in the country by the end of 2020.

e. Universal service

The long-running litigation over the possibility for AGCOM to request also to mobile operators to contribute to the financing of the universal service obligation is still ongoing. A recent decision by the Italian Supreme Administrative Court established that the substitutability criterion, so far used to justify mobile operators' contribution to the financing, is not adequate and asked AGCOM to revise it.

5. Other issues

In the second part of 2019, AGCOM has operated in *prorogatio* regimen while awaiting the appointment of the new Board. The current Board's mandate was extended several times, most recently by Law-Decree n. 18 of 17 March 2020. However, AGCOM reported that the *prorogatio* regimen did not affect AGCOM's functions as it fully exercised the powers conferred on it by the law.

Moreover, in the context of the COVID-19 emergency measures, Article 82 of the Decree called 'Cura Italia' provides for specific measures requesting electronic communications network and service operators to strengthen the networks, guarantee their functioning and service operation and continuity, to enhance and guarantee uninterrupted access to emergency services.

Under Article 82, AGCOM has taken several measures regarding wholesale and retail services and has set up a permanent roundtable on electronic communication services and consumers, with the aim of sharing proposals with stakeholders on how to manage urgent needs stemming from the emergency.

6. Conclusion

In terms of 5G preparedness, Italy certainly ranks highly due to the fact that all pioneer bands were assigned and they are currently used extensively for testing and for the launch of the first commercial services. In terms of broadband deployment, it has made evident progress in the competitive areas where the increase in private investments in FTTH technologies is having a positive impact on the coverage indicators. In white areas, more structural solutions are needed to address the delays that still occur in rolling out the Italian ultra-broadband plan. Italy is taking some steps to address the ongoing delays in completing works in white areas.

[8] https://112sordi.flagmii.it/?culture=it-IT#howSection