



Commission for
Communications Regulation

Annual Electronic Communications Compliance Report 2014

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An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

Abbey Court, Irish Life Centre, Lower Abbey Street, Dublin 1, Ireland

Telephone: +353 1 804 9600, Fax: +353 1 804 9680, Email: info@comreg.ie, Web: www.comreg.ie

Additional Information

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1 Introduction

The Commission for Communications Regulation (“ComReg”) is the statutory body responsible for the regulation of the electronic communications sector (telecommunications, radiocommunications and broadcasting transmission) and the postal sector in Ireland. In accordance with Irish and EU legislation, ComReg’s responsibilities include setting regulatory policy and the monitoring and enforcement of regulatory obligations.

ComReg performs a variety of monitoring and enforcement roles such as compliance with spectrum licensing conditions, compliance with the Premium Rate Service framework, compliance by operators with obligations imposed by ComReg and compliance by operators with obligations imposed by Regulations. This report deals with the compliance and enforcement undertaken by the Wholesale Compliance and Retail Compliance teams which focus primarily on compliance in respect of the obligations of communications network operators and service providers. This report covers the period 1 January 2014 to 31 December 2014¹. Spectrum compliance and Premium Rate Service compliance are outside the scope of this report².

As noted, ComReg’s Compliance teams are responsible for monitoring and enforcing the compliance of communications network operators and service providers with any regulatory obligations and also handling formal disputes between communications providers. Section 3 of this document provides comparative statistics for the period 1 January 2014 to 31 December 2014 against 1 January 2013 to 31 December 2013. These statistics show the numbers of compliance cases opened and closed and the timescale for dealing with cases. The 2014 annual report incorporates statistics for ComReg’s retail and wholesale compliance functions.

ComReg is also responsible for handling Misuse cases³. These cases predominantly comprise of incidents where businesses have their telephone systems hacked and unauthorised calls to the value of thousands of euro are made without the knowledge of the business. Section 4 of this document gives details of ComReg’s investigations into cases of misuse.

Finally, the mechanism by which a communications provider should submit a complaint to Wholesale Compliance is detailed at Appendix 1. The mechanism by which a consumer should submit a complaint to ComReg is detailed at <http://www.askcomreg.ie>.

¹ This document should be read in conjunction with the Annual Electronic Communications Compliance Report 2013 (Reference: ComReg 14/37, Date: 23 April 2014). Prior to ComReg 14/37, Electronic Communications Compliance Reports were published on a bi-annual basis but are now published annually.

² Details of findings of non-compliance in respect of premium rate services are published on ComReg’s PRS-related website, <http://www.phonesmart.ie> under the Code of Practice tab here http://www.phonesmart.ie/Code_of_Practice/133#.Uw4JfHC8DcM

³ Within the meaning of Regulation 23(2) of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011 (S.I. No. 337 of 2011) (the “Universal Service Regulations”).

2 Summary: Compliance and Misuse

This section presents a summary of the combined Wholesale Compliance, Retail Compliance and Misuse investigations during 2014. Further detail on Wholesale and Retail Compliance can be found in Section 3, and detail on Misuse in Section 4.

In 2014, ComReg opened a total of 93 new investigations and also closed 87. The detail of the total number of active investigations each month in the period can be seen in Figure 1 below:

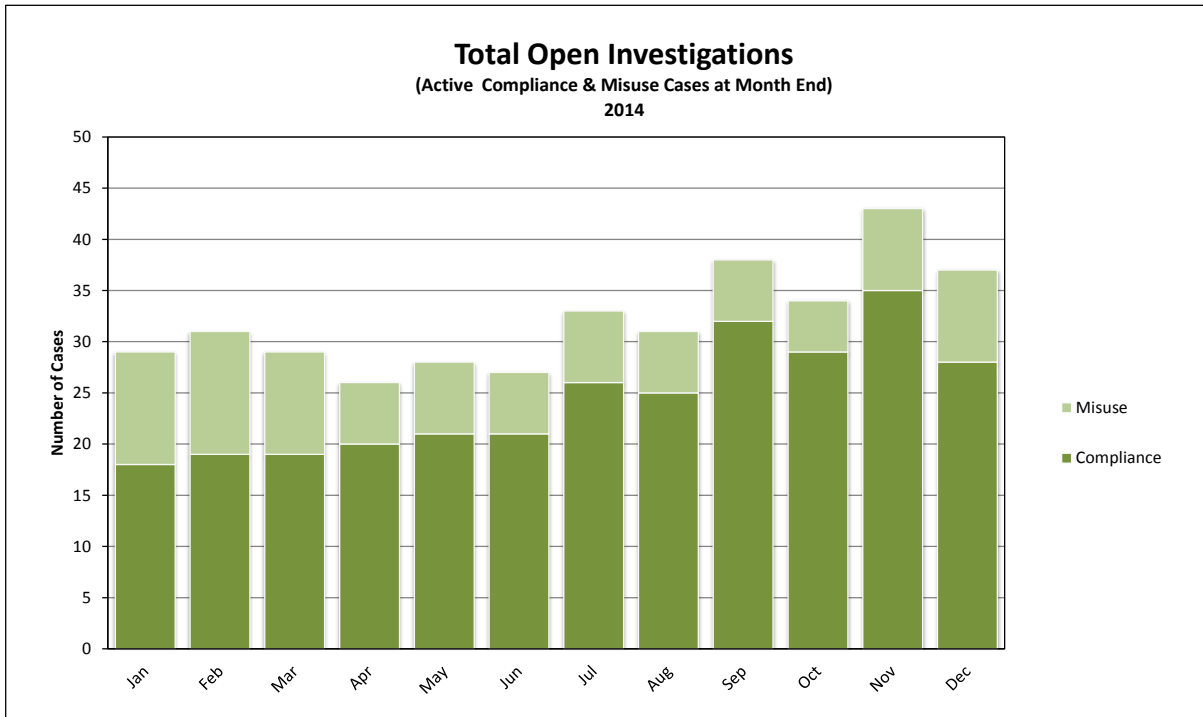


Figure 1: Total Active Investigations by Month.

Greater detail regarding the total number of Compliance and Misuse investigations opened and closed during 2014 can be seen in Table 1 below:

	Compliance	Misuse	Total
New Cases Opened	56	37	93
Cases Closed	45	42	87

Table 1: Total Investigations Opened/Closed during 2014.

A period-on-period analysis shows that 2014 saw a higher caseload. 93 new investigations were initiated, up on the 70 new investigations initiated 2013.

The average case duration in 2014 was 5.1 months with 82% closed within 6 months or less. The distribution of case durations is shown in Figures 2 and 3 below:

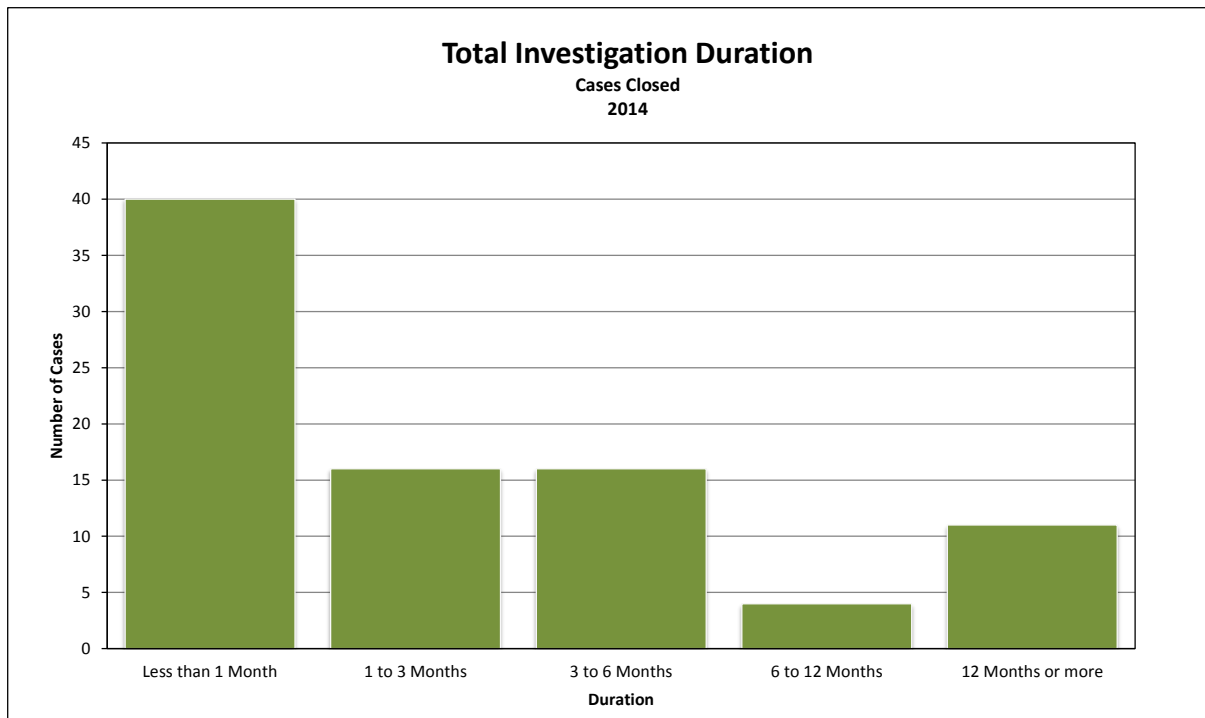


Figure 2: Total Investigation Duration.

