

Newsletter Activity Supervisory Board July-September 2014

Executive Summary

Complaint S01/13, regarding the alleged inconsistency in Open Access's refusals to activate LLU lines for Fastweb, was closed¹ based on the findings which emerged from the investigations made, findings which had not shown any discriminatory behaviour against Fastweb. At the same time, however, it was arranged that specific activity should be begun to monitor refusals by Open Access to activate LLU systems (KOs) for Other Licensed Operators due to the presence of network multiplexers. The monitoring operations have shown a progressive reduction of the phenomenon.

With regard to Complaint S02/13, concerning Wholesale CRM malfunctions, the SB has received the findings of the new indicator highlighting Wholesale CRM's level of criticality. The data show a marked improvement in the situation; therefore, during its Meeting on 24 September, the SB passed Resolution no. 15/2014², to close the procedure, deeming that the malfunctions do not represent a breach of the Undertakings in view of the fact that the said Undertakings do not govern or require a precise obligation for results as far as the quality of the services delivered by Wholesale CRM are concerned. The SB also recommended to Telecom Italia to provide a procedure suitable to check the effective operation of the software.

Regarding Complaint S03/13, raised by the Operator Welcome Italia on the excessively high number of faults and deterioration, the investigation is continuing, after several postponements of the terms for its conclusion, with the setting up of joint technical discussions between Telecom Italia-Welcome Italia, with the SB taking part in the role of mediator.

During the quarter, the SB obtained the usual documentation from Telecom Italia in relation to the Undertakings now due for compliance, together with progress reports on issues requiring further investigation.

As far as Undertakings Group no. 4 is concerned, the SB noted that some of the reports transmitted by Telecom Italia did not contain data, and asked Telecom for explanations. The Company stated that it was due to criticalities that arose during the switch to a new IT system, criticalities that are currently being solved. Telecom subsequently sent consolidated reports containing the data previously not included.

The monitoring operations carried out by the Supervisory Office (SO) to check the correct performance of the Single Queue mechanism continued, with inspections at the East Tuscany and Piedmont geographic areas.

On 1 July 2014, the SB made its own contribution to the hearing called as part of the investigation, set up jointly by the National Regulatory Authority for Communications (AGCom) and the Italian Competition Authority on 9 January 2014, into issues regarding competition in the telecommunications market and the prospects for investment in broadband and ultra-broadband networks.

During the quarter, the SB met both Telecom Italia and various OLOs; in particular, hearings were held for Fastweb and Welcome Italia respectively in relation to Complaints S02/13 and S03/13. The SB also met Telecom Italia to receive updates on the subject of

¹ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_25_2013.pdf

² http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_15_2014_Chiusura_S02_2013.pdf

the phenomenon of equipment KO, as provided for by the Resolution to close procedure S01/13.

Monitoring progress on Undertakings

Undertakings Group no. 1

(Launch of the New Delivery Process)

All the main OLOs have completed migration to the New Delivery Process; the only exception is Wind as regards LLU and WLR services.

The number of Work Orders transferred to the Single Queue by August 2014 and successfully closed totalled approximately 3,700 for the asymmetrical bitstream service, 2,700 for LLU and 185 for WLR.

With Resolution no. 3/2014³, the SB checked the findings of the single queue management monitoring activity for 2013, while with Resolution no. 4/2014⁴ the monitoring of single queue operation during the year 2014 was decided: checks continued during the quarter on the correct operation of the Single Queue mechanism with visits made by the Supervisory Office to the East Tuscany and Piedmont geographical areas. The checks undertaken so far have not revealed any cases of unequal treatment between Telecom Italia Retail customers and customers of OLOs.

Undertakings Group no. 3

(Establishment of a performance monitoring system for SMP services)

Having completed⁵ certification of the basic data used to calculate the performance indicators listed in Undertakings Group no. n. 4 for 2013, SB decided⁶ to continue monitoring activities again in 2014.

