

# Italy

## 1. MARKET DEVELOPMENTS

<b>Broadband indicators (December 2014)<sup>1</sup></b>	<b>IT 2013</b>	<b>IT 2014</b>	<b>EU 2013</b>	<b>EU 2014</b>
Fixed broadband coverage <sup>2</sup>	99%	99%	97%	97%
NGA coverage <sup>2</sup>	21%	36%	62%	68%
Fixed broadband take-up <sup>2</sup>	50%	51%	69%	70%
Share of >30Mbps subscriptions <sup>3</sup>	1%	4%	21%	26%
Share of >100Mbps subscriptions <sup>3</sup>	0%	0%	5%	9%
Share of DSL in fixed broadband <sup>3</sup>	95%	92%	73%	70%
Incumbent market share fixed broadband <sup>4</sup>	49%	48%	42%	41%
HSPA Mobile broadband coverage <sup>2</sup>	97%	98%	97%	97%
LTE Mobile broadband coverage <sup>2</sup>	39%	77%	59%	79%
Mobile broadband penetration <sup>5</sup>	62%	71%	64%	72%
Market share of leading mobile network operator <sup>4</sup>	32%	32%	35%	35%

In 2014 Italy's electronic communications sector was still suffering as a result of the weak general economic cycle, which has affected a structurally-weak demand in terms of consumer expenditure as well as of weak broadband penetration. However, some first signs of recovery may be identified with regard to the deployment and take-up of LTE services as well as to the increasing interest in the deployment of fixed NGA by the incumbent and some alternative providers.

The number of fixed lines continues to decrease, in particular those of the incumbent, Telecom Italia (-1.9pp)<sup>6</sup>. This is mainly due to the trend towards fixed-to-mobile substitutability for voice services, since on the other hand fixed broadband access

<sup>1</sup> Sources: coverage data — studies by IHS and VVA; penetration data — figures provided by Italy to the European Commission via the EU Communications Committee (COCOM) for the Scoreboard of the Digital Agenda for Europe (except fixed broadband take-up, provided by Eurostat).

<sup>2</sup> % of households.

<sup>3</sup> % of fixed broadband subscriptions.

<sup>4</sup> % of subscriptions.

<sup>5</sup> Subscriptions per 100 inhabitants.

<sup>6</sup> Source: AGCOM Observatory.

penetration continues to increase, although always at a slow pace. While still trailing behind in terms of NGA coverage and penetration (last but one in EU), compared with the stagnation of previous years the take-up of NGA subscriptions is slowly increasing. Broadband access is still predominantly based on the incumbents' copper network (92 % of fixed access), but fixed wireless access broadband connections are growing (+104 000 lines<sup>7</sup>) as well as access provided over FTTH/B networks, mainly that of Metroweb, an independent dark fibre wholesale operator currently active mainly in Milan, (doubled, to 4 %). Within this context, therefore, a trend towards upgrades in quality of fixed lines, in particular with VDSL, is visible. First of all, from a wholesale perspective, a fast increase of FTTC VULA lines has been recently experienced according to the data of the NRA (30.000 activated lines at the beginning of 2015) and during 2014 the number of new SLU lines was increasing more than that of new LLU lines, which on the contrary remained substantially stable<sup>8</sup>. From a retail point of view, the proportion of broadband subscriptions featuring more than 10Mbps increased by 5pp (reaching 20 %, although still well below the EU average of 70 %<sup>9</sup>). This is in line with the implementation of the investment plans of the incumbent and of two alternative operators, Fastweb and Vodafone, based on the deployment of FTTC in the most profitable urban areas. The deployment of FTTC currently concerns 30 % of active lines and is expected to reach 60 % of population by 2016. In this regard a joint sector inquiry on the broadband market completed in November 2014 by the NRA and the competition authority highlighted the increased infrastructural competition prompted by the operators' (partially) overlapping investment plans but also pointed out that the bottlenecks remain in the terminating segment from the cabinet to the end-users and these will be relevant for further technological upgrades of FTTC-based access lines (such as vectoring).

