



Commission for  
**Communications Regulation**

# **Annual Report 2012**

## **Wholesale Compliance**

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**An Coimisiún um Rialáil Cumarsáide**

**Commission for Communications Regulation**

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## Additional Information

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# 1 Introduction

The Commission for Communications Regulation's ("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 is the national regulatory authority for these sectors and its 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 regulations imposed by Government. This report deals with the compliance and enforcement undertaken by the Wholesale Compliance team which focuses primarily on compliance in respect of the obligations of communications network operators and service providers. The report covers the period 1 January 2012 to 31 December 2012. Spectrum compliance and Premium Rate Service compliance as well as some aspects of compliance with retail obligations are outside the scope of this report.

This document should be read in conjunction with the Wholesale Compliance Interim Report 2011 (ComReg Document number 11/54), the Wholesale Compliance Annual Report 2011 (ComReg Document number 12/17) and the Wholesale Compliance Interim Report 2012 (ComReg Document number 12/92).

As noted, ComReg's Wholesale Compliance team is 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 2012 against 2011. These statistics show the numbers of compliance cases opened and closed and the timescale for dealing with cases.

ComReg's Wholesale Compliance team is also responsible for handling Misuse cases. 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 Consumers should submit a complaint to ComReg is detailed at <http://www.askcomreg.ie>.

## 2 Summary

This section presents a summary of the combined Compliance and Misuse investigations during 2012. Further detail of each can be found in Sections 3 and 4.

In 2012, the Wholesale Compliance team has opened a total of 53 new investigations and closed 64. The detail of the number of active investigations active each month in the period can be seen in Figure 1 below:

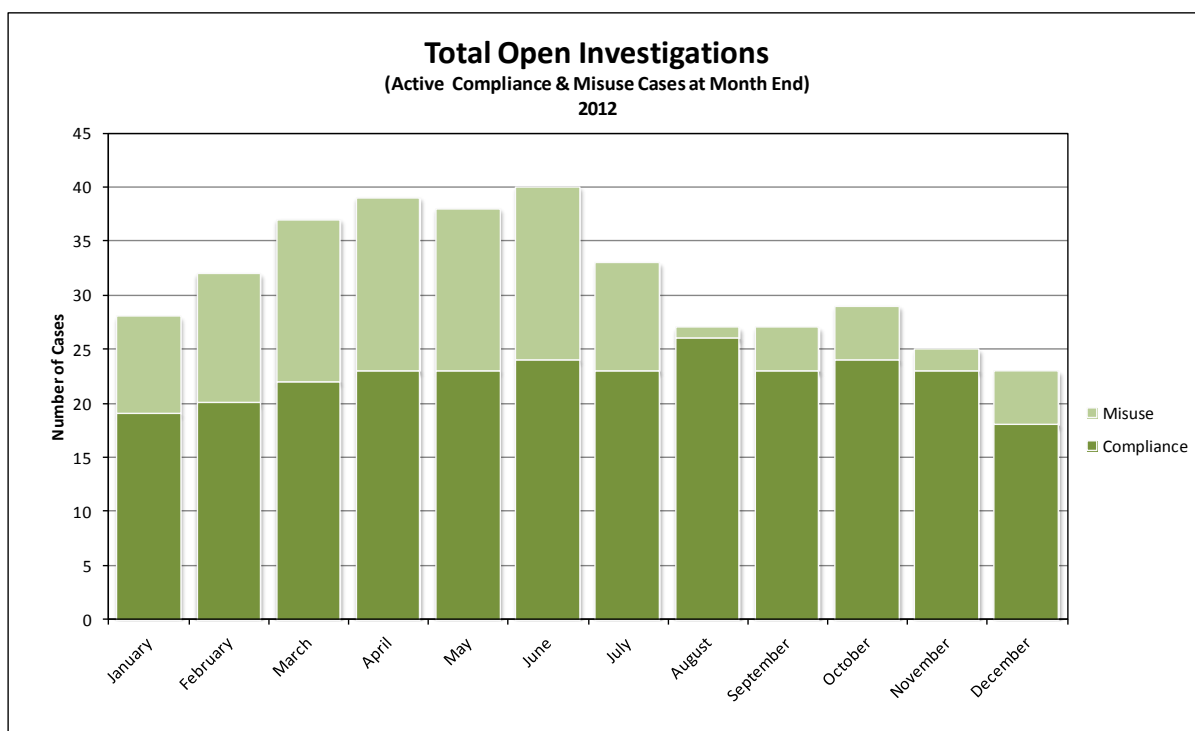


Figure 1: Active Investigations by Month.

Greater detail regarding the total number of Compliance and Misuse investigations Opened and Closed during 2012 can be seen in Table 1 below:

	Compliance	Misuse	Total
New Cases Opened	27	26	53
Closed Cases	36	28	64

Table 1: Total Investigations Opened/Closed during 2012.

A period-on-period analysis shows that 2012 saw a slightly lower caseload. In 2012, Wholesale Compliance initiated 53 new investigations however in 2011 Wholesale Compliance initiated a total of 69 new investigations.

The average case duration in 2012 was 5.7 months, the distribution is shown in Figures 2 and 3 below:

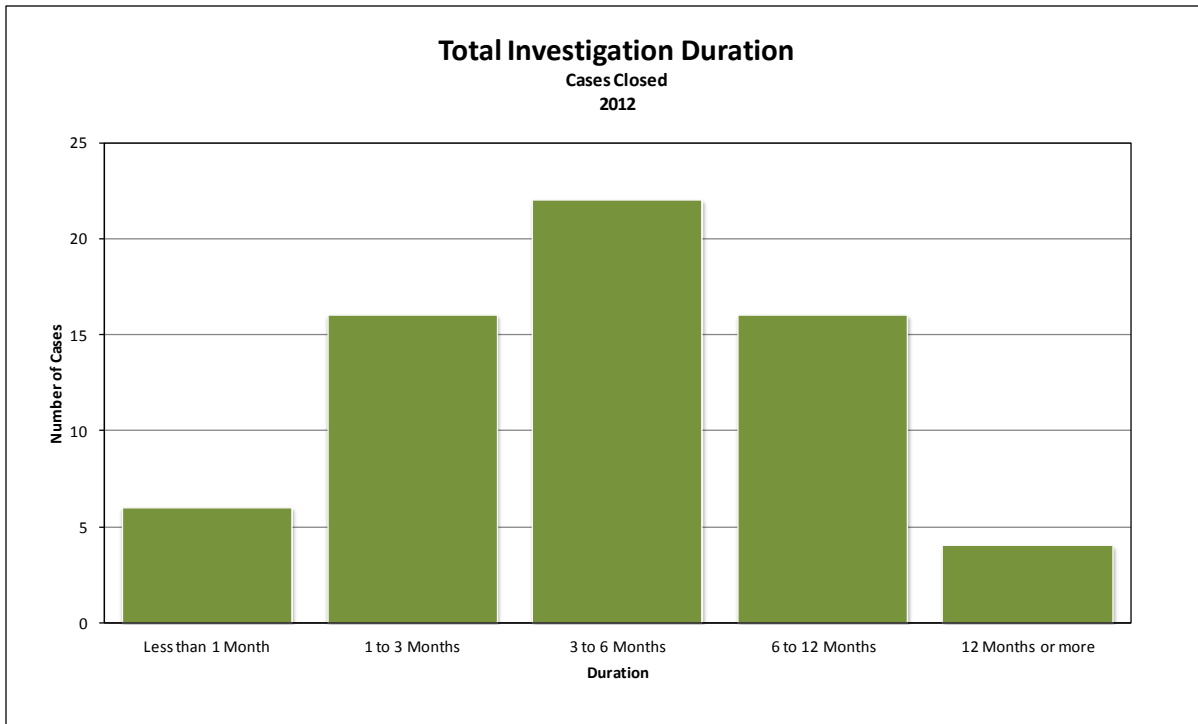


Figure 2: Total Investigation Duration.

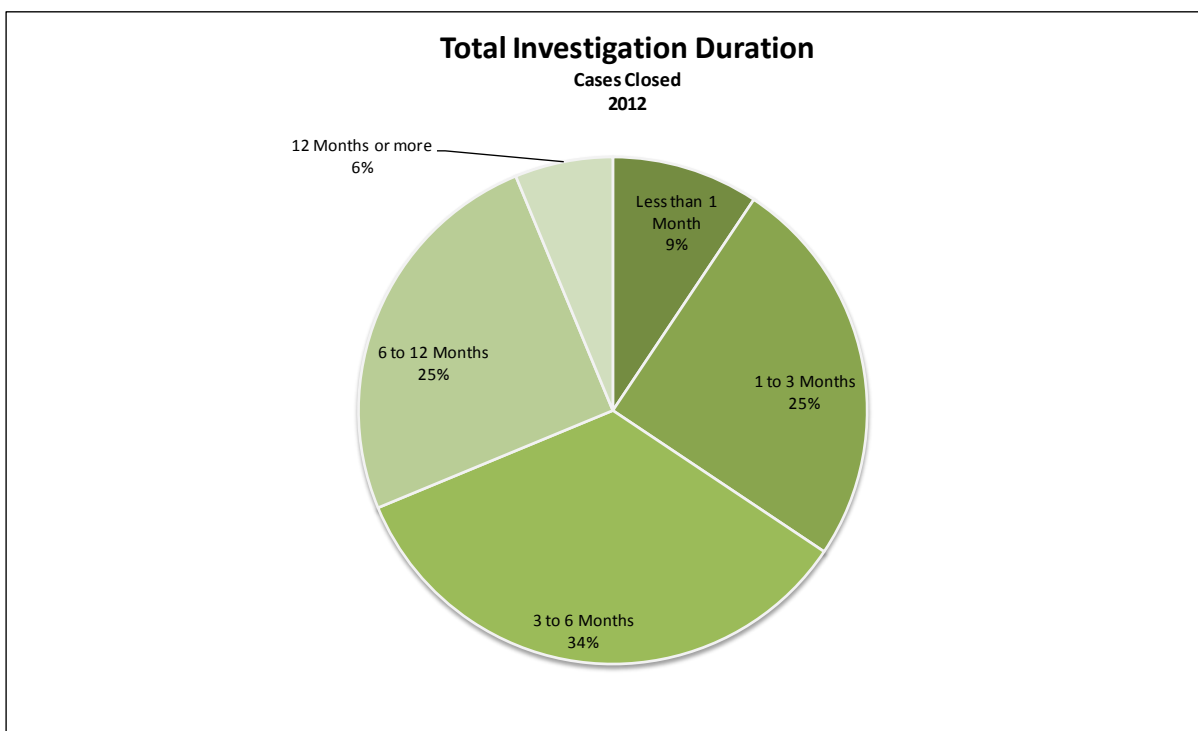


Figure 3: Total Investigation Duration.

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

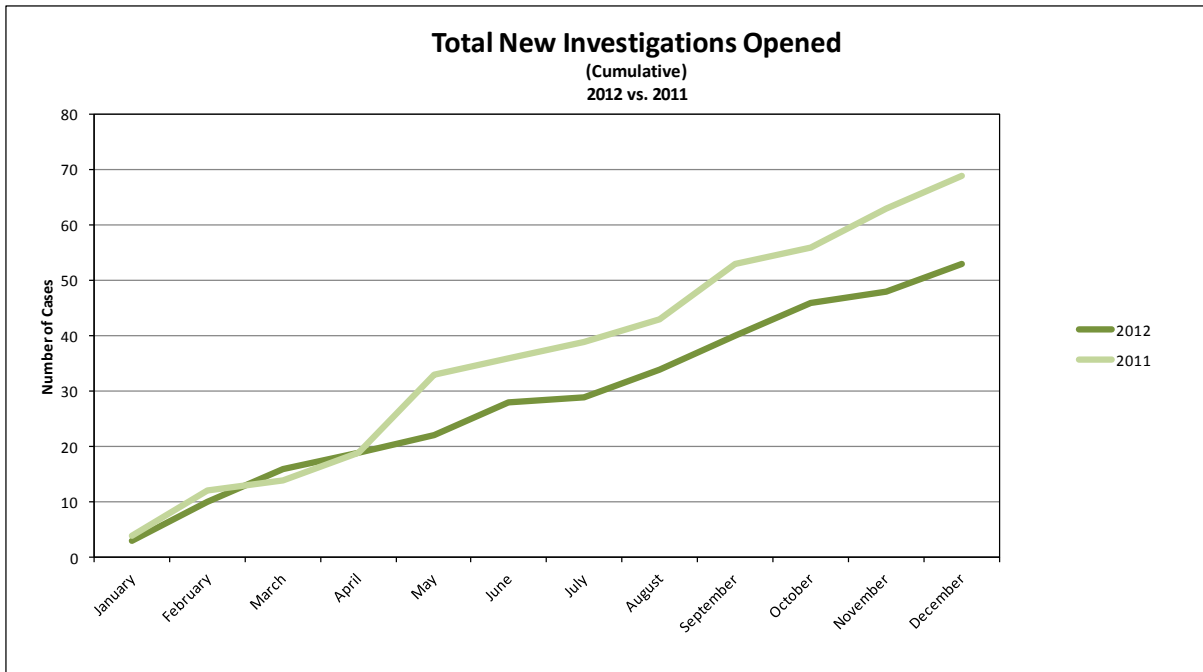


Figure 4: Total New Investigations Opened 2012 vs. 2011.

In 2012, Wholesale Compliance closed 64 cases while in 2011, Wholesale Compliance closed 54 cases. The average case closure rate was 5.3 per month in 2012 compared to an average rate of 4.5 per month in the previous period.