Undertakings Group no. 4

(Guarantees of transparency of the monitoring system)

In the reference quarter, SB received monthly reports from Telecom Italia for June, July and August 2014, as well as the report for the second quarter of the year.

Some of these documents did not contain all the necessary information and the SB asked Telecom the reason for this. The Company explained that delays in measuring some data, in particular data linked to KPI 1-Delivery, are due to problems that arose during the switch to a new IT system, problems that are currently being solved. Telecom therefore subsequently sent consolidated reports containing the data previously not included.

Undertakings Group no. 5

(Guarantees of transparency of the Technical Plans for fixed access network quality)

As regards Undertakings Group n. 5, in the third quarter the SB received and analysed the Second Quarter 2014 summary from Telecom Italia with the Technical plans for fixed network access quality and planning for the fourth quarter of the year.

³ <http://organodivigilanza.telecomitalia.it/pdf/Determinazione-n-3-2014.pdf>

⁴ <http://organodivigilanza.telecomitalia.it/pdf/Determinazione-n-4-2014.pdf>

⁵ <http://organodivigilanza.telecomitalia.it/pdf/Determinazione-n-5-2014.pdf>

⁶ <http://organodivigilanza.telecomitalia.it/pdf/Determinazione-n-6-2014.pdf>

In comparison to the Plan, June results show a fluctuating picture, in which the results for some indicators (overhaul of switching cabinets, cyclic overhaul of poles, solving of network negatives in the access network at local level) were better than planned, while in other cases, on the contrary (upgrading of switching cabinets, replacement of poles, replacement of obsolete pressurisers), there were some delays.

Undertakings Group no. 6

(guarantees of transparency of the Technical Plans for fixed access network development)

Telecom Italia presented the SB with the Second Quarter 2014 summary and the programme for the fourth quarter of the year.

The number of Property Units reached by optic fibre in the primary section of the network (connected in primary) was considerably higher than the planned number, while progress with regard to the secondary section of the network was behind schedule. The number of cabinets covered by FTTCab was still slightly higher than Plan.

In the month of July, Telecom Italia published a revision of the “Multi-Year Technical Plan for development of the Fixed Network - NGAN Network” already published in February. This revision was made necessary following approval by AGCom of Resolution 155/14/CONS, requiring Telecom Italia to fulfil a series of obligation to facilitate access to cabinets by Operators who wish to make use of the LLU subloop service. The new Technical Plan, furthermore, takes into account the requests of the SB regarding the advisability of greater transparency towards the market on the main changes made in the new editions of plans and programmes.

The document contains a number of updates regarding the scheduling of the cabling of certain areas.

Undertakings Group no. 8

(Integration of the regulatory accounting and determination of the transfer charges)

During the quarter, the consultancy firm Mazars, commissioned by Agcom to audit the regulatory accounts (fixed and mobile) for the year 2011, continued the work begun in June. The years 2012 and 2013 will be the next to be audited.

Telecom had already sent AGCom the Regulatory Accounts for the financial year 2011 Fixed-Line Telephony Markets in accordance with the dispositions of Article 1, paragraph 1 of Resolution 678/11/CONS.

Undertakings Group no. 12

(Obligation to report the activation of services not requested)

Telecom Italia has sent the SB the document with data for the second quarter of 2014 on reports of services being activated that were not requested, received by Open Access technicians.

Complaints from Alternative Operators

Complaint S01/13 – Fastweb/Network access discrimination in the installation of LLU and Bitstream systems

Fastweb had notified the SB in February 2013 of alleged violations of Undertakings Group n. 1 with reference to the following two cases:

- the alleged inconsistency between Open Access' refusal to activate installations for Fastweb due to excessive distance from the exchange, followed by the activation of the same type of installations for Telecom Italia retail customers.
- the alleged inconsistency between Open Access's refusal to activate an LLU line for Fastweb, followed by the activation of the same service for Telecom Italia retail customers.