For mobile markets, the very high customer base is gradually decreasing, but the generally positive trend for mobile broadband penetration experienced in the past is continuing. The main focus of competition, once predominantly based on prices<sup>10</sup>, is now gradually moving towards greater diversification of offers. All MNOs have launched their LTE offers and extended their coverage, while two operators have also started to provide LTE-Advanced (4G+) trials, reaching speeds of up to 225Mbps, and Vodafone launched a voice-over-LTE service in 2014. Operators adopted different marketing strategies, with LTE being offered within the existing tariff plans or as an additional pay-up service. Also with regard to MVNOs a tendency towards specialisation and diversification is emerging. Although none of them are offering LTE, their cumulated market share increased by 1.8pp reaching 7.1 %<sup>11</sup> market share mainly thanks to the emergence of a new multi-country full MVNO specialised in international calls, which rapidly became Italy's second MVNO. At the same time another full MVNO, decided to abandon its retail activities as from 2015 and specialise instead as a wholesale aggregator for ESPs and M2M services. In general, the trend towards less concentration in the market continued, although there are talks of mergers involving MNOs. Another notable trend experienced in 2014 in the wholesale segment, was the tendency towards

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<sup>7</sup> Source: COCOM July 2014.

<sup>8</sup> Source: AGCOM Observatory.

<sup>9</sup> Source: COCOM July 2014.

<sup>10</sup> With a reduction of 17.8 % in mobile telecom services in the 2011-2014 period. Source: AGCOM Observatory.

<sup>11</sup> Source: AGCOM Observatory.

externalisation of physical infrastructures into separate tower companies by Telecom Italia and Wind, in order to optimise their assets.

At retail level, a sharp decrease of SMS traffic has been experienced during 2014 [-41 %<sup>12</sup>]. The incumbent expects to revamp its IPTV offer with a non-exclusive distribution agreement with the major pay tv operator as from 2015, while mobile operators are enriching their mobile offers with music streaming services.

## **2. MARKET REGULATION**

### **2.1. Market analysis**

AGCOM is striving to catch up with the three-yearly review of market analysis for several relevant markets. Hence in the past three years some relevant regulatory decisions, including on prices, were taken in the context of the annual approval of the reference offers of the incumbent and often with retroactive effect, with negative effects in terms of legal certainty and regulatory stability. These delays and, more generally, the fragmentation of market regulatory decisions are also due to the need to reassess, following judicial annulments, remedies concerning fixed access (for the years 2009 and 2010-2012) and MTRs (for the years 2008-09 and 2013-2014), and in view of some substantial changes occurred in the market scenario, in particular for fixed broadband access, such as the speed-up of FTTC private investment plans, as well as the ultra-broadband strategic plan adopted by the Italian Government.

The need to increase transparency and coherence in the notification of remedies was also consistently raised by the Commission in the context of all notifications submitted by AGCOM during the reference period.

In particular, with regard to the definition of prices for Wholesale Line Rental, NGA physical access services and bitstream/VULA NGA services<sup>13</sup>, AGCOM confirmed for 2013 the previous 2012 bottom-up Current Cost Accounting pricing methodology for WLR, as well as a Fully Distributed Costing (FDC) bottom-up methodology, already applied in 2012, for the NGA physical and bitstream access services, pending the adoption of the announced BU-LRIC model; accordingly, AGCOM also applied the same FDC methodology for the separate notification of 2013 prices of end-to-end services based on the same NGA physical access services;<sup>14</sup> furthermore in all these cases the cost of capital (WACC) has been defined in accordance with the decision adopted in 2013, following the Commission recommendation on the need to cooperate with BEREC and NRAs with a view to develop a consistent approach in this regard. Finally, with regard to the reassessment of 2010-2012 prices for ex-markets 1, 4 and 5 of the 2007 Recommendation, AGCOM modified its assessment with a view to take into account the findings of the national court annulling the previous decision, in particular in view of the new estimate of corrective and maintenance costs.

The Commission noted in these cases that the 2012 prices referring to NGA products included in ex-markets 4 and 5 of the 2007 Recommendation were not notified, although

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<sup>12</sup> Source: AGCOM Observatory, IIIQ 2014.

<sup>13</sup> Cases IT/2014/1585-1586-1587.