A comparison of the cumulative count of closed cases for 2012 versus 2011 is shown in Figure 5 below:

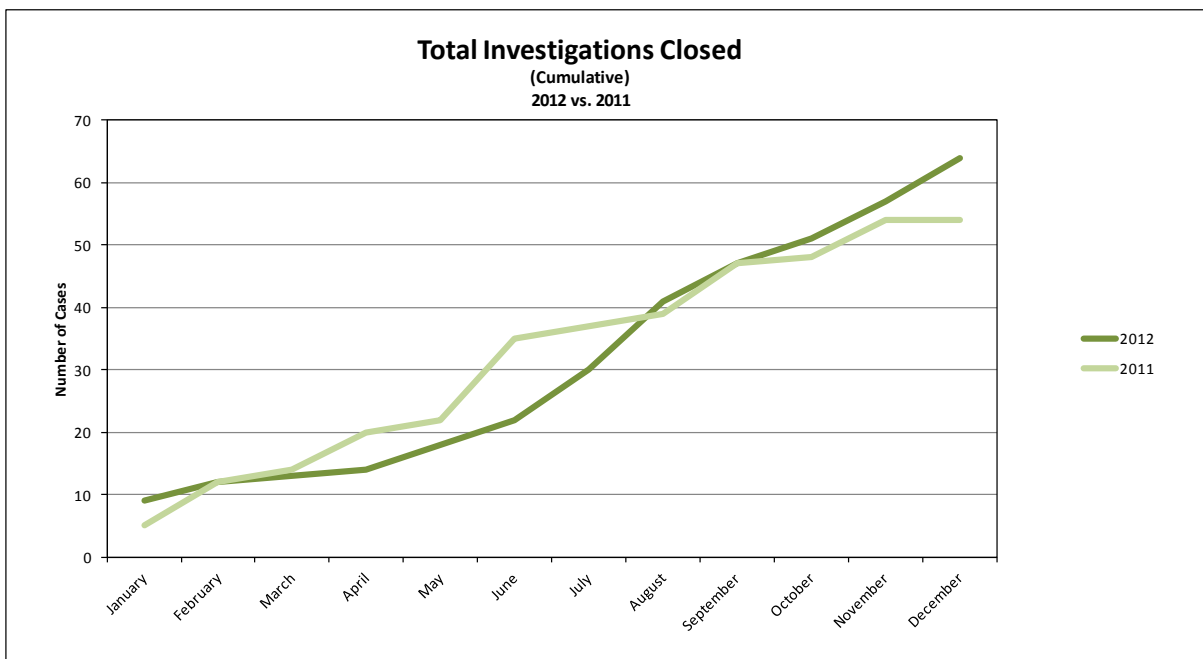


Figure 5: Total Investigations Closed 2012 vs. 2011.

The monthly average open investigations for 2012 was 32 compared to 24 in 2011. The total number of open investigations per month is shown in Figure 6 below



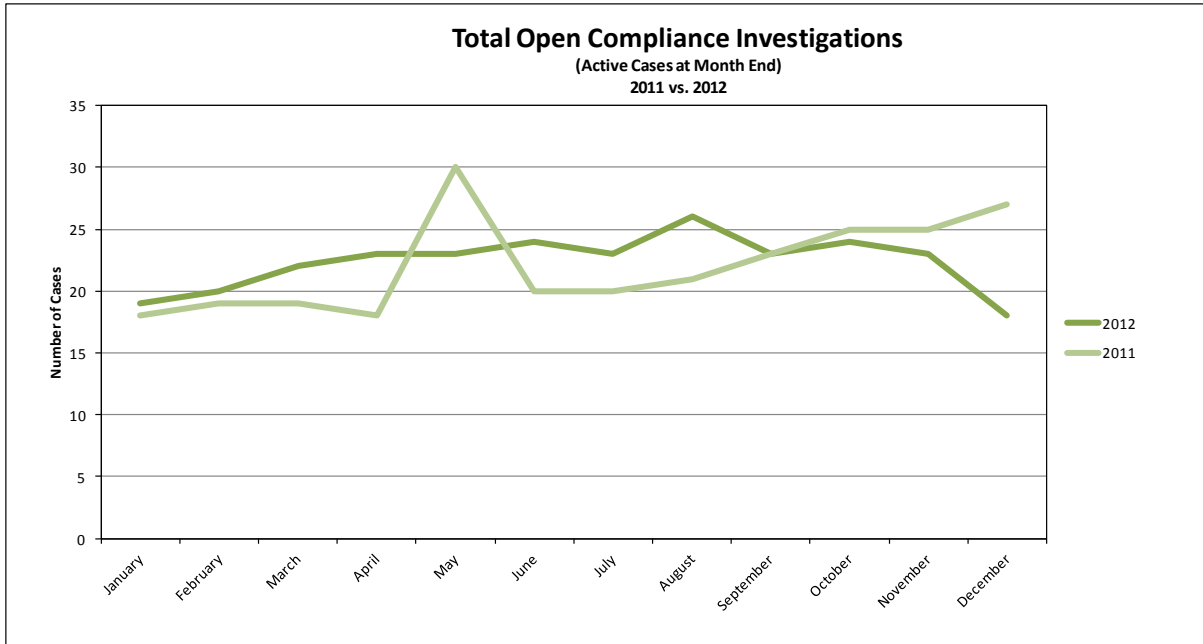


Figure 6: Total Open Investigations by month 2012 vs. 2011.

Finally, in 2012, 69% of all cases were closed in 6 months or less in comparison to 79% in 2011, as shown in Figure 7 below.