The OLO had provided the SB with the list of Work Orders closed with KO presence of equipment.

With Resolution n. 5/2013,⁷ the SB began a review of the merits of the foundations for the allegations made by Fastweb. In May and June 2014, the Supervisory Office (SO) performed on-site inspections to verify the actual presence of the reported equipment. In June, it was decided through Resolution n. 14/2013⁸, to extend the deadline for the conclusion of the investigation.

The effective presence of the equipment emerged from the analyses conducted by the SO that in the great majority of the rejected orders; however, in some cases, while the issue of a KO was in fact correct, it was due not to “presence of equipment”, but rather for the most part to errors in the compiling of the order by the OLO. A number of cases were found in which the KO appeared to be unjustified, almost always originating from a misalignment of the Telecom Italia computer systems. Following a specific request by the Authority, the SB sent AGCom the documentation collected during visits and subsequent analysis carried out by the SO.

Pursuant to its Internal Regulation, the SB then sent Telecom Italia a preliminary notification (Resolution no. 18/2013⁹), attaching the final Technical Report on the *on site* inspections conducted. Resolutions no. 20/2013¹⁰ and no. 24/2013¹¹ further postponed the conclusion of the investigation.

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http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_5_2013_Avvio_verifica_Segnalazione_S01_13.pdf

⁸ http://organodivigilanza.telecomitalia.it/pdf/1_Determinazione_n_14_2013.pdf

⁹ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_182013.pdf

¹⁰ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_20-2013-Proroga_proc_S01_13.pdf

¹¹ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n24-2013.pdf

After consulting Telecom Italia and Fastweb in two separate hearings, during its Board Meeting held on 9 December 2013, the SB passed Resolution no. 25/2013¹² in which it determined the closure of the procedure, ruling that based on the checks made, the KOs issued by Telecom did not show any conduct such as to represent breaches of the principle of equality of treatment between Telecom Italia Retail and the OLOs.

At the same time, the SB made a number of Recommendations to Telecom Italia, including a request to take suitable action to eliminate problems related to the less than full reliability of the *LLU pre-sale analysis tool* and reserving the right to being specific monitoring activity on rejected Work Orders.

Simultaneously, with Resolution no. 28/2013¹³, passed at the same Meeting held on 9 December 2013, the SB decided to have a specific analysis conducted on refusals to activate LLU equipment due to presence of network multiplexers, in order to assess the effectiveness of the action recommended and check any breaches of the Undertakings.

In February 2014, the SB, at the request of the issuing Operator, then had a meeting with Fastweb and on this occasion outlined the results of inquiry of the proceedings in question. A subsequent hearing was held with the same Operator on 25 July, during which the SB was able to inform the OLO on the development of the monitoring operations conducted on equipment KOs.

Telecom Italia responded to the recommendations made by the SB and during the hearing on 11 June 2014 presented the SB with updated data regarding progress in the process of de-commissioning of the equipment, divided between "LLU areas" and "non-LLU areas". Subsequently, Telecom sent the SB progress reports in June and September 2014 showing the monthly impact of KOs due to presence of equipment on lines not active due to LLU and BTS WOs from which a progressive reduction of the phenomenon can be seen, a trend confirmed in the September data which showed that such refusals due to presence of equipment had almost disappeared.

¹³ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_25_2013.pdf

¹³ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_28_2013.pdf

Complaint S02/13 – Fastweb/Malfunctions of the CRM system for Wholesale customers

In 2013, Fastweb reported malfunctions to the SB in the Telecom Italia Wholesale CRM system. The origin of these malfunctions was to be sought in the series of various system releases and are thought to have originated critical aspects including the blockage of multiple Wholesale Work Orders.

The SB had opened a complaint with Resolution n. 6/2013¹⁴, inviting Fastweb to provide more details about the critical aspects in question. In June 2013, Vodafone also sent a letter discussing the subject containing analytical elements with the same purpose.