<sup>14</sup> Case IT/2014/1650.

the same remedies applied. Moreover, the fragmentation of regulatory decisions (with separate notifications for remedies on the one hand and for prices and pricing methodology on the other) may not allow the Commission to carry out a comprehensive assessment of the proportionality and appropriateness of the remedies adopted. The Commission therefore urged AGCOM to notify its forthcoming market analysis in its entirety, while also reiterating the need to avoid regulatory decisions with retroactive effects. Similarly, with regard to the retroactive determination of prices for 2013 for terminating segments of leased lines based on a revision of the price calculation method adopted in 2011-2012, as well as for the remedies concerning FTR, origination and transit services (in particular in view of IP migration) the Commission noted the need to proceed to a full market analysis as soon as possible<sup>15</sup>. Finally, with regard to WLR costing methodology, the Commission asked to better clarify the approach used to calculate the commercialisation costs; in this latter regard AGCOM, in view of Commission's comments, included in the final decision the information on the adopted costing methodology in order to increase transparency of the approach adopted.

In view of Commission's comments, national public consultations have been launched (or extended) for all markets with a view to complete them by mid-2015 and some measures are considered in order to reduce the impacts of retroactivity of regulatory decisions<sup>16</sup>, although AGCOM still needs to complete the third round of market analysis for all relevant markets, apart for mobile termination rates. Moreover, in 2014 AGCOM adopted two regulatory decisions modifying the asymmetric MTR rates of one operator for two months in 2008 and extending the extent of asymmetry of MTR for one operator in 2013, following the execution of judgments of the national courts, but has not notified them to the Commission.

Taking into account the focus on FTTC deployment by both the incumbent and the alternative operators, moreover, in the context of the above-mentioned regulatory decisions, AGCOM has also adopted technical specifications for the implementation of SMP access obligations to the street cabinets. The aim is to set up a coordinated procedure for the deployment of cabinets of the alternative operators in the context of the upgrade of the incumbent's network, although the capacity of the incumbent to cope with massive cabinet deployments needs to be tested. Moreover, AGCOM stated that Telecom Italia and other operators using sub-loop LLU have to define and share MOV (Multi-Operator Vectoring) technical requirements (architecture, hardware equipment and software, maintenance procedures, etc.) and is therefore coordinating a technical committee among stakeholders and manufacturers, in order to gather information concerning the technical feasibility, technological constraints, elements design, planning and implementation times. A specific working group will define, in addition, the interoperability specifications of such MOV DSLAMs in order to allow interoperability between MOV DSLAMs of different vendors,

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<sup>15</sup> See cases IT/2014/1788 and IT/2015/1719, 1720, 1721.

<sup>16</sup> In order to address the issue of retroactivity of obligations introduced with the approval of reference offers, AGCOM is proposing, within the ongoing market analysis process for wholesale access markets, to ask the incumbent to publish reference offers not later than the end of June of the year X-1 (being X the year of application of relevant prices). Moreover, the draft decision submitted to national consultation concerning the third round of market analysis for terminating segment and access to fixed network (LLU, WLR and bitstream) proposes to set 2014 prices equal to 2013 cost-oriented prices in order to minimise the impact of retroactive decisions.

Finally, the issue of quality and pricing of some ancillary elements and services is becoming increasingly relevant, in particular in the context of the upgrade of the current networks, and is also the object of an ongoing investigation by the competition authority where commitments offered by the incumbents are being tested by the market.

## **2.2. Access and interconnection**

The migration towards IP interconnection is being implemented by the operators and may require approximately 8-10 months in the case of a big operator. Fixed termination rates are however already based on IP interconnection. In order to facilitate the migration process, AGCOM defined a set of rules encompassing a gradual reduction of the price for TDM interconnection kits in case the migration process is carried out by Telecom Italia slower than expected<sup>17</sup>. Completion of the IP migration is expected by 2016.