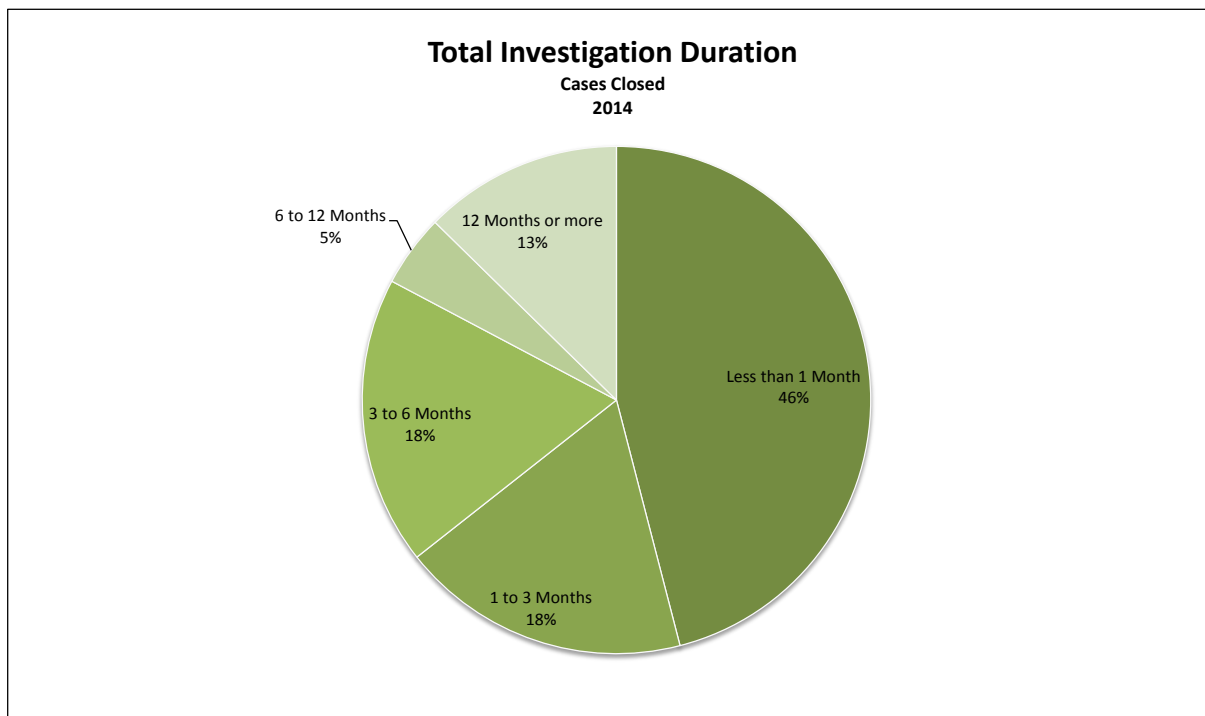


Figure 3: Total Investigation Duration.

A period-on-period comparison of the cumulative count of new investigations is shown in Figure 4 below:

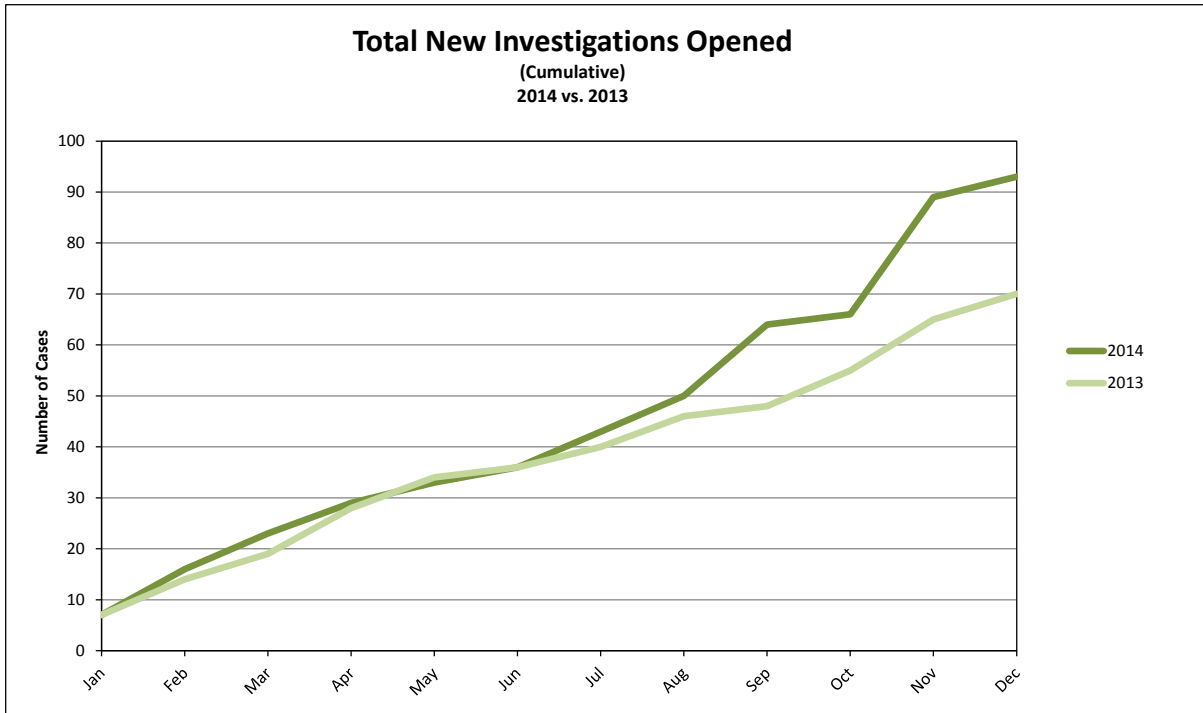


Figure 4: Total New Investigations Opened in 2014 vs. 2013.

In 2014, a total of 87 cases were closed compared with 62 cases closed in 2013. The average case closure rate was 7.3 per month in 2014 compared to an average rate of 5.2 per month in 2013.

