

End of Year Review 2013 by Kevin O'Brien

Chairperson of the Commission for Communications Regulation (ComReg)

2013 saw growth and substantial change in Ireland's communications sector. Continued growth and significant investment across a number of platforms is all the more noteworthy given the backdrop of the most severe recession of recent times. Developments in the electronic communications market show increasing evidence of the positive impact of competition between market players due in part to appropriate regulation.

The market has seen prices for wholesale and retail services fall, while investment and quality have risen. This trend was evident across fixed and mobile markets, both for data services and telephone services. Consumers are increasingly opting for bundled services – a combination of fixed and mobile services, broadband and TV. ComReg's market data reveals that double and triple play accounts for almost half of all fixed market subscriptions. Consumer offerings such as bundled products are made possible in part by improvements and upgrades in the fixed networks.

Many of the fixed providers are rolling out fibre network that will support bigger data usage. Equally, the mobile networks operators are also investing in their own infrastructure and have begun to roll out 4G services offering higher speeds and higher quality mobile services.

Such improved fixed and mobile services would not have been made available to consumers and businesses without the collective investment of authorised operators in Ireland's communications infrastructure. In particular eircom, UPC, Sky, Vodafone, O2, 3 and Meteor have invested significantly in 2013. Their decisions to invest and upgrade our communications network will undoubtedly assist the country on its journey to economic recovery.

From a regulatory perspective, ComReg has supported such developments by:

- releasing much needed radio spectrum to provide faster mobile services,
- introducing regulations allow next-generation access for fixed networks,
- putting in place the appropriate regime for pricing of bundled services and
- assessing and pursuing compliance within these frameworks.

2013 has also been a year where ComReg further developed the telecommunications consumer rights framework, continued the performance improvement programme in relation to Universal Service and executed a significant number of consumer protection actions under the Premium Rate Services code.

Broadband

As of September 2013, there were over 1.67 million broadband subscribers in Ireland, an increase of 1% on 2012. This equates, according to Eurostat, to a household penetration rate for broadband at 67%. The strongest growth was seen in cable broadband with take-up increasing by 12% since September 2012. Speeds are continuing to increase too. Approximately 42.1% of all fixed broadband subscriptions were equal to or greater than 10 Mbps, up from 31.0% since September 2012. 32.5% of all fixed broadband subscriptions were equal or greater than 30 Mbps up from 19.9% in third quarter Q3 2012. Double and triple play bundles account for 50.3% of all fixed subscriptions in Q3 2013.

Mobile

The most significant development in the mobile market this year was the issuing of licences to four mobile companies (Vodafone, O2, Meteor and 3) allowing these MNOs to provide 4G services to businesses and consumers. Two companies have now launched their 4G services. The auction of the spectrum for these licences in late 2012 raised €855 million for the exchequer and it laid the ground for the provision of next generation of mobile phone services.

Competition is continuing to intensify in the mobile sector as seen by year-on-year falls in Average Revenue Per User (ARPU) Average Revenue Per User (ARPU) in September 2013 was €26 per month, down from €29 on the previous year. This drop in ARPU is due, in part, to more competitively priced mobile plans, the increased sales of bundled products, plus combined reductions in mobile roaming and termination rates.

Volumes of text messages sent are also declining sharply as mobile data usage intensifies. The total number of SMS messages sent by mobile users in has fallen by 25% between 2012 and 2013. In contrast, data volumes continue to rise, increasing by 39.7% in the year to the third quarter of 2013. The consumer is moving away from traditional SMS and making greater use of data-based services such as notification services.

Although Vodafone and O2 retain the largest share of subscriptions (including mobile broadband) comparing Q2 2013 to Q2 2012, both Vodafone and O2 lost market share down to 38.1% and 28.8% from to 39.8% and 27.1 % respectively. Eircom Group Mobile's market share was 19 % over the same period while 3 Ireland, Tesco Mobile and Lycamobile continued to increase share of the market.