## **3. BROADBAND PLANS AND FINANCING**

Taking into account the significant delays in the deployment of NGA (in particular fixed) networks in Italy, the role of broadband plans and the efficient use of public funding is crucial. Under the existing 2012 framework scheme, several tenders for public funding have been carried out so far: 8 concerning broadband deployment for overall EUR 204 million and 7 for ultra-broadband deployment for overall EUR 372 million. In particular 2007-2013 ESIF funds have been used for the Southern Regions and works should be completed by the end of 2015. In practice gap funding model has mostly been applied so far, usually on the basis of regional lots, resulting mainly (except in one small lot) in the extension of the incumbent's existing network, with access to be granted in line with the provision set in the relevant state aid decisions.

For the current financing period (2014-2020), in February 2015 the Government has adopted a new overall Digital Strategy covering both investments in services and networks, which could use EUR 2.4 billion from ESIF<sup>18</sup> (ERDF and EAFRD) and national co-financing (for a total of EUR 6 billion of public funds). The plan foresees also a potential private investment of up to EUR 2 billion and the possibility to leverage these investments with the use of a range of financial instruments being made available through the EFSI plan<sup>19</sup>.

On the new broadband investment plan specifically, the new strategy aims at ensuring 100 % 30Mbps and 85 % 100Mbps coverage (in order to achieve at least 50 % take-up). The plan is based on a detailed mapping of the Italian territory in sub-municipal areas (approx. 94 000) grouped into 4 clusters, depending on their population density and taking into account the different infrastructural and socioeconomic features. The more

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<sup>17</sup> Telecom Italia has to migrate at least two Gateway Areas (in case of requests by several alternative operators) for each operating unit per time and the process requires an average of 2.5 months per Gateway Area (overall 4 for nationwide operators). In practice the monthly overall fee that the alternative operator pays to Telecom Italia for TDM interconnection kits is gradually reduced according to the agreed migration plan, until it reaches zero at the date of the scheduled completion of the migration, regardless of the technical migration process.

<sup>18</sup> Indicative amount.

<sup>19</sup> Investments for ICT infrastructure under the Ultra broadband National Plan have been included among those submitted by the Commission and the Member States in the so-called Juncker Plan.

attractive metropolitan and large urban areas may benefit from general tax exemption measures for investments and financial facilities to upgrade the network to 100Mbps, whereas smaller and less urbanised areas will also have access to a varying degree of state aid (depending mostly on population density) to upgrade to 100Mbps, and the least attractive rural areas will mostly require the building of fully public networks to provide at least 30Mbps. The intensity and modalities of public intervention will also depend on the outcome of local tenders based on the most advantageous offer in terms of price, coverage, time and quality, with different models of investment (indicatively direct public ownership, PPP and gap funding, with demand aggregation playing a facilitation role for all models in certain areas — e.g. industrial areas). All models will need to ensure a wholesale access to the physical infrastructure built with public funds, in accordance with the indications of the NRA and the provisions of the relevant state aid decisions (depending on the instrument used). AGCOM will also monitor the effective speed and will track ultra-broadband access availability and subscriptions at 100Mbps. The plan will require further implementing acts, including capacity building and monitoring the competitive impact of the measures, as well as the adoption of supporting measures for the reduction of broadband deployment costs and it is expected to be notified under State aid rules.

#### **4. INSTITUTIONAL ISSUES**

##### **4.1. The National Regulatory Authority**

The *Autorità per le Garanzie nelle Comunicazioni* (AGCOM) has been established by Law 249/97 and is responsible for several tasks assigned under the regulatory framework for electronic communications, while others are entrusted with the *Ministero per lo Sviluppo Economico* (MiSE). There are still some areas where coordination could be improved, in view of the shared competences between AGCOM and MiSE (in particular with regard to information on registered operators and spectrum management and planning, in particular in broadcasting).

Both AGCOM and MiSE levy administrative charges to finance their own respective tasks. In a reasoned opinion the Commission has raised concerns on the lack of transparency and reporting obligations with regard to the levies and costs of the Ministry as well as with regard to the criteria for the calculation of general authorisation charges for SMEs, in contrast with Article 12 of the Authorisation Directive. In order to address these concerns, the draft 2014 European Law bill currently passing through Parliament includes amendments to the relevant provisions of the Electronic Communications Code. As for the charges levied by AGCOM, despite the clarifications provided in this specific regard by the European Court of Justice already in 2013<sup>20</sup>, there are problems of interpretation at national level in defining the scope of activities that could be financed by this charge, with possible impacts on NRA's ability to perform its institutional tasks.