A comparison of the cumulative count of closed cases for 2014 versus 2013 is shown in Figure 5 below:

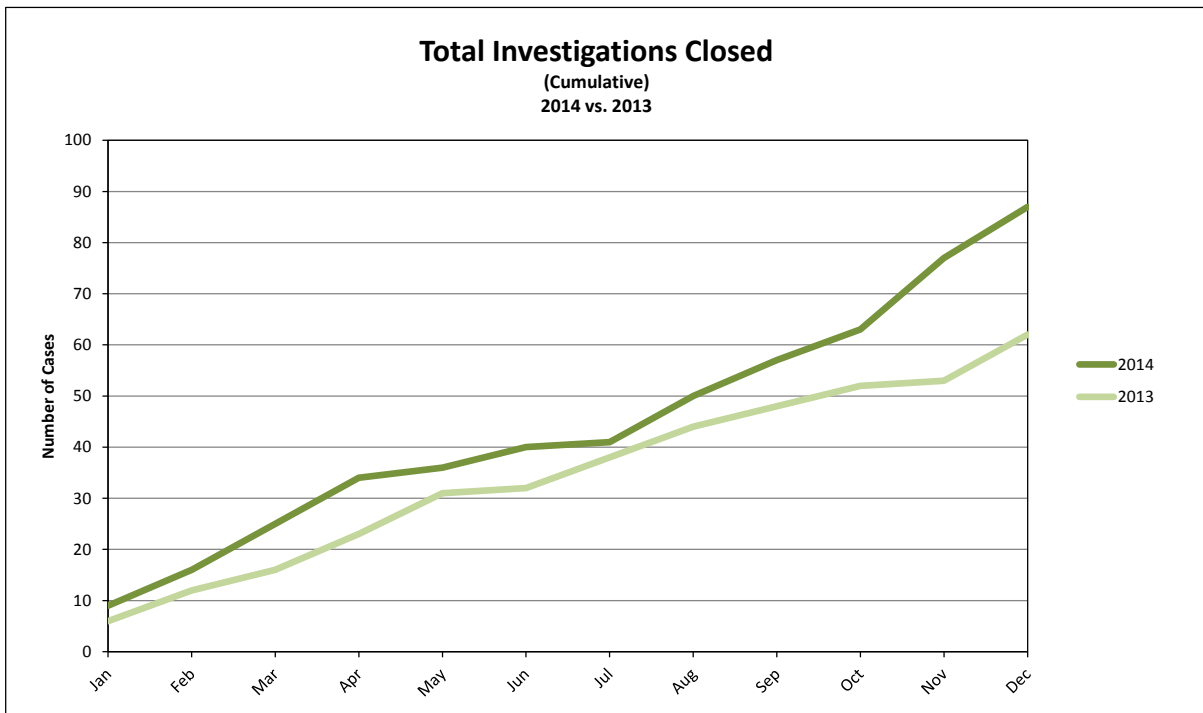


Figure 5: Total Investigations Closed in 2014 vs. 2013.

The average number of open (active) investigations per month was 32.1 in 2014 compared to 26.7 in 2013. The total number of open investigations per month is shown in Figure 6 below

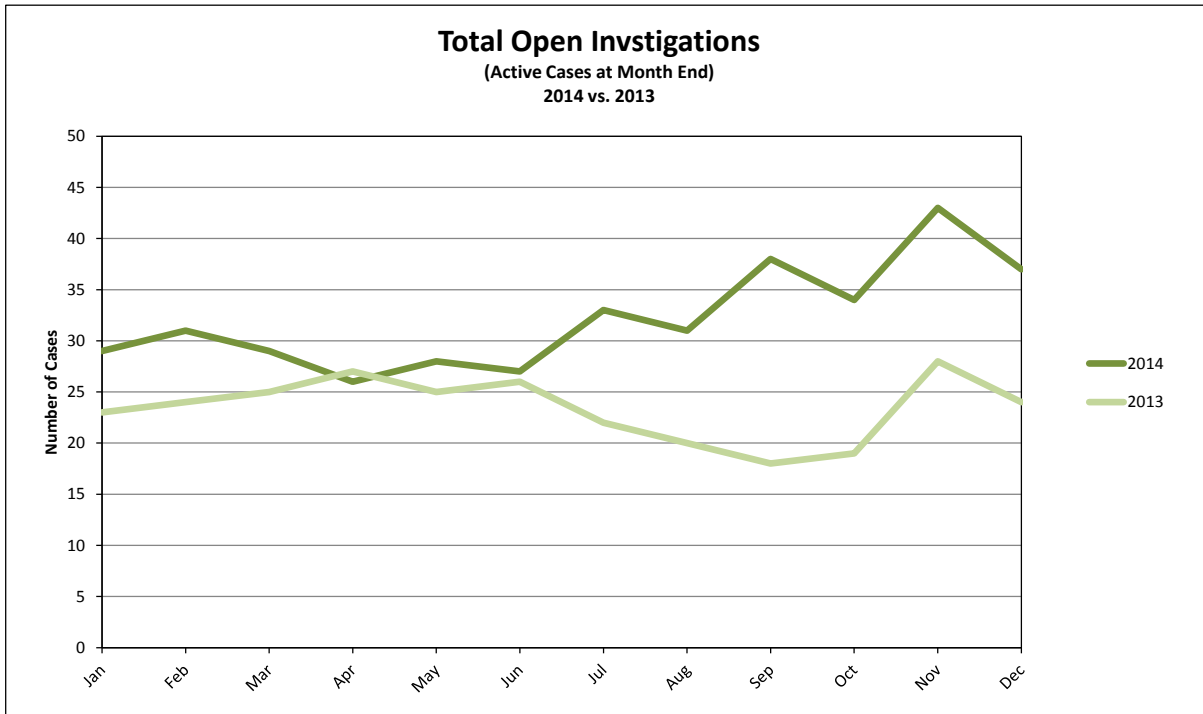


Figure 6: Total Open Investigations by month in 2014 vs. 2013.

Finally, in 2014, 82% of all cases were closed in 6 months or less in comparison to 77% in 2013, as shown in Figure 7 below.

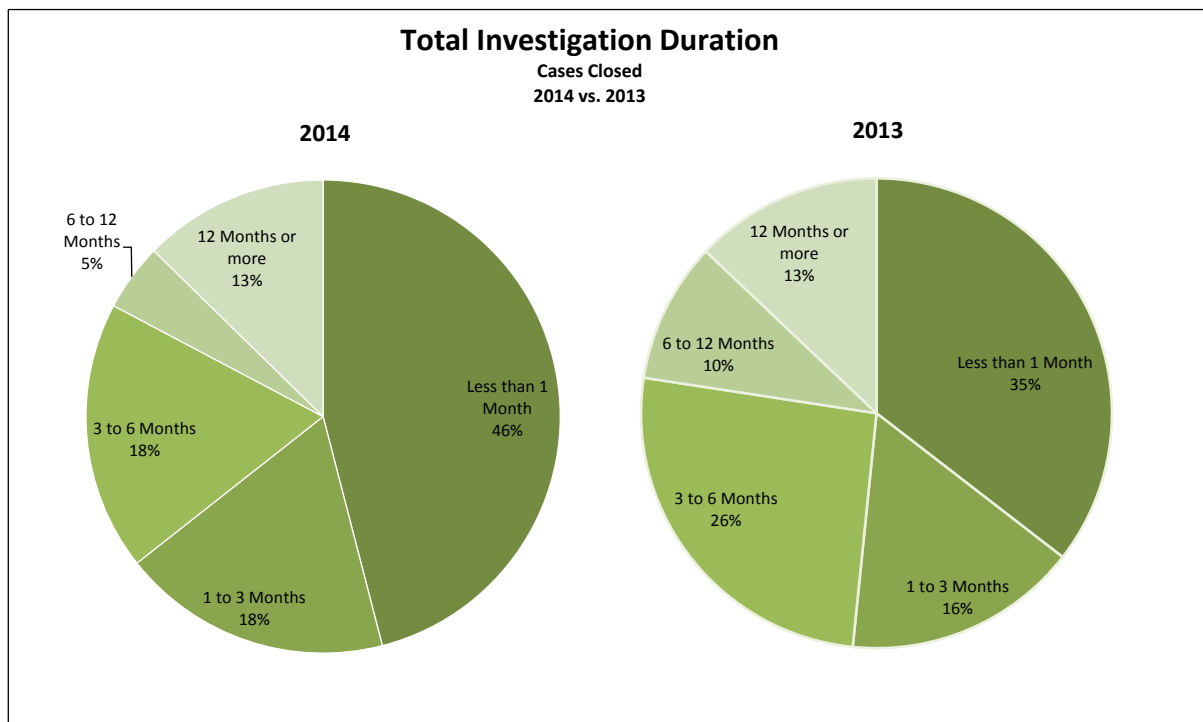


Figure 7: Total Investigation Duration in 2014 vs. 2013.

3 Wholesale and Retail Compliance

Wholesale and Retail Compliance investigations in this section exclude investigations which involve misuse. Such cases are addressed in Section 4.

In 2014, the Wholesale and Retail Compliance teams opened a total of 56 new Compliance investigations and closed 45.