Competition

This year also saw a number of very significant developments with intensity in competition increasing. The market share of alternative operators continued to increase. There was substantial new entry into the fixed line market with Sky joining the broadband and fixed telephony market. UPC continued to invest and upgrade its network. The incumbent, Eircom, launched its new Next generation Access (NGA) services for both wholesale and retail customers. As Eircom is regulated in a number of markets, its launch of NGA services was facilitated by the development by ComReg of a significant new framework for the retail and wholesale regulation of NGA services. In this context, we see an ambitious roll-out plan from eircom and the take-up in 2013 by other operators of eircom's wholesale NGA products.

In early 2013, ComReg published its decision on the appropriate regulatory controls that govern how Eircom sells bundles of telecom services, to ensure other players in the market can compete effectively.

To date this has worked effectively so that consumers continue to have a wide variety of choice from many service providers at very reasonable prices.

In July 2013, ComReg finalised its Broadcast Transmission Services regulation. This new framework provides for appropriate regulation of RTE's terrestrial broadcast transmission system, which is utilised by other Saorview broadcasters including TV3 and TG4, by national FM radio and potentially by other licensed digital radio and television broadcasters.

Consumer Activities

ComReg plays a very important role protecting and informing users of electronic communications about their rights. It is a key part of our regulatory mandate. By providing consumers with information and knowledge about communications services and offerings, consumers will make more informed choices and better decisions.

ComReg brought in a number of new rules to protect consumers of electronic communications services. On 1st March 2013, the requirement for providers who propose to modify their contract terms and conditions must notify their subscribers in advance. As a result, subscribers must be notified (at least one month in advance) by their service provider of the modifications proposed, their effective date and the subscriber's right to exit their contract without penalty.

In June 2013, following a public consultation, ComReg issued a Decision in relation to providing bills to consumers of electronic communication services. Prior to the introduction of this regulation, there were different regulatory requirements in relation to billing in place for ECS providers, in some cases there were no requirements on certain ECS providers in respect of bill itemisation or bill mediums (i.e. paper or electronic bill).

ComReg continued its work on the Forum on Electronic Communications Services for People with Disabilities to promote the interests of consumers with particular needs. ComReg works with the National Disability Authority, industry and representative bodies, through the Forum, to promote the interests of users with disabilities. As well as working towards implementing measures on a voluntary basis, ComReg has also worked with the Forum to prepare its consultation about measures to ensure equal access and choice for consumers with disabilities.

ComReg continually monitors the operation, management and maintenance of the Emergency Call Answering Service (ECAS) in accordance with its statutory functions under legislation. ComReg reviewed the ECAS Call Handling Fee (CHF), that is the maximum permitted call handling fee that the emergency provider may charge to entities who forward emergency calls to it. After consultation with interested stakeholders, ComReg determined that the maximum permitted CHF of €2.93 for the period 12 February 2013 to 11 February 2014.

In 2010 ComReg was given a statutory mandate by the Oireachtas to uphold consumer rights in relation to Premium Rate Services. After a period of policy development and litigation I am happy to report that ComReg has made considerable progress in the regulation of Premium Rate Service Providers particularly in relation to those providers who breached the Code of Conduct govern this sector. In these cases ComReg directed the PRS provider to remedy the non-compliance and refund affected consumers. As a result some consumers received refunds for charges that they had incurred incorrectly. Any finding of non-compliance in relation to PRS is made public and is published on our PRS website www.phonesmart.ie.

Between 2012 and 2013, the ComReg consumer team assisted consumers with a total of 34,504 issues (including electronic communications, PRS and postal). During this timeframe (split 68% consumer, 32% PRS). 83% of all issues were closed off in 10 days or less. Over 80% of consumers who participated in ComReg's after-call survey were satisfied with the level of service received from ComReg. ComReg publishes on www.askcomreg.ie, on a quarterly basis, statistics in respect of the issues that consumers contacted ComReg about.

Spectrum

The first months of 2013 saw the transition by mobile network operators who won spectrum in the 2012 Auction from legacy use of that spectrum to its new liberalised use basis, under a Transition Plan. This transition allows for significantly greater use of spectrum in supplying services to Irish consumers, including the 4G services now in the market.

ComReg decided to renew all ten MMDS licences in the 2.6 GHz band which are in force until 18 April 2014 for a further period of two years, so that all such licences remain in force until 18 April 2016 at which date they will expire together with all associated spectrum rights of use.