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<sup>20</sup> Case C-228/12.

	<b>2014<sup>21</sup></b>
Personnel <sup>22</sup>	371
Increase	1 %
Budget	€ 71 977 Million
Increase	-13.45 %
Administrative charges <sup>23</sup>	€ 44 857 Million
Administrative costs <sup>24</sup>	€ 40 320 Million

One year after the adoption of the law on the allocation of powers for the enforcement of general consumer protection rules (a task entrusted to the competition authority, AGCM) and of sector-specific regulation applied by AGCOM<sup>25</sup>, the concerned authorities have not yet established a Memorandum of Understanding on the coordination of their respective competences. In the absence of this coordination, there is a concrete risk of duplication and/or inconsistencies of enforcement as well as of regulatory interventions due to the unclear text of the legislation.

In addition to *ex ante* regulation, AGCOM has also dealt with 24 disputes between operators concerning terms and conditions for MTRs, collection rates towards NGA non-geographic numbers, additional de-activation charges for wholesale access services and costs for corrective maintenance.

In 2014 54 appeals were filed against 30 AGCOM decisions concerning spectrum (15), market regulation (12), administrative charges (10), consumer protection (6), dispute resolution (6), number portability (3) and Universal Service (2). The final decision of a case at the level of the Supreme Administrative Court can take more than two years and it can cause significant delays in market regulation when the appeal is upheld, as these rulings may require reassessment of the case.

#### **4.2. Authorisation and licences**

In response to the Commission's investigation into the general authorisation regime for the provision of electronic communications services to vessels, a modification of the concerned provisions by means of the draft 2014 European law 2014 bill currently passing through Parliament is foreseen.

Regarding frequency bands already assigned to mobile operators, in order to ensure the most efficient use of the spectrum in line with consumers' interest, rights of use in the 800MHz band have been linked to a list of specific municipalities in digital divide areas to be gradually covered with LTE within 10 years. Operators are on schedule to comply with these coverage plans. Moreover, in case of spectrum locally unused after a certain period in the 800, 1800, 2600 and 3500MHz bands (for the last this period already

<sup>21</sup> The figures refer only to AGCOM, in the absence of a transparency mechanism for those collected by MiSE.

<sup>22</sup> Number of staff in full time equivalents (fte).

<sup>23</sup> In the sense of Art. 12 of the Authorisation Directive (Directive 2002/20/EC as amended by Directive 2009/140/EC).

<sup>24</sup> *Idem*.

<sup>25</sup> Legislative Decree No 21 of 21 February 2014.

expired), the assignees have to satisfy access requests for this spectrum, with the possibility to activate dispute resolution in case of lack of agreement.

While EMF limits are among the most stringent in Europe and below the level recommended at EU level<sup>26</sup>, in 2014 the guidelines for measuring them have been implemented only partially, with regard to the timing; indications on the mitigation factors of buildings and outdoor surfaces, on the contrary, still need to be adopted. This may create litigation at local level in the context of deployment and upgrade of current wireless networks.

In 2014, some rights of use for national broadcasting transmissions were assigned for the first time via an open competitive procedure. However this came well after the analogue switch-off and with a significant delay compared with the original commitments provided by the Italian authorities in the context of a long-standing infringement concerning the rules applicable to the assignment of rights of use for digital broadcasting to existing operators. In view of the large amount of broadcasting transmission capacity available in the market (as reported by AGCOM in its market survey), only one out of three lots has been assigned to a new transmission operator, also active in content provision. While the two main operators are still fully vertically integrated (and still also controlling their own tower activities, for which EI Tower has launched a bid in 2015 for its competitor RaiWay), a new operator resulting from the merger of two former broadcasters is active in the market as a pure independent wholesale provider. Finally, the system of fees for the use of broadcasting spectrum, previously based on both content and transmission activities, has been modified following implementing rules adopted by AGCOM in 2014. However, it is not yet clear what its final application will be in view of the need to adopt final executive measures by MiSE and also taking into account the different impact of the new system on the broadcasting market in general and on the revenues for the State budget.