During 2014, the following formal compliance and enforcement action was taken. A table providing further information on these actions is included at Appendix: 2:

- One notification, pursuant to Regulation 19 of the Access Regulations⁴, was issued to an undertaking where, following investigation, ComReg found that the undertaking had not complied with its regulatory obligations. ComReg is considering this case and will determine whether further action is to be taken.
- One notification, pursuant to Regulation 31 of the Privacy and Electronic Communications Regulations⁵, was issued to an undertaking where, following investigation, ComReg found that the undertaking had not complied with its regulatory obligations. ComReg is considering this case and will determine whether further action is to be taken.
- Three opinions, pursuant to Regulation 19 of the Access Regulations, were issued to undertakings where, following representations by the undertaking in response to a notification of a finding of non-compliance, ComReg was of the opinion that the undertaking had not complied with its regulatory obligations and the non-compliance had not been remedied. As set out in the corresponding Information Notices, these opinions resulted in no further action by ComReg.⁶
- One opinion, pursuant to Regulation 31 of the Universal Service and Users' Rights Regulations was issued to an undertaking where, following representations by the undertaking in response to a notification of a finding of non-compliance, ComReg was of the opinion that the undertaking had not complied with its regulatory obligations and the non-compliance had not been remedied. In the case of this opinion, a settlement was reached which included the payment of refunds to customers.⁷

⁴ European Communities (Electronic Communications Networks and Services) (Access) Regulations 2011 (S.I. No. 334 of 2011).

⁵ European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (S.I. No. 336 of 2011).

⁶ See Information Notices [ComReg 14/95](#), [ComReg 14/114](#) and [ComReg 14/115](#).

⁷ For further information please see the accompanying Information Notice [ComReg 14/77](#).

- Four notices, pursuant to Section 44 of the Communications Regulation Act 2002⁸, were issued to undertakings stating that, following investigation, ComReg had reasonable grounds to believe that the undertakings were not in compliance with regulatory obligations.

ComReg also issued determinations in two disputes raised by undertakings pursuant to Regulation 31 of the Framework Regulations⁹.

Additionally, in relation to Eircom's performance against legally binding targets for the provision of Universal Service, Eircom paid a penalty of €2,500,000 to ComReg. Further information regarding this penalty can be found in the associated Information Notice, [ComReg 14/129](#).

The detail of the number of investigations opened and closed each month in the period can be seen in Figure 8 below:

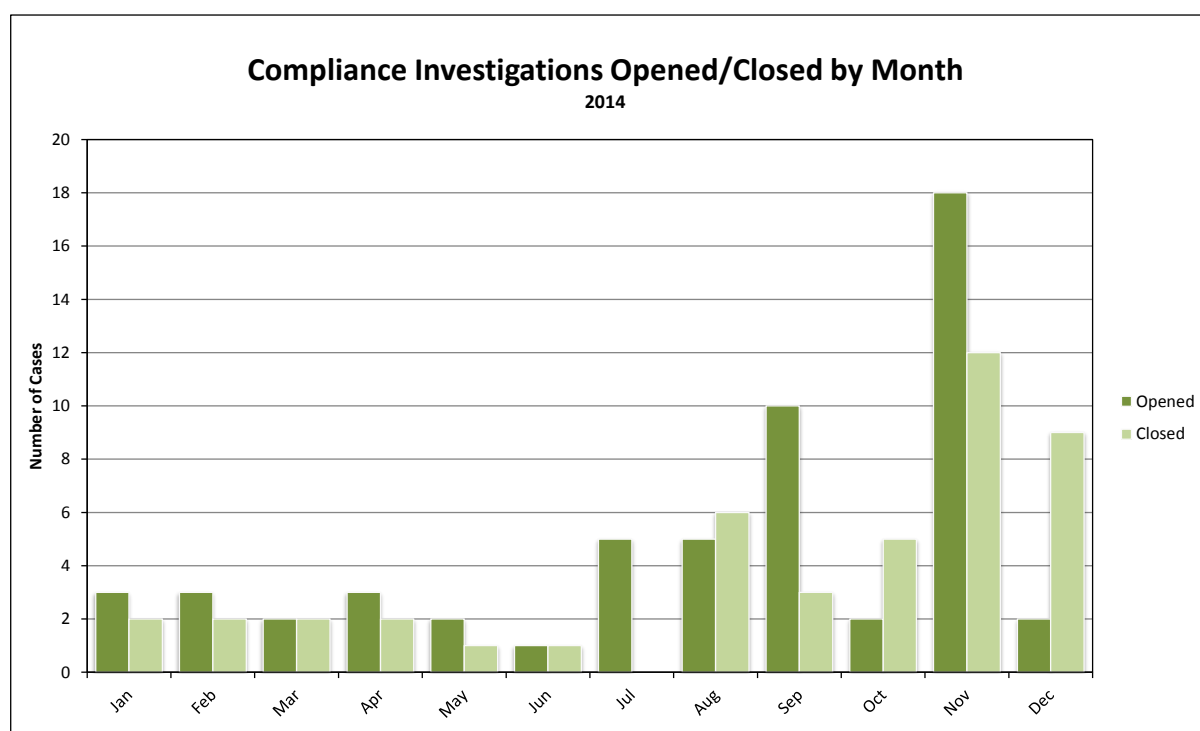


Figure 8: Compliance Investigations Opened/Closed by Month.

The average number of open Compliance investigations per month during 2014 was 26.4 compared to 18.9 in the previous year. The total number of open investigations per month is shown in Figure 9 below.

⁸ Communications Regulation Act, 2002 (No. 20 of 2002), as amended by the Communications Regulation (Amendment) Act 2007 (No. 22 of 2007), the Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010 (No. 2 of 2010) and the Communications Regulation (Postal Services) Act 2011 (No. 21 of 2011).

⁹ European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 (S.I. No. 333 of 2011).

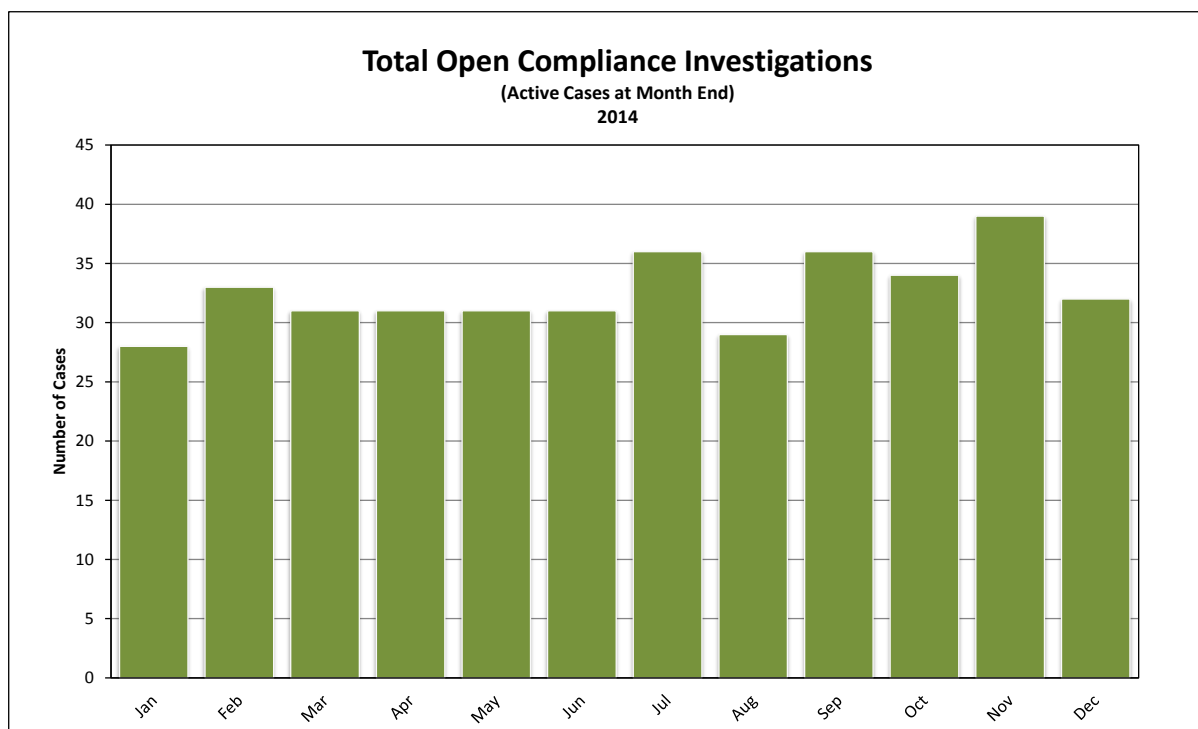


Figure 9: Open Compliance Investigations.