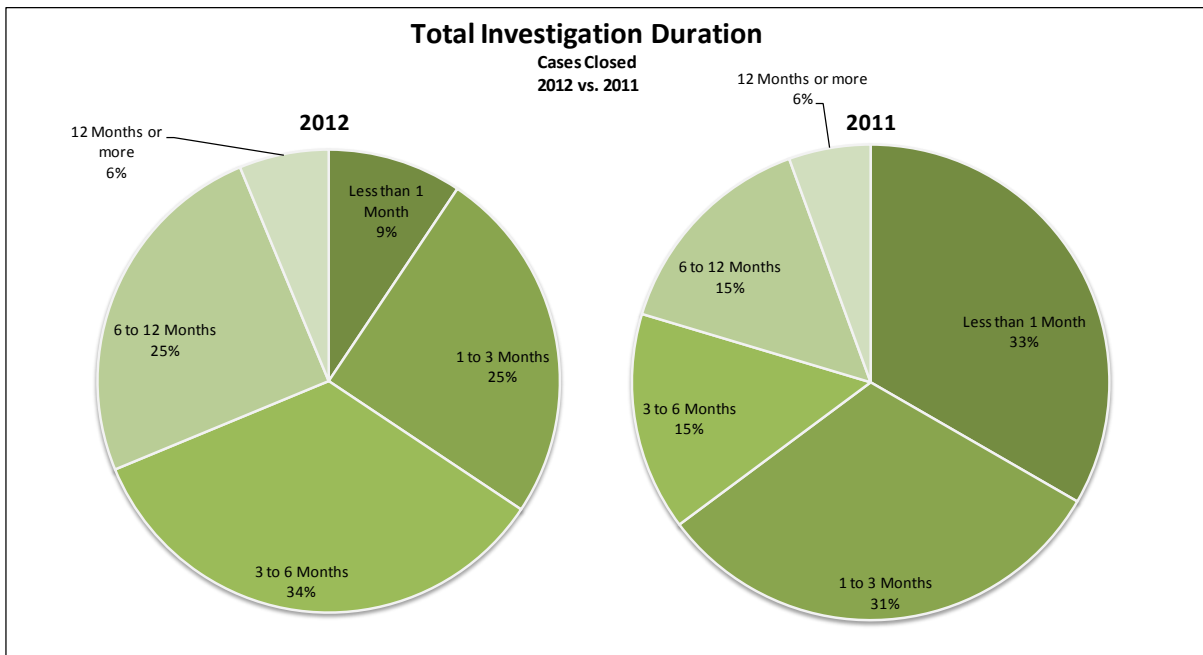


Figure 7: Total Investigation Duration 2012 vs. 2011.

## 3 Compliance

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

In 2012, the Wholesale Compliance team opened a total of 27 new Compliance investigations and closed 36.

During 2012, Wholesale Compliance took the following formal compliance and enforcement action:

- One notification, pursuant to Section 19 of the Access Regulations<sup>1</sup>, was issued to an undertaking where, following investigation, ComReg found that the undertaking had not complied with its regulatory obligations.
- One notification, pursuant to Section 31 of the Universal Service Regulations<sup>2</sup>, was issued to an undertaking where, following investigation, ComReg found that the undertaking had not complied with its regulatory obligations.
- 634 notices<sup>3</sup> pursuant to Section 44 of the Communications Regulation Acts<sup>4</sup>, were issued to an undertaking stating that, following investigation, ComReg had reasonable grounds to believe that an offence had been committed under section 45 of the Communications Regulation Acts.

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

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<sup>1</sup> European Communities (Electronic Communications Networks and Services) (Access) Regulations 2011 (S.I. No. 334 of 2011).

<sup>2</sup> European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 (S.I. No. 337 of 2011).

<sup>3</sup> These 634 notices were issued to one operator as part of a single investigation. For further information please refer to ComReg Document 12/34 available on the ComReg website.

<sup>4</sup> Communications Regulation Act, 2002 (No. 20 of 2002), as amended by the Communications Regulation (Amendment) Act 2007 (No. 22 of 2007), and as amended by the Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010 (No. 2 of 2010).

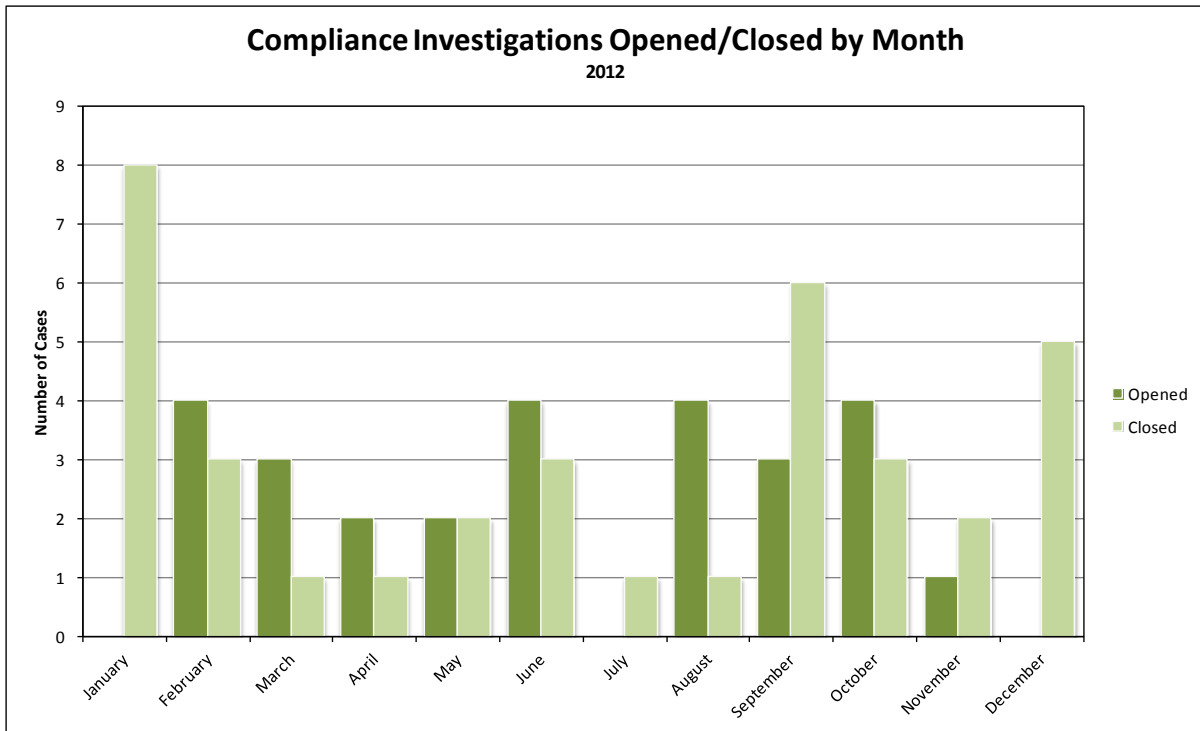


Figure 8: Compliance Investigations Opened/Closed by Month.

The average number of open Compliance investigations for 2012 was 22 this is equal to the average in the previous period. The total number of open investigations per month is shown in Figure 9 below.