On rights of use of numbers, AGCOM's revision of the numbering plan clarified that all authorised electronic communications providers may be assignees of relevant numbering resources.

Finally, the second selected MSS operator, Inmarsat, was authorised in 2014, alongside Solaris which has been authorised since 2012. In both cases no evidence of a breach of the conditions has been ascertained.

## **5. SPECTRUM MANAGEMENT**

Among the bands included in the RSPP — and apart from the spectrum subject to limitations due to use by the Ministry of Defence-only the assignment procedure for the 3.6-38 GHz band is not completed and part of the band still needs to be refarmed to ensure coexistence of current users and holders of nationwide or macro-regional licences. The process has been open for one and half year after the last public consultation, which showed a still limited market demand; taking also into account the recent approval by MiSE of a refarming strategy for existing users and the new technical specifications for

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<sup>26</sup> Council Recommendation of 12 July 1999.

this band adopted in 2014<sup>27</sup>, the assignment process is expected to move forward soon, since further delay may hinder the efficient use of spectrum in view of an increasing demand for this band.

The 2015 Stability Law has mandated the launch of the assignment procedure for the 1.5 GHz band (L-band) for wireless broadband services and has already earmarked the minimum amount of expected revenues. In view of this provision AGCOM has launched a public consultation on the assignment rules.

Three mobile operators have been authorised to partially reform the 900 and 1800MHz bands in 2014, taking into account the need to ensure continuity of GSM services. At the same time, following the requests by Telecom Italia and Vodafone pursuant to a 2007 law and a public consultation, their GSM licences in the 900 and 1800MHz bands, which were due to expire in January 2015, were extended until June 2018, in line with the expiry date of the third GSM licence held by Wind.

Italy is currently involved in complex negotiations to address serious interference problems with neighbouring countries. To achieve this, it urgently needs to complete the refarming of local television broadcasting and carry out the general planning of its analogue radio broadcasting spectrum. On the refarming of local television, the 2015 Stability Law has extended the deadline and increased resources for the compensation mechanism for local broadcasters, expected to be completed by 30 April 2015 but not yet finished. In view of the large number of channels affected, the Stability Law has also provided for additional internationally coordinated channels in order to facilitate the switch-off of interfering frequencies in the short term; AGCOM is accordingly re-planning these resources for this purpose. The Commission services, concerned for the delay, are closely monitoring the implementation of the law. This activity should also take into account the more general spectrum policy principles laid down in Law 44/2012, ensuring timely conformity with developments in EU and international spectrum policy. The implementation of the provisions of a further law aiming to ensure the early commercialisation of DVB-T2 enabled devices has been postponed in order to clarify the appropriate standards in the light of future spectrum policy. With regard to radio broadcasting, the process of planning the Medium Wave band will be started as soon as an enabling provision currently under discussion in the context of the draft 2014 European Law bill will be adopted. However, this is not yet the case for analogue FM transmissions. This lack of planning is causing increasingly serious international interference problems, under scrutiny in the context of the Radio Spectrum Policy Group.

## **6. RIGHTS OF WAY AND ACCESS TO PASSIVE INFRASTRUCTURE**

In 2014 Decree-Law 133/14 adopted provisions aiming at facilitating the deployment of electronic communications networks. These included the eliminating of individual permit granting procedures for small towers below 1.5 metres and the transposition of some parts of Directive 2014/61/EU concerning in particular the equipment of new and

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<sup>27</sup> See Commission Implementing Decision [2014/276/EU](#) amending the Decision [2008/411/EC](#) on the harmonisation of the 3400-3800 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community.

renovated buildings with in-house high speed infrastructure. MiSE has also been empowered to establish a register of all underground infrastructures, currently limited to electronic communications. The remaining provisions of the Directive will be transposed following the approval of the draft 2014 European Law bill, which contains the principles for the transposition to be applied by the Government. This will add to the existing symmetrical obligations for in-house infrastructure laid down by AGCOM as well as the asymmetrical mapping obligations applicable to the incumbent's infrastructure.