The SB had asked Telecom Italia to provide detailed information to investigate the events covered by the complaint. Telecom sent numerous files containing detailed information on the anomalies found on the systems during the periods reported. The SO examined the material received, which describes the anomalies in releases 2.0 and 3.0 of the CRM, relating to the backlog of order processing and CRM outages.

During the hearing on 16 October 2013, Telecom Italia described to the Supervisory Board the plans for release of the Wholesale CRM and the action taken to improve the platform. In November, Fastweb confirmed during a special hearing the persistence of the critical aspects already highlighted; The Supervisory Board inasmuch recognised the need to define an indicator suitable for objectively measuring the level of operation of the Wholesale CRM system.

During the meeting held on 9 December 2013, Telecom Italia proposed to the SB a new wholesale order percentage indicator which, at the date of measurement, had “in process” status in Wholesale CRM, but no formal order sent to Open Access.

on 11 June 2014, a new hearing was held during which Telecom provided further details concerning the timing for solving the critical issues and the modes for collecting the data used by the foregoing new indicator as requested by the SB. The initial results of the new indicator nevertheless evidence the persistence of the critical aspects reported; therefore, on 16 June SB sent a letter to Telecom requesting information about action plans and times for the implementation of envisaged interventions, with periodic updates for measurement of KPI values and indications of the volumes of correlated unresolved and backlog volumes by individual service.

These periodic updates showed a marked improvement in the situation; therefore, after numerous extensions of the date for conclusion of the investigation (Resolution no. 15/2013¹⁵; Resolution no. 29/2013¹⁶; Resolution no. 14/2014¹⁷), the SB closed the

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http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_6_2013_Avvio_verifica_Segnalazione_S02_13.pdf

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http://organodivigilanza.telecomitalia.it/pdf/2_Determinazione_n_15_2013.pdf

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http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_29_2013.pdf

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procedure, with Resolution no. 15/2014¹⁸, passed during the Meeting on 24 September. With this Resolution, deeming that the malfunctions do not constitute breaches of the Undertakings, in view of the fact that the said Undertakings do not govern or require a precise obligation for results as far as the quality of the services delivered by Wholesale CRM are concerned, the SB recommended to Telecom Italia to provide a procedure suitable to check the effective operation of the software, asking the Operator to send weekly reports of the Wholesale CRM supplemented by specific analyses on the Work Orders for the period.

¹⁸ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_14_14_S02_13_Fastweb_CRM_proroga.pdf
¹⁸ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_15_2014_Chiusura_S02_2013.pdf

Complaint S03/13 – Welcome Italia/Physical deterioration of lines and fruitless service interventions, SLA compliance and size of penalties

During the course of 2013, the Operator Welcome Italia notified the SB of criticalities linked to very frequent faults and deterioration both in the access network and the transport network; other problems raised concerned the charging of alleged fruitless service interventions by Telecom Italia and the insufficiency of the penalties paid by Telecom Italia for failure to comply with the set SLA.

During the hearing held c/o the SB in 2013, Welcome Italia complained of problems related to service disruption and deterioration of the access network; general service disruption in the transport network; the provisioning of bitstream services over ethernet networks; fruitless service interventions, the SLAs and the assurance penalties for bitstream services, deemed to be insufficient deterrents and not commensurate with the inconvenience suffered by the Operator.

Following the Technical Report by the Supervisory Office, the SB opened Complaint S03/13 with Resolution no. 9/2013¹⁹, asking Welcome to provide data and information on the matter.

Welcome sent the requested information; subsequently, the SB deemed it advisable to recommend that Telecom Italia should send further information, so that it may conduct cross analyses between the various groups of elements, a request that was fulfilled by the incumbent Operator.

In 2014, the SB met Telecom Italia during hearings on 28 January and 15 May and Welcome Italia on 12 February and 11 June. Telecom Italia recognised the reported disservices, although they underlined the improvements in the fault rate during the period 2011–2013.