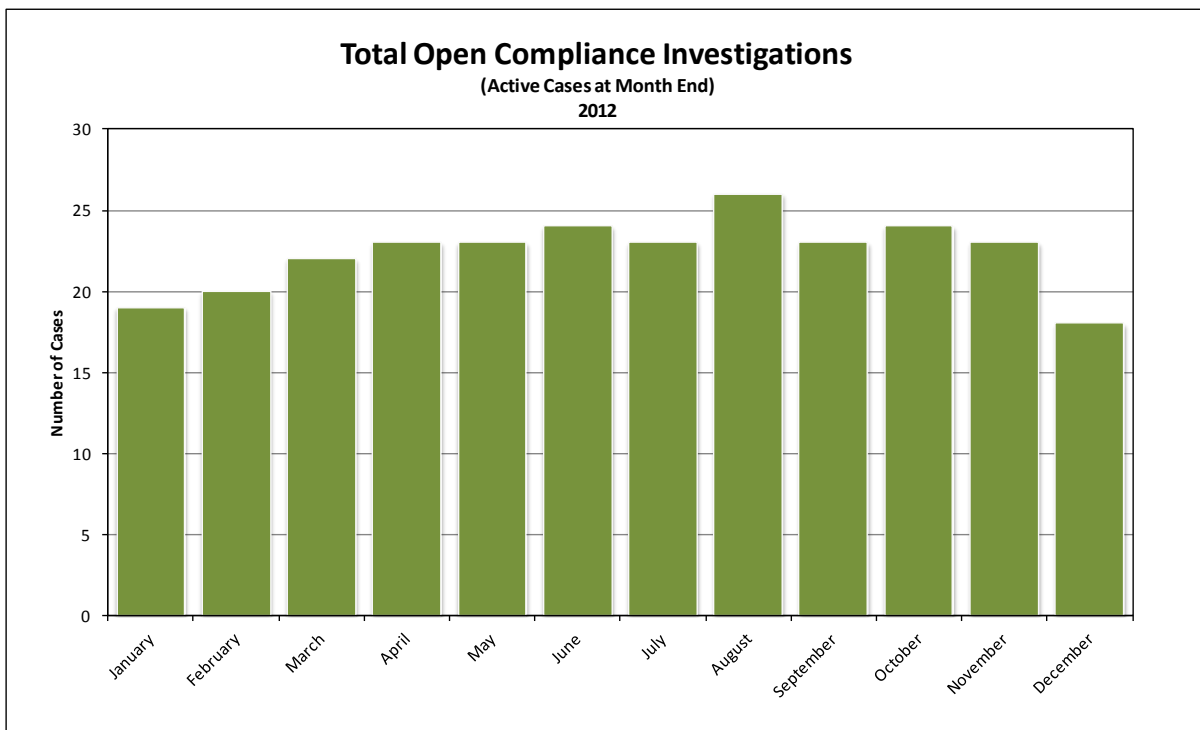


Figure 9: Open Compliance Investigations.

Summary reports for many of the closed cases are available on the ComReg Website<sup>5</sup>:

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

The average Compliance case duration in 2012 was 5.7 months, the distribution is shown in Figures 10 and 11 below:

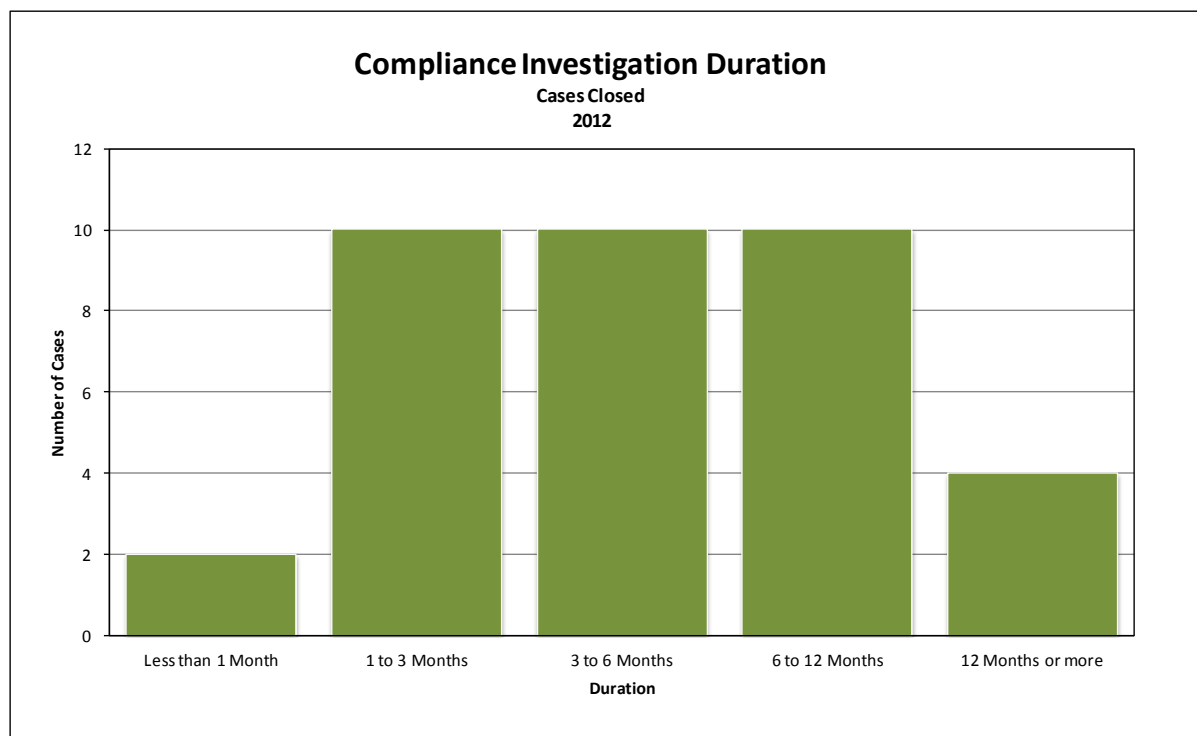


Figure 10: Compliance Investigation Duration.

<sup>5</sup> [http://www.comreg.ie/telecoms/closed\\_cases.561.1042.html](http://www.comreg.ie/telecoms/closed_cases.561.1042.html). The Closed Case summaries are not directly linked to the cases in the Wholesale Compliance Annual Report. However, Closed Case summaries for some of the case closures noted in this report are available at the link shown.