ComReg confirmed its intention to commence consulting on details of a competitive award process for new rights of use to the 2.6 GHz spectrum band, to be awarded on a service and technology neutral basis, with the intention that these would commence at expiry of the renewed licences (being April 2016).

Other spectrum initiatives in 2013 include the putting in place of frameworks for Railway GSM and for Telemetry systems.

During the year ComReg's spectrum team issued in excess of 3200 new and amended licences issued this year. We also examined 231 cases of spectrum interference. There have been significant year on year increases in the number of spectrum interference cases investigated.

Postal

The 2011 Postal Act gives ComReg a number of key statutory functions, focused primarily around the Universal Postal Service. In this context, in 2013 ComReg has established dispute procedures for postal service providers seeking access to the postal network of the universal postal service provider. ComReg also established the methodology for the assessment by ComReg of any application by a universal postal service provider to seek to receive funding for the net costs (if any) of providing the universal postal service. At the beginning of 2013 ComReg consented after consultation to various price increases sought by An Post in relation to certain Universal Service postal products. As required under the Act, ComReg is developing a Universal Service price cap control, and consulted in this regard in 2013. Against the backdrop of recession and e-substitution, the environment for the postal sector is challenging.

International Activities

ComReg continued to play an active role within the Body of European Regulators of Electronic Communications (BEREC) through direct participation in a number of workstreams and in leading the BEREC work on measures to mitigate cross-border fraud or misuse of numbers. ComReg also participated actively in the various international spectrum groups including RSPG and CEPT. In 2013 ComReg hosted a workshop on various consumer issues attended by a number of European regulators.

Corporate

As a public body operating in a difficult environment, an ongoing challenge is to continue to add value while working within resource constraints. ComReg continues to reduce its administrative costs, continuing the cost-reduction trend of a number of years. We regularly review and amend policies and procedures in relation to expenditure, procurement and risk management. IT has played and will continue to play a significant role in gaining greater organisational efficiencies.

ComReg published its Annual Action plan at the end of our Financial Year each June which outlines specific work-streams and other initiatives that ComReg will undertake in order to implement our strategy. In conjunction with the Annual Action Plan, we also publish an Annual Output Statement which records and measures ComReg work achieved over the year.

The ongoing implementation of the procurement plan has also been an important means of delivering on new policy objectives e.g. expectations of efficiency gains in non-regulatory costs. During the current year we retendered for a number of outsourced services including cleaning services, payroll, and IT help-desk services to ensure value for money.

The Employment Control Framework and the moratorium on public sector recruitment place significant resource restrictions on ComReg. As a regulatory body with specific functions under Irish and European law, ComReg has limited discretion in relation to its areas of activity.

ComReg is accountable to the Oireachtas through Oireachtas Committees. ComReg appeared before the Dáil on three occasions during the year. On the 17th January ComReg appeared before Public Accounts Committee in relation to its Annual Report. On the 14th March 2013 ComReg appeared before the Joint Oireachtas Communications and Transport Committee in relation to Wholesale Line Rental. On the 23rd of October, ComReg briefed the Communications and Transport Committee about the potential implications of the European Commission's proposals relating to the single market for electronic communications.

Priorities for 2014

The European Commission has proposed significant changes to the European telecommunications regulatory framework as part of its Connected Continent package. If these proposals are enacted in 2014, they will result in a number of significant changes in the way ComReg carries out its business, which will also involve change for stakeholders.

Further change in the marketplace in 2014 is of course likely. ComReg will regulate the marketplace according to its remit and will seek always to respond to changes in the market in a timely manner. In relation to significant market consolidation, responsibility for assessment of the competition impacts of potential mergers or acquisitions rests with the relevant competition authorities, at national and European level.

ComReg will continue to implement its Action Plan in 2014 and will publish a new Strategy Statement in the first half of the year. 2014 will see continued significant development of the regulatory framework as detailed market analysis is undertaken and completed in relation to a number of markets, as further opportunities for appropriate and innovative spectrum utilisation are considered and as the consumer choice and rights framework is enhanced.

I am delighted to be joined since September 2013 by my colleague Commissioners Gerry Fahy and Jeremy Godfrey. On behalf of the Commission I wish all our stakeholders the very best for 2014.

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