In agreement with the SB, it was decided to set up specific technical discussions to analyse and solve the difficulties encountered. A first joint meeting was held in the month of June at the Welcome offices in Massarosa, and a progress meeting was held on 23 September 2014. Furthermore, the SB was able to hear the two parties, at special meetings, to monitor the progress of the work.

The final deadline for concluding the investigation, initially set for 29 August 2013, was extended a number of times during the same year, by Resolution n. 17/2013²⁰ and Resolution n. 23/2013²¹. In 2014 this deadline was further extended, first by Resolution no. 7/2014²², and then by Resolution n. 12/2014²³.

¹⁹ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_9_2013_Avvio_S03_13.pdf

²⁰ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_17_2013.pdf

²¹ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_23_2013.pdf

²² <http://organodivigilanza.telecomitalia.it/pdf/Determinazione-n-7-2014.pdf>

²³ <http://organodivigilanza.telecomitalia.it/pdf/Determinazione-n-12-2014-S03.pdf>

Specific Analyses

Analysis of Wholesale and Retail KOs

In 2010, the SB launched the "KO Wholesale Analysis" Project in order to analyse the reasons for rejection of Wholesale Work Orders. In its Resolution no. 22/2010²⁴ the SB approved the Final Report²⁵ with the results of the Project, identifying possible areas for improvement in the Delivery process.

At the outcome of the analysis on the Wholesale KOs, the SB ordered the start of a similar analysis on the KOs relating to Telecom Italia Retail services. In its Resolution no. 26/2011²⁶ dated 14 December 2011, the SB approved the final report which illustrated the work carried out and the results of the analysis: no cases of inequalities of treatment between the Retail WO and the Wholesale WO emerged in this analysis. An improvement has been noted in the efficiency of the process, in Telecom Italia's favour, with regard to the number of WOs needed to fulfil a customer's request: this difference should progressively disappear as all the OLOs subscribe to the New Delivery Process.

With Resolution no. 26/2013²⁷, the SB decided to continue the analysis on Wholesale customers, to assess full compliance with the principle of internal-external equality of treatment by Telecom Italia in the Delivery process area.

During the Meeting of the SB on 13 March, Resolution no. 9/2014²⁸ to extend Order analysis to Retail Work Orders was approved.

The SO was asked to report periodically to the SB on the results of the checks made, proposing any more suitable action to be taken, and to draw up a final report of the action taken and the results attained.

²⁴ http://organodivigilanza.telecomitalia.it/pdf/19_Determinazione_22_2010.PDF

²⁵ http://organodivigilanza.telecomitalia.it/pdf/19a_Allegato_Determinazione_22_2010.PDF

²⁶ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n.26.2011_Analisi_KO_Retail_Allegato-Light.pdf

²⁷ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_26_2013.pdf

²⁸ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_9_2014.pdf

The pre-alert system for exchanges at risk of saturation ("Amber Light")

Complaint S01/10 was opened following the sales closure of the bitstream service in approximately 500 exchanges due to network saturation.

Based on the results of analyses conducted when the Complaint was made, the SB advised Telecom Italia to establish a mechanism to signal exchanges close to saturation.

As a result of the "End of sale" of ATM technology, the SB continued monitoring the state of saturation of exchanges as regards bitstream services, paying particular attention to exchanges equipped with saturated ATM DSLAM that, since they have no availability of DSLAM Ethernet, do not allow the sale of new connections for ADSL services. On 30 September 2014, the number of these connections was 53, with a decrease of 5 units as compared to 30 June 2014. The number of exchanges equipped with saturated ATM miniDSLAMs and without the alternative of IP Ethernet technology also decreased. In fact, the number of exchanges dropped from 698 recorded on 30 June 2014 to 677 recorded at the end of September. As regards the saturation of the exchanges served by Ethernet DSLAM, at the end of 3Q2014 there were 26 saturated exchanges (12 more than in the 2Q) and 93 saturated cabinet backpacks (9 more than in the 2Q), while on the same date 11 cabinet backpacks and 32 exchanges were in "amber light" status.