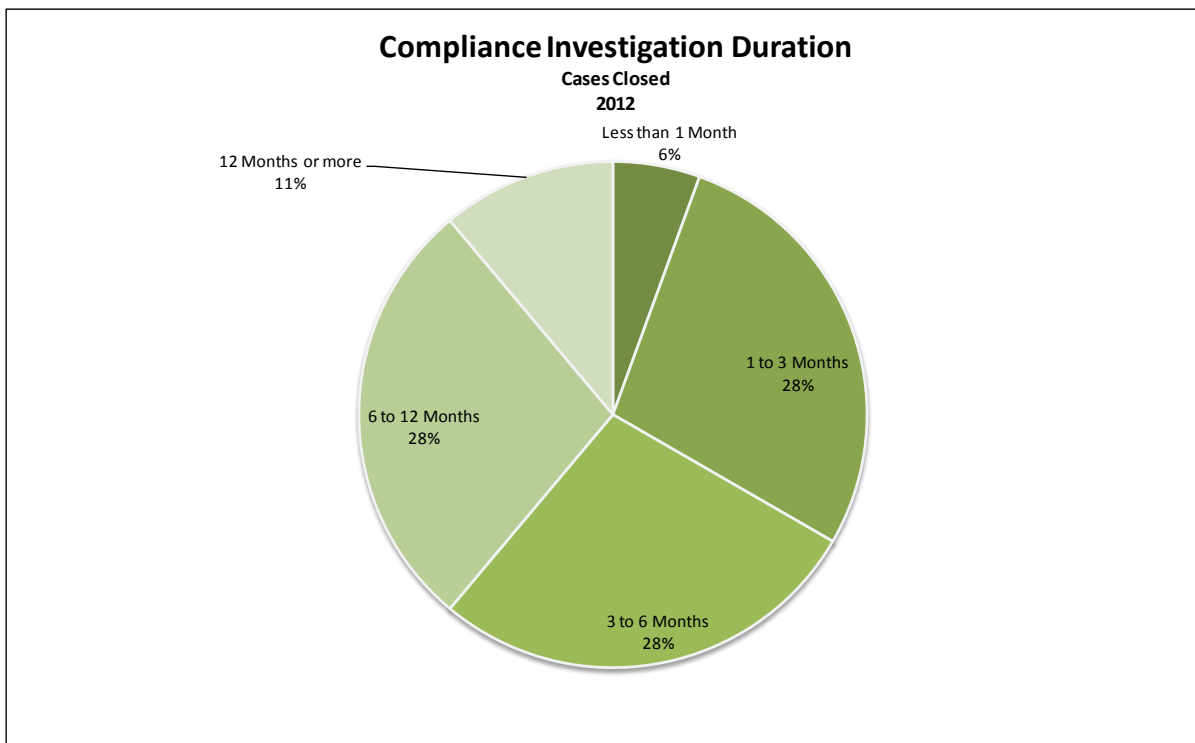


Figure 11: Compliance Investigation Duration.

Finally, in 2012, 61% of cases were closed in 6 months or less in comparison to 79% in 2011, as shown in Figure 12 below.

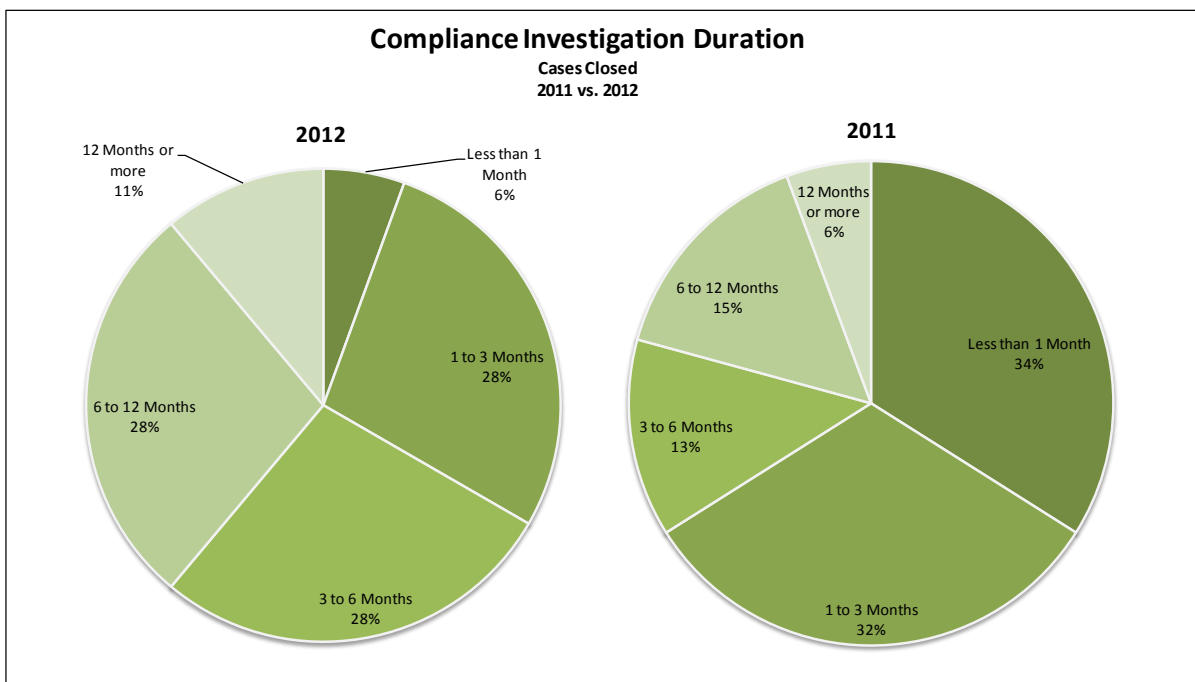


Figure 12: Investigation Duration 2012 vs. 2011.

## 4 Misuse

On 1 July 2011, under Section 23(2) of the Universal Service Regulations 2011<sup>6</sup>, ComReg was given the power to require, on a case-by-case basis, that access to numbers or services be blocked 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. The hacker's aim is to generate a high volume of calls to a particular destination which generates revenue for the hacker. The company which is the victim of this misuse can face bills of many thousands of Euros for these calls from their communications provider. In these circumstances, the new 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 company liable for the calls.

In 2012, the Wholesale Compliance team has opened a total of 26 new Misuse investigations and concluded 28. The detail of the number of investigations opened and closed each month in the period can be seen in Figure 13 below:

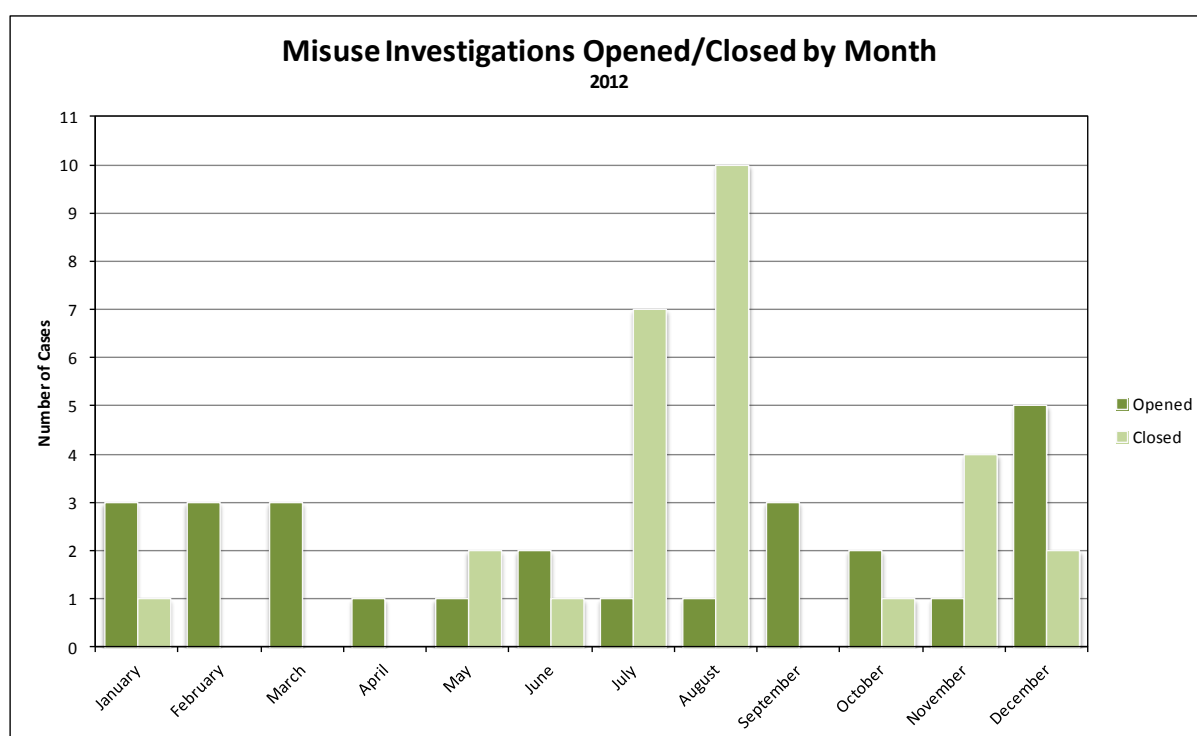


Figure 13: Misuse Investigations Opened/Closed by Month.