Summary reports for many of the closed cases are available on the ComReg Website¹⁰:

Investigations which are closed will have associated summary reports published on this link unless there are operational reasons for withholding the report in individual cases.

The average Compliance case duration in 2014 was 8.5 months, the distribution is shown in Figures 10 and 11 below:

¹⁰ http://www.comreg.ie/telecoms/closed_cases.561.1042.html. The Closed Case summaries are not directly linked to the cases in the Compliance Annual Report. However, Closed Case summaries for some of the case closures noted in this report are available at the link shown.

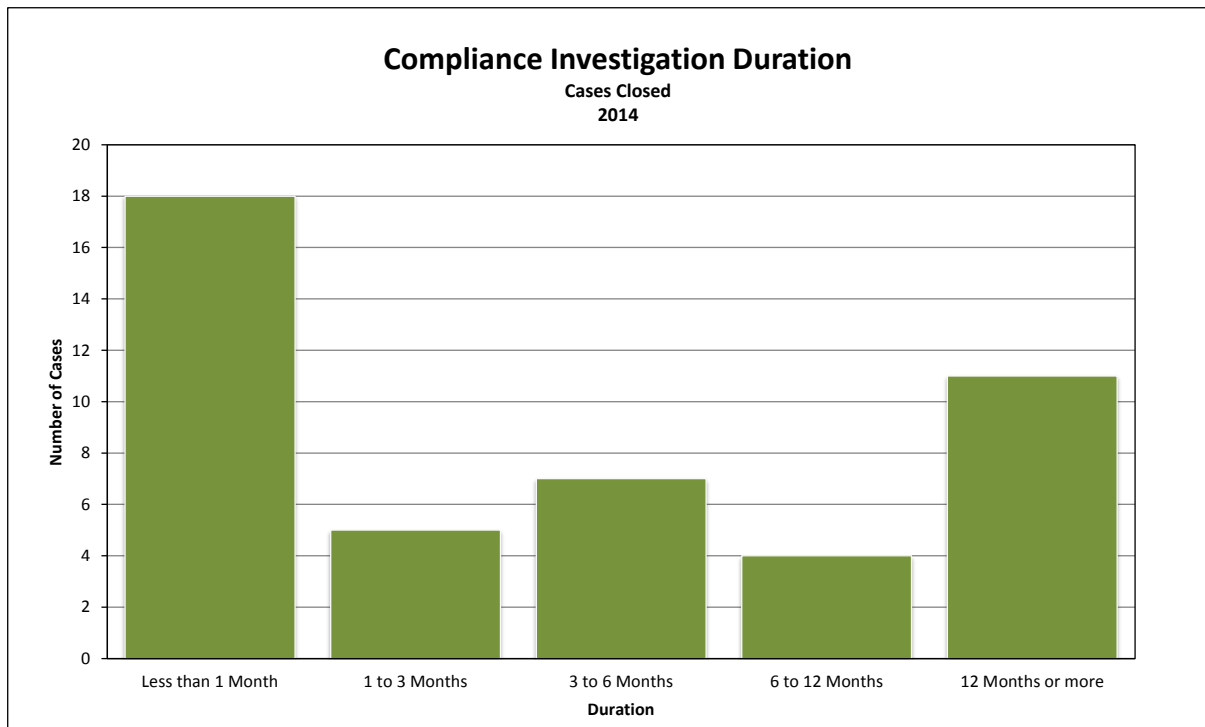


Figure 10: Compliance Investigation Duration.

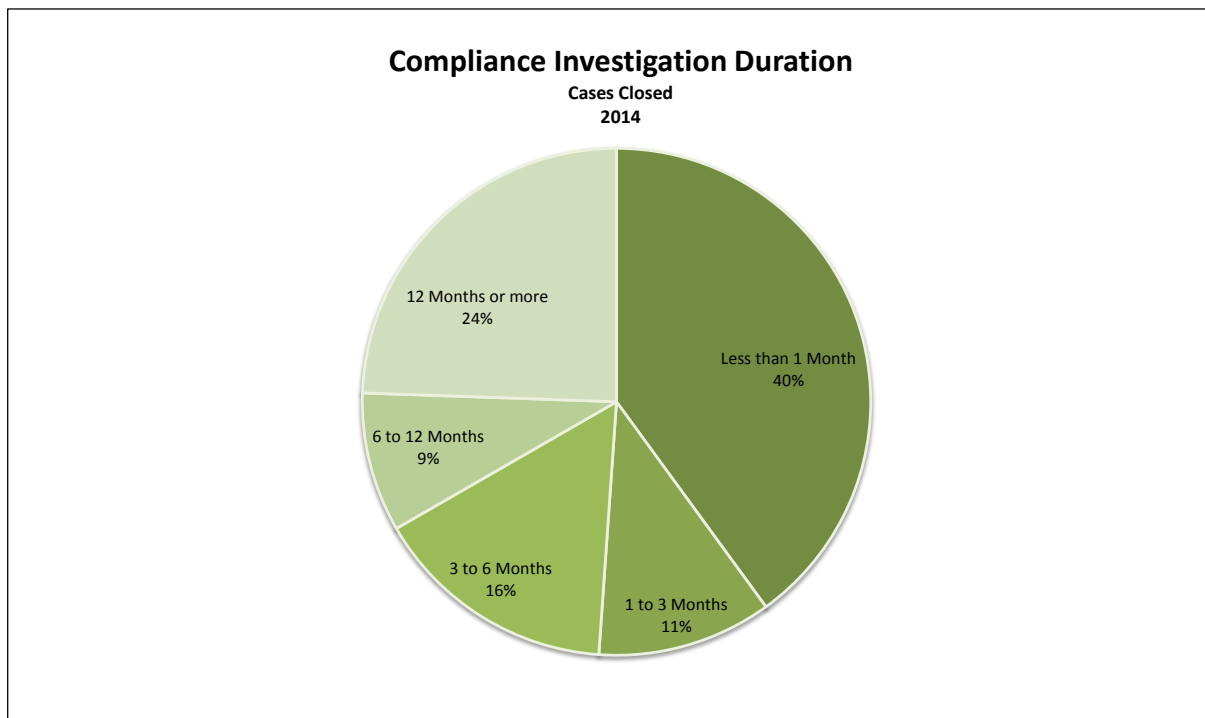


Figure 11: Compliance Investigation Duration.

Finally, in 2014, 67% of cases were closed in 6 months or less in comparison to 42% in 2013, as shown in Figure 12 below.

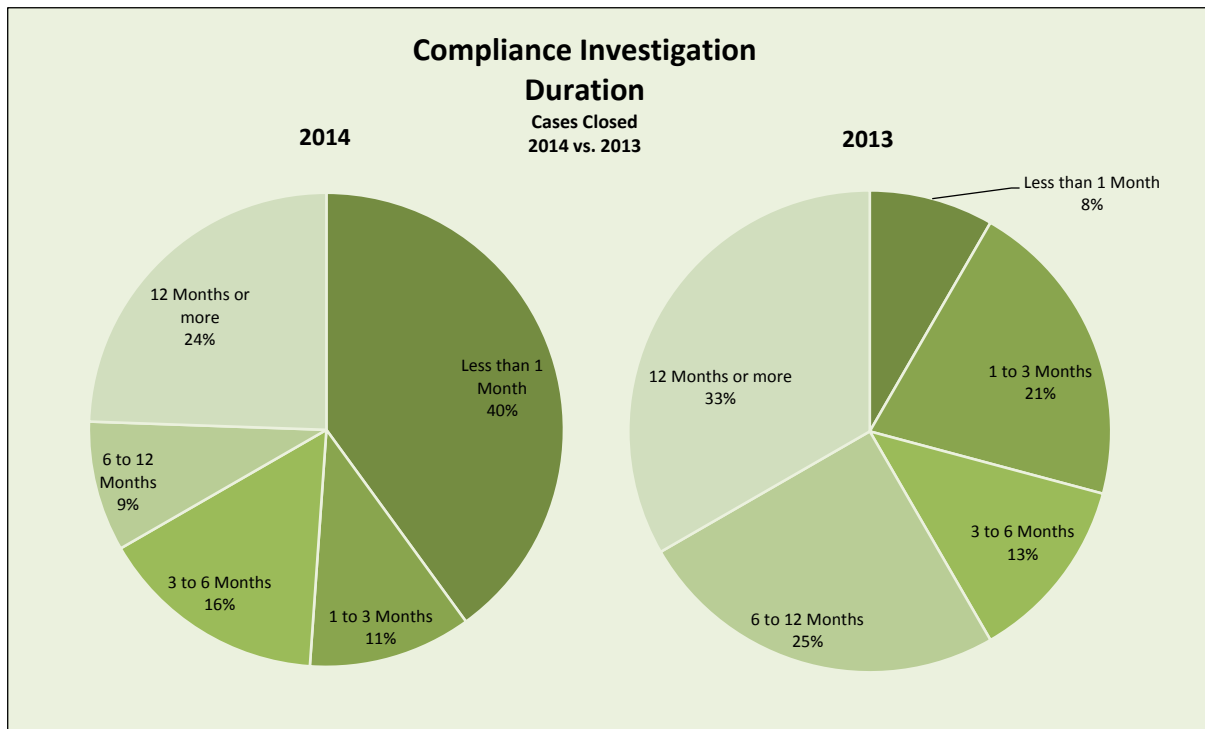


Figure 12: Compliance Investigation Duration in 2014 vs. 2013.