## 7. CONSUMER ISSUES

### 7.1. The European emergency number 112

Technical discussions with the operators on the use of GPS data for caller location showed that operators, who are responsible for transmitting this information to PSAPs, currently do not have access to the relevant data. While management of PSAPs is a regional competence, some Regions are considering the establishment of common PSAPs for all emergency services (in addition to the one already active in Lombardy).

### 7.2. Number portability

Number portability <sup>28</sup>		2013	2014
Fixed	Number of transactions	985,590	1,047,451
	% of total numbers	4.6%	5.0%
	Maximum wholesale price	4.3	4.3
	Maximum time under regulation (number of working days)	8	8
Mobile	Number of transactions	13,181,000	8,104,904
	% of total numbers	13.5%	8.5%
	Maximum wholesale price	0.0	0.0
	Maximum time under regulation (number of working days)	1	1

While the overall number of mobile portability requests remained the highest in the Union, a significant reduction has been experienced in 2014. With regard to fixed portability, AGCOM carried out an extensive monitoring of problems affecting the process in 2014 and has launched a review of the technical rules to address them.

### 7.3. Contractual obligations

Rules on minimum contractual obligations are aligned with the rules in the Universal Service Directive. However, when terminating a contract the user may be required to pay deactivation charges sustained by the operator even after expiry of the contractual period.

<sup>28</sup> Source: figures provided by Italy to the European Commission via the EU Communications Committee (COCOM) for the Scoreboard of the Digital Agenda for Europe.

AGCOM regularly monitors these charges. A recent bill discussed in the Parliament aims to regulate contractual penalties for terminating electronic communications contracts. However the current text of the bill does not clarify the relationship with existing deactivation costs.

#### **7.4. Other consumer issues**

AGCOM is holding a consultation on detailed rules and formats for the billing documents applicable to consumers and other end-users, in order to increase transparency of information, including for disabled end-users (audio bill), unrequested services, pricing, quality of service.

The main sources of complaints reported to AGCOM, to local dispute settlement bodies (CORECOM) and some consumer associations have been switching difficulties for fixed services, non-requested activation/deactivation of services for mobile and fixed services and lack of quality for mobile data connections. On this last issue AGCOM is considering extending the certification features of the existing *Misurainternet* tool to cover wireless connections, although this may encounter technical problems. The total amount of complaints received in 2014 by CORECOM and AGCOM is 93.837 (86.670 applications received by CORECOM for a mandatory conciliation attempt; 5.198 applications received by CORECOM for a final decision on a dispute; 1969 applications received by AGCOM for a final decision on a dispute). In addition to these redressing procedures, moreover, it is also possible to refer disservices to mediation bodies set up by operators on the basis of framework agreement with the consumers' association.

AGCOM is currently discussing implementing rules laying down sector-specific legislative provisions on unilateral amendments to the contractual conditions, while at the same time AGCM has recently sanctioned some practices concerning these amendments by telecom operators as unfair commercial practices. Similarly, sanctions for unfair commercial practices have been adopted with regard to the billing conditions of telecom operators in case of value added services, while at the same time AGCOM is consulting on rules regulating these aspects.

### **8. UNIVERSAL SERVICE**

The intense litigation affecting decisions on the methodology for the calculation of the net cost for the provision of the Universal service has led to a new annulment of the decision adopted by AGCOM applicable as from 2004. This is creating a huge delay in its determination, with pending appeals on this annulment. The Ministry launched a procedure to review the US obligations at the end of 2014 and therefore the designation procedure launched by AGCOM in 2014 has been suspended.

### **9. NET NEUTRALITY**

#### **9.1. Legislative situation**

Italy has not introduced any legislation on Net Neutrality.

## **9.2. Quality of service**

AGCOM is responsible for quality of service implementation and monitoring including internet speed and other parameters. It regularly monitors the commercial and technical practices of the operators in this regard and assesses the KPIs for fixed and mobile internet access services.

Currently operators implement a wide range of commercial practices with different options, including packages without VoIP services or including specific additional OTT services at special rates. Also, traffic management is adopted in order to optimise the use of networks, in particular for mobile. Traffic shaping and traffic prioritising are used by some operators in case of congestion. Upon AGCOM request, operators published additional information set on their websites about traffic management techniques applied to their own tariff plans/options.