With Resolution 94/12/CIR, AGCom - acknowledging the need to promote rapid transition to Ethernet/IP technology, instructed Telecom Italia to pass on a series of financial incentives to the OLOs for the duration of the migration period and imposed a reduction in prices for bitstream services provided on the Ethernet platform. The Authority also asked Telecom Italia, as a condition for the recognition of ATM "End of Sale", to make available certain functional elements relating to: the process of service acquisition and provisioning, the adaptation of protocols to render compatible the OLO modems and the link analysis tools on the section relating to the delivery kits (for the OLOs).

By December 2013, Telecom Italia had made available all the functional elements required by the resolution. On 28/02/2014, the company announced on the Wholesale Portal that it would proceed to implement provisioning of new ADSL bitstream access exclusively with Ethernet technology for Bitstream exchanges already covered (or will be) by that technology. In the same communication, Telecom Italia also announced that Bitstream exchanges with DSLAM ATM where there is an equivalent alternative to the Bitstream Ethernet service, will be progressively placed in "saturated" in accordance with a pre-defined plan.

Analysis of the correct application of the Single Queue

In compliance with the provisions of Undertakings Group no.1, Telecom Italia had organised a so-called “Single Queue” mechanism to permit processing of Work Orders received in strict chronological order of their receipt, with no discrimination between orders received from OLOs and those received from Telecom Italia retail departments.

With Resolution no. 12/2012²⁹, the SB began analysis to check the correct management of the system, as part of the gradual start-up of the New Delivery Process (NDP): the main goal of that check was to focus on Open Access's correct use of IT procedures to manage the process.

During 2012, the Supervisory Office carried out on-site checks in a number of geographic areas, making spot checks at local Open Access operating sites to analyse the WOs that had been entered into the Single Queue and subsequently executed. No anomalies were found in the analysis. Accordingly, the SB closed the enquiry in question with Resolution no. 17/2012³⁰.

Resolution No. 3/2013³¹ provided for continuation of the checks during 2013. During that year, therefore, checks were carried out at various geographic areas in all Regional Areas in Italy. Resolution n. 3/2014³² closing the activity also indicates that checks in 2013 did not reveal any cases of unequal treatment between Telecom Italia Retail customers and customers of OLOs regarding the application of the Single Queue mechanism.

Monitoring will also continue in 2014 (Resolution n. 4/2014³³); in particular, during the third quarter, visits were made to the East Tuscany and Piedmont geographical areas.

The checks undertaken so far have not revealed any cases of unequal treatment between Telecom Italia Retail customers and customers of OLOs regarding the application of the Single Queue.

²⁹ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_12-2012-Vigilanza_su_accodamento_degli_ordinativi_di_lavoro_a_coda_unica.pdf

³⁰ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n%5B1%5D_17-2012_Coda_Unica.pdf

³¹ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n3-2013-Coda_Unica.pdf

³² <http://organodivigilanza.telecomitalia.it/pdf/Determinazione-n-3-2014.pdf>

³³ <http://organodivigilanza.telecomitalia.it/pdf/Determinazione-n-4-2014.pdf>

Other activities of the SB

- ◆ On 1 July 2014, the SB made its own contribution to the hearing called as part of the investigation, set up jointly by the National Regulatory Authority for Communications (AGCom) and the Italian Competition Authority on 9 January 2014, into issues regarding competition in the telecommunications market and the prospects for investment in broadband and ultra-broadband networks. The Supervisory Board was asked to contribute its knowledge on the issues concerned at this hearing which provided an opportunity for wide-ranging discussions on the results and reasoning of the Supervisory Board with regard to Equivalence of outputs, with a view to possible modifications to be made to the Undertakings in order to strengthen this principle.