4 Misuse

On 1 July 2011, with the coming into force of the Universal Service Regulations 2011¹¹, pursuant to Regulations 23(2) of those Regulations, ComReg was given the power to require, on a case-by-case basis, to block access to numbers or services and to require undertakings to withhold relevant interconnection or other service revenues where this is justified by reason of fraud or misuse. The powers under Regulation 23(2) are invoked for the purposes of preventing fraud or misuse of Irish numbers and for the protection of both end-users and operators.

ComReg considers that this power may be invoked in circumstances such as :

- the hacking of PBXs (companies' telephone systems). In this type of misuse, the hacker remotely gains access to a company's PBX and begins making calls to international destinations. Generally the hacker's aim is to generate a high volume of calls to a particular destination which generates revenue for the hacker. The end user which is the victim of this misuse can face bills of many thousands of Euro for these calls from their communications provider. In these circumstances, the Regulation 23(2) powers allow ComReg to intervene in the often complex billing arrangements between domestic and international communications providers and require that the payments resulting from this type of misuse are withheld. Typically, when ComReg intervenes in this way a communications provider will not hold the hacked end user liable for the calls.
- the sending of large volumes of unsolicited communications (typically SMS) to consumers, which are likely to result in the recipients responding and thereby unknowingly incurring charges. Typically, the original unsolicited communication that is received by consumers and does not include details, of the nature or price of the service.

In 2014, 37 new Misuse investigations were opened and 42 were closed. The detail of the number of investigations opened and closed each month in the period can be seen in Figure 13 below:

¹¹ European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 (S.I. No. 337 of 2011).

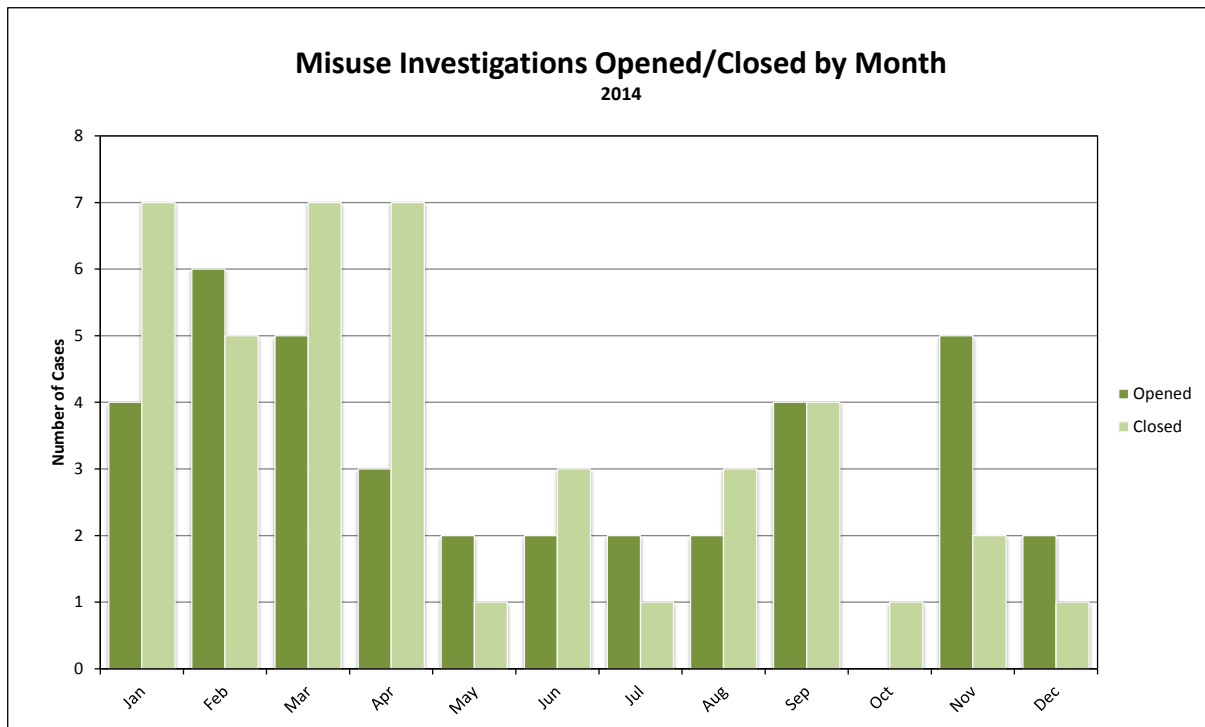


Figure 13: Misuse Investigations Opened/Closed by Month.

The total number of open investigations per month is shown in Figure 14 below.

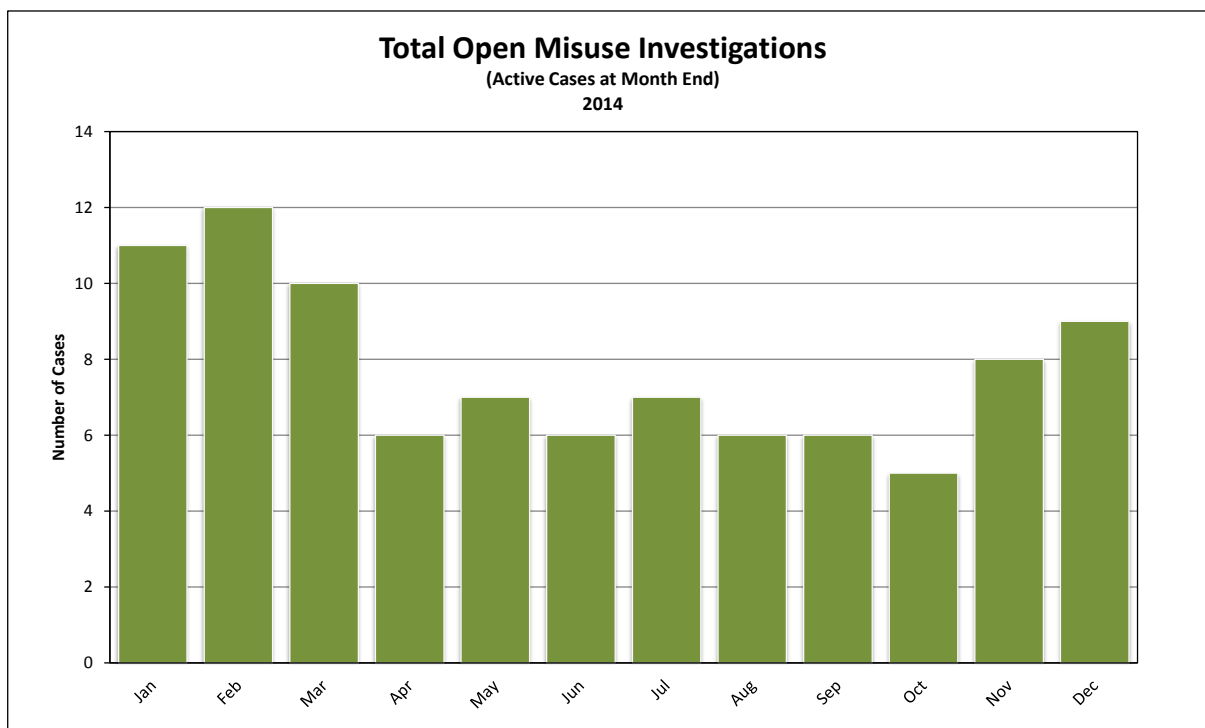


Figure 14: Open Misuse Investigations.