<sup>6</sup> European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 (S.I. No. 337 of 2011).

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

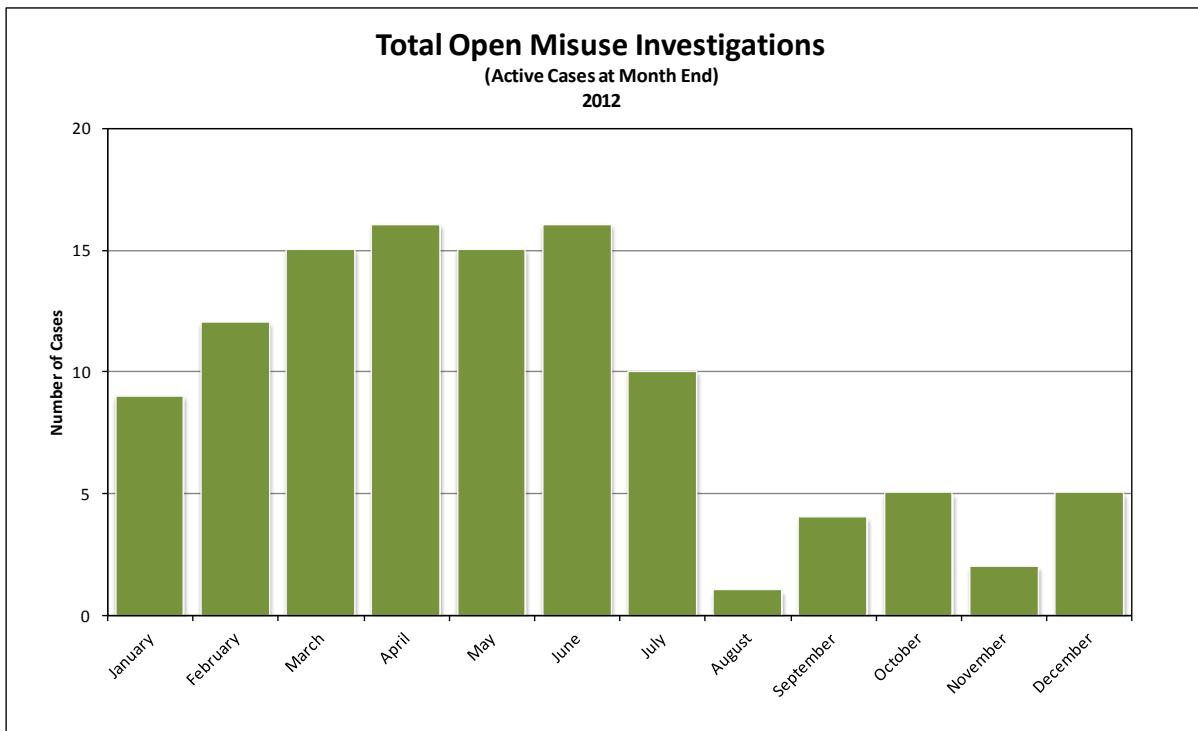


Figure 14: Open Misuse Investigations.

In relation to investigation duration, of the 28 Misuse investigations concluded in 2012, the average duration was 4.2 months as shown in Figure 15 below.

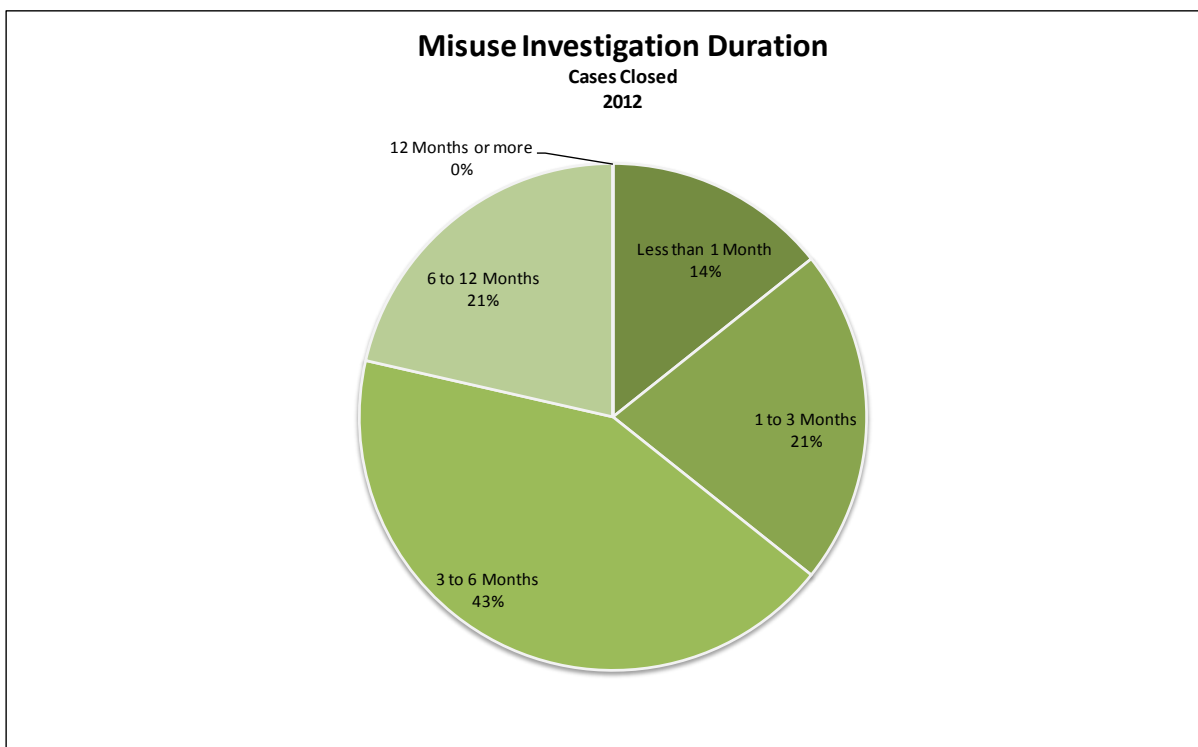


Figure 15: Misuse Investigation Duration.