In relation to investigation duration, of the 42 Misuse investigations concluded in 2014, the average duration was 1.4 months as shown in Figure 15 below.

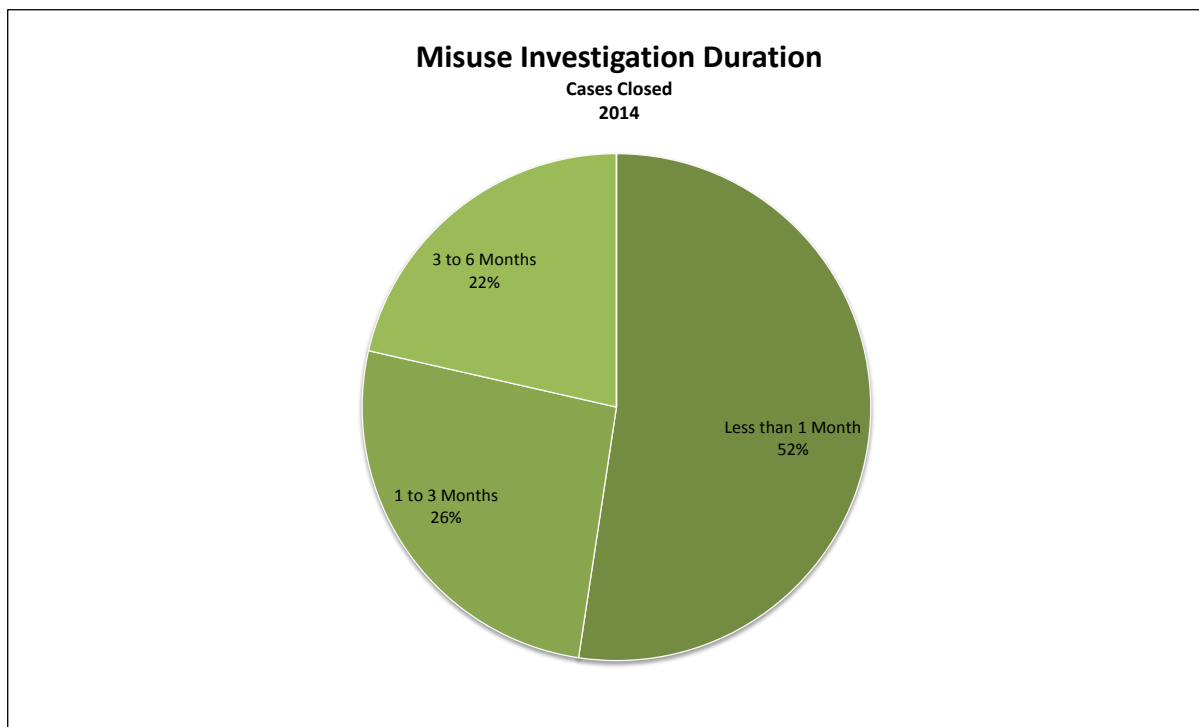


Figure 15: Misuse Investigation Duration.

During 2014, 100% of misuse cases were closed in 6 months or less.

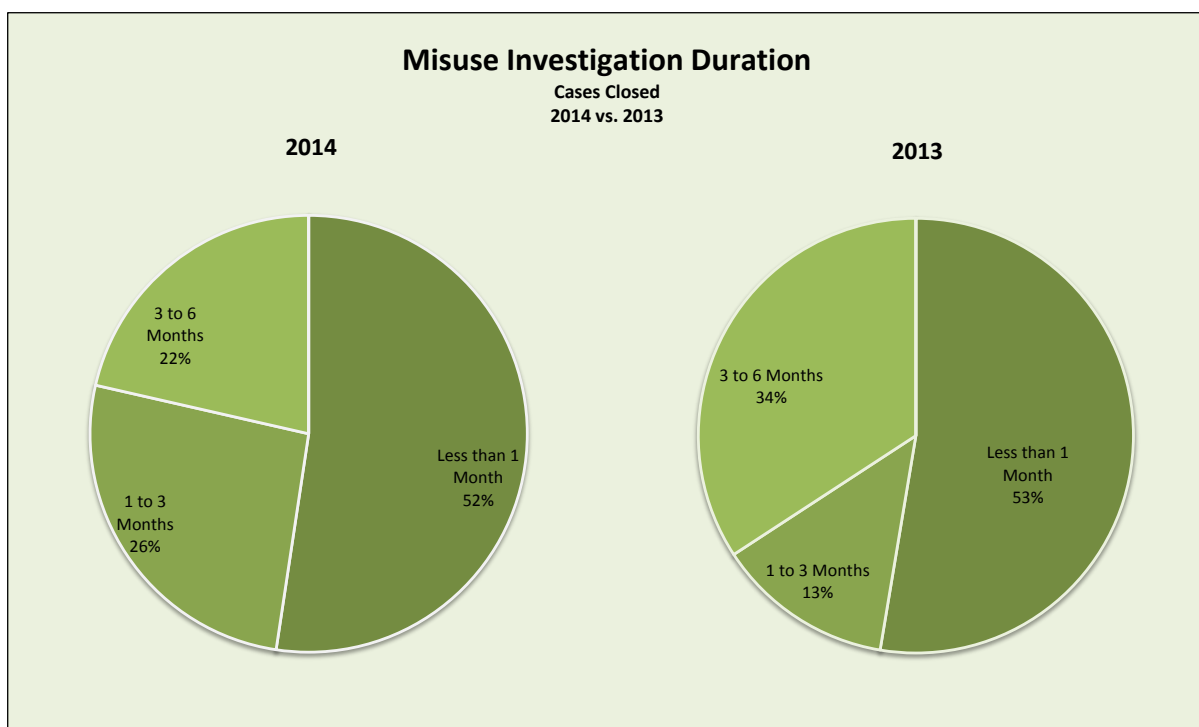


Figure 16: Misuse Investigation Duration in 2014 vs. 2013.

The estimated total retail value of misuse incidents that occurred during 2014 is over €557,299. Figure 17 below shows the date of each misuse incident and the estimated retail value. Figure 18 shows the cumulative estimated retail value.

ComReg would note that the process for dealing with misuse can be complex due to the cross border aspects of investigating these incidents. On 7 March 2013 BEREC published guidance for Regulators on Article 28(2)¹² of the Universal Service Directive¹³ which provides guidance for regulators when dealing with cross border instances of fraud or misuse. ComReg is fully supportive of this approach and follows the guidelines where practical.

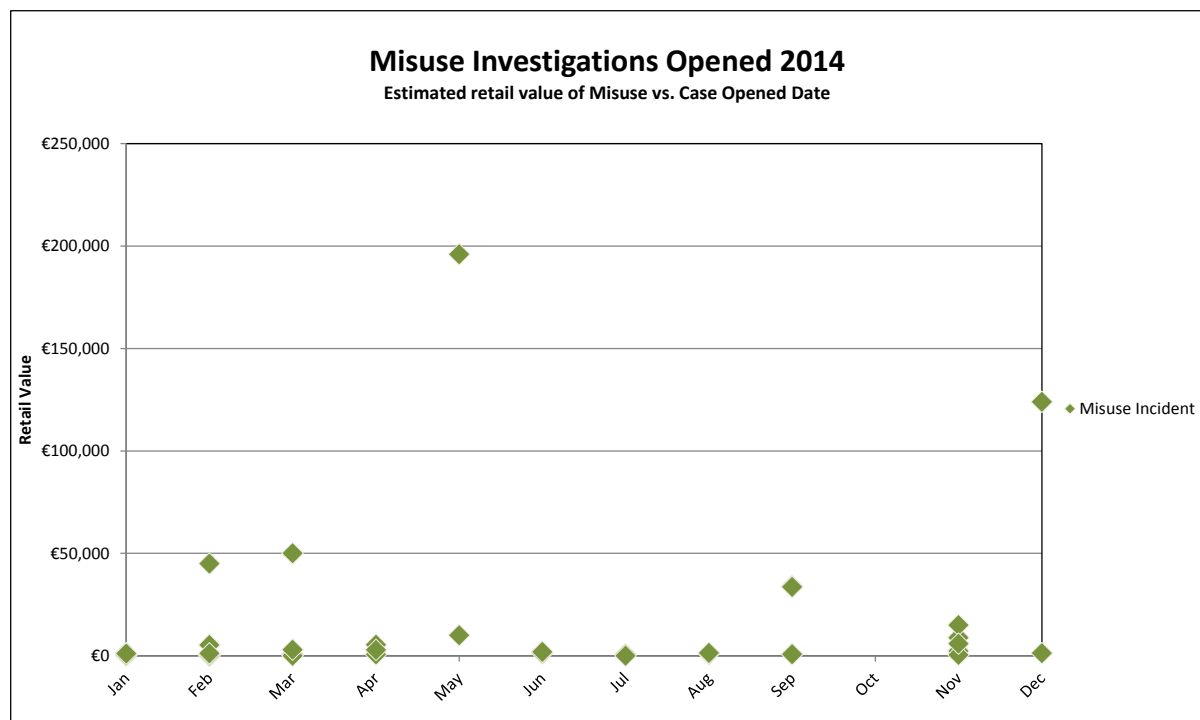


Figure 17: Misuse Investigations Estimated retail value vs. Date of Incident.

¹²

http://berec.europa.eu/eng/document_register/subject_matter/berec/regulatory_best_practices/guidelines/1226-article-282-universal-service-directive-a-harmonised-berec-cooperation-process-berec-guidance-paper

¹³ Article 28(2) of the Universal Service Directive is implemented in Ireland by Regulation 23(2) of the Universal Service Regulations.

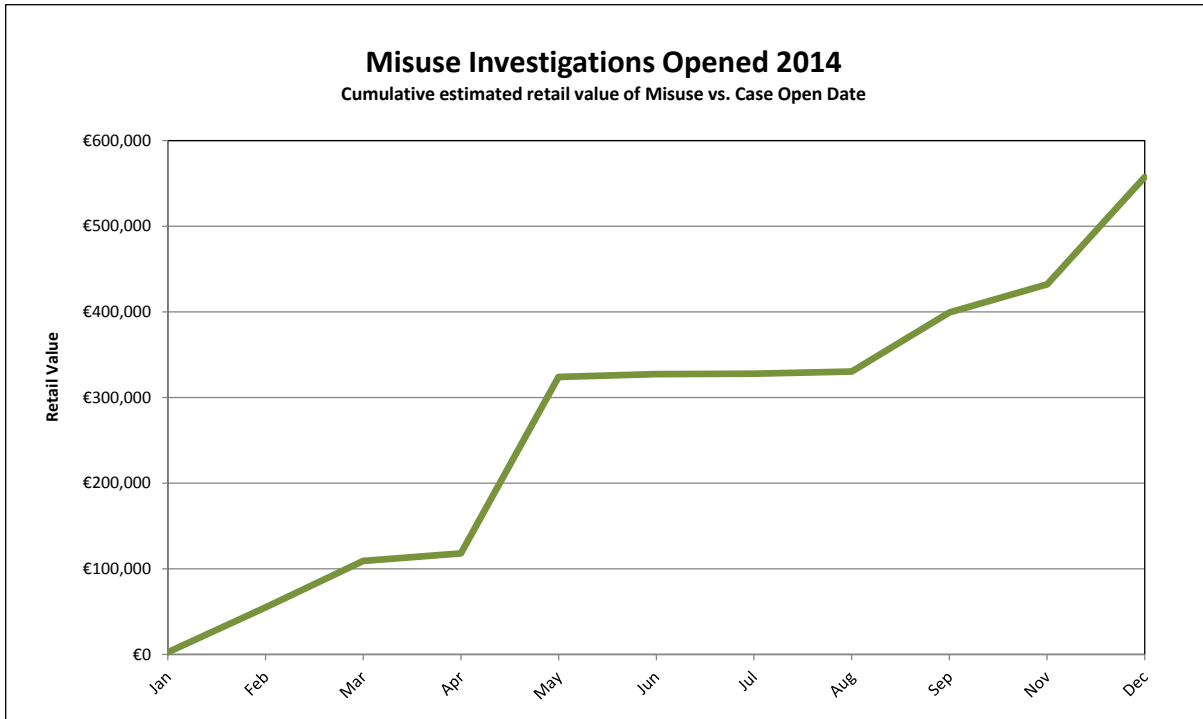


Figure 18: Misuse Investigations Cumulative Estimated retail value vs. Date of Incident.

Appendix: 1 Contact Details

Wholesale Compliance

Should a communications provider wish to submit a Compliance issue to the Wholesale Compliance team this should be sent, in writing to: Paul Conway, Head of Wholesale Compliance, Commission for Communications Regulation, Abbey Court Irish Life Centre, Lower Abbey Street, Dublin 1. Information in electronic format may be sent to paul.conway@comreg.ie. Submissions should include the following:

- Submitting Operator name.
- Submitting Operator contact.
- Date of submission.
- Responding Operator name(s).
- Summary of complaint/allegation.
- The relevant obligation(s) under the regulatory framework which are alleged to have been breached.
- Details of any attempts to resolve the matter with the Responding Operator(s).
- Supporting evidence¹⁴ should be submitted with the complaint and further evidence may be required by ComReg as appropriate.

Misuse

Should a business or communications provider wish to report a Misuse incident to the Wholesale Compliance team this should be sent to: misuse@comreg.ie with the subject line "Misuse Incident". If ComReg decides to commence an investigation, then further information may be required by ComReg as appropriate. Such information may include the following:

- Contact Details.
- Date of incident.
- Summary of incident.
- Communications provider name(s) where appropriate.
- Details of any attempts to resolve the matter.
- Gardaí Pulse Number (if incident has been reported).

¹⁴ All complaints/allegations should be supported by documentary evidence where possible.

Misuse incidents may also be reported on 01-8049600 during business hours to the Wholesale Compliance team. It is important that such cases are reported promptly as any delay could result in ComReg being unable to intervene.

Consumer Queries and Complaints:

See more at: [Ask ComReg – Contact Us](#)

Text Message -

Send a text with the word COMREG to 51500 (standard SMS rates apply) to receive a call back.

Send a text with the word ASKCOMREG to 51500 (standard SMS rates apply) outlining the issue you need assistance with and we will respond to you by text.

Web Chat - [Live support web chat](#)

Online complaint form - [Complaint/query form](#)

Email -

Business Issues - Businessconsumers@comreg.ie

All other Consumers issues - Consumerline@comreg.ie

Call -

Business Issues - 01 804 9707 / 1890 200035

All other Consumers issues - 01 804 9668 / 1890 229668

Fax - 00 353 1 8049680

Post - ConsumerLine, Commission for Communications Regulation, FREEPOST, Block DEF, Abbey Court, Irish Life Centre, Lower Abbey Street, Dublin 1.

Appendix: 2 Enforcement Actions

Action	Date	Operator(s)	Information Notice
Notification of a finding of non-compliance pursuant to Regulation 19 of the Access Regulations	29 August 2014	Eircom Limited	ComReg 14/91
Notification of a finding of non-compliance pursuant to Regulation 31 of the Privacy and Electronic Communications Regulations	19 December 2014	Yourtel Limited	ComReg 14/137
Opinion of non-compliance pursuant to Regulation 19 of the Access Regulations	9 September 2014	Eircom Limited	ComReg 14/95
	24 October 2014	Eircom Limited	ComReg 14/114
	24 October 2014	Eircom Limited	ComReg 14/115
Opinion of non-compliance pursuant to Regulation 31 of the Universal Service and Users' Rights Regulations	6 May 2014	Eircom Limited	ComReg 14/43 ComReg 14/77
Notice pursuant to Section 44 of the Communications Regulation Act 2002	16 June 2014	Vodafone Ireland Limited	ComReg 14/58
	5 September 2014	Vodafone Ireland Limited	ComReg 14/92
	23 October 2014	Vodafone Ireland Limited	ComReg 14/111
	23 October 2014	Digiweb Limited	ComReg 14/112
Determination in a dispute raised by an undertaking pursuant to Regulation 31 of the Framework Regulations	25 November 2014	Vodafone Ireland Limited Cloud 9 Mobile Communications Limited	ComReg 14/124
	25 November 2014	Eircom Limited Cloud 9 Mobile Communications Limited	ComReg 14/125