It is not possible to perform a period-on-period analysis of the duration of misuse investigations as it was only possible to undertake this type of investigation from 1 July 2011, following the introduction of the new regulations.

During 2012, misuse incidents have occurred with an estimated total retail value of over €680,000. Figure 16 below shows the date of each misuse incident and the estimated retail value. Figure 17 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. Also, given the powers available to ComReg and other national regulators in other countries, there have been some delays in closing cases as cross border and national processes have evolved. Given a better understanding of these issues by all parties, ComReg expects that misuse investigations will be closed more quickly in the future.



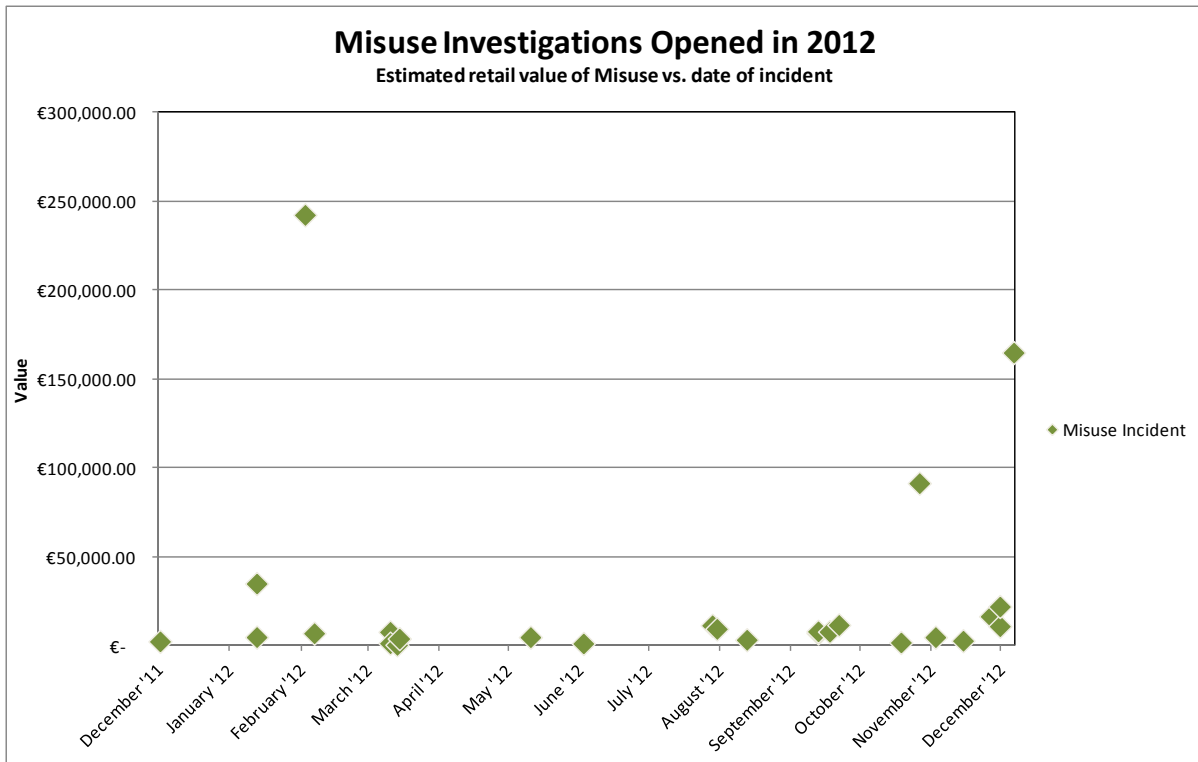


Figure 16: Misuse Investigations Estimated retail value vs. Date of Incident.

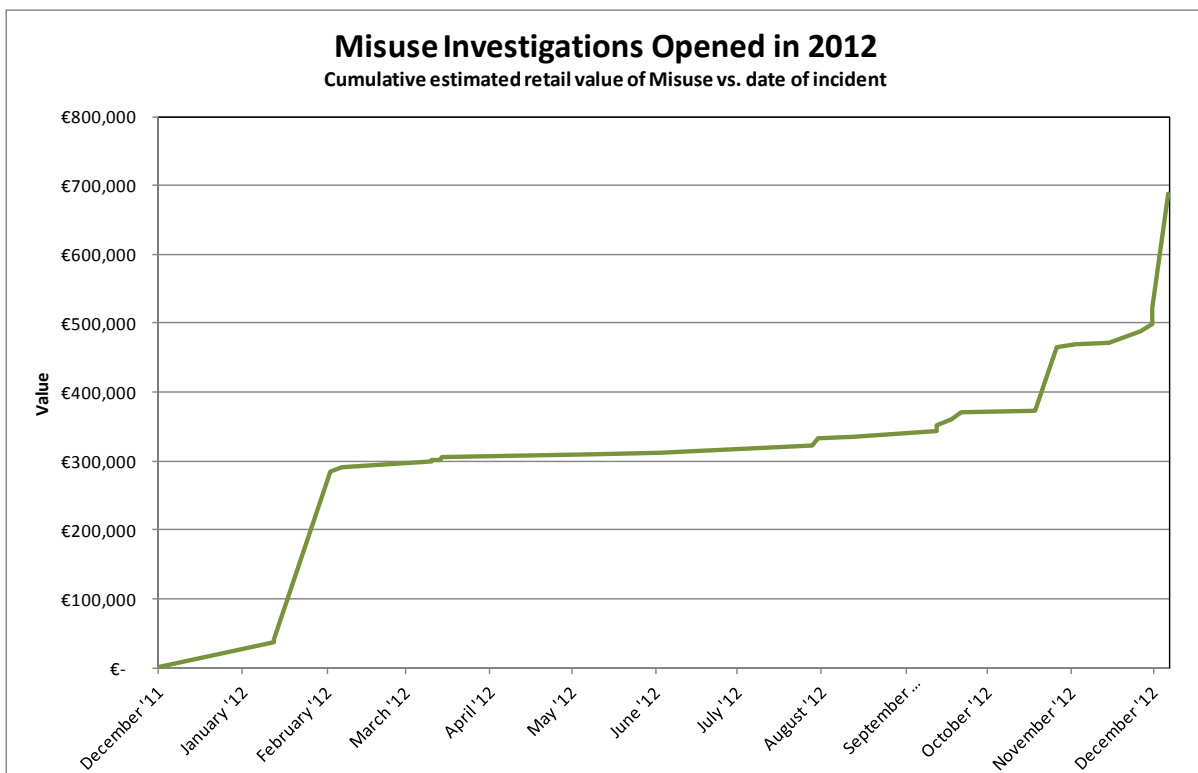


Figure 17: Misuse Investigations Cumulative Estimated retail value vs. Date of Incident.

# Appendix: 1

## 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](mailto: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 evidence<sup>7</sup> 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](mailto: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).

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<sup>7</sup> 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.