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**Presentation of the Annual Report of the Supervisory Board**  
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**1. Introduction**

Firstly, on the occasion of publication of our first Report, I wish to thank the Chairman of AGCom, the Managing Director of Telecom Italia, the representatives of the other licensed operators and the other Italian and foreign guests for giving us the chance today to discuss together the state of implementation of the Undertakings one year since they came into force.

Consistent with the provisions of the Undertakings, the Supervisory Board was established in April 2009. The Board was formed through a mixed designation mechanism, as partly was appointed by the Authority and partly by Telecom Italia (the Company). It is certainly not my duty to assess the final result, but I can say that the work of the Board has benefited greatly from being composed of men with different and complementary expertise and backgrounds.

For this reason, I also wish to thank my colleagues publicly for their valuable cooperation, together with the General Secretary, the Director of the Supervisory Office and the staff for their efficiency and for the dedication they have served with over the past year.

**2. The mission of the Supervisory Board**

The Supervisory Board has been assigned the delicate task of helping to verify, working within the Company but in a position of autonomy and independence, that the Undertakings voluntarily adopted by Telecom Italia and approved and made binding by AGCom be properly implemented.

The Supervisory Board is part of a much larger and innovative governance system of the Undertakings, designated by the NRA in agreement with the Company. Tasks and limits of the Supervisory Board's actions are clearly fixed by the Undertakings and the Board intends to stick to them rigorously.

In this regard, it is appropriate to affirm once again that in no way does the Supervisory Board exercise the functions of AGCom or functions delegated by it. Indeed, AGCom is naturally the only Body with the statutory, control and sanction competences assigned – I'd say reserved – by the European regulation and national law.

In the introduction to Resolution n. 731/2009, the NRA , given also the general concerns expressed by the European Commission, confirmed that the Supervisory Board does not interfere in any way in the exercise of the powers of the Authority itself.

At the same time, in the normative part, the resolution clarifies that the Supervisory Board supervise on the proper implementation of the Undertakings, in order to ensure that the principle of internal / external equality of treatment with reference to the delivery of the wholesale access services be respected.

In this perspective, the Supervisory Board is also working as “aid of AGCom in governance of the Undertakings”.

It is a governance model introduced by a growing number of countries, such as the United Kingdom, New Zealand and Sweden, which could spread throughout Europe with the introduction of the voluntary network separation measures provided for the most recent Community Directive (2009/140/EC).

The strength of these kind of institutional solutions come from the informality of procedures and the rapidity of available intervention instruments. This is possible because supervisory boards operate from a position of autonomy and independence within the incumbent operators.

In this manner, it is possible to have a greater understanding of the mechanisms of how the company operates and intervene more easily to change them, when necessary. At the same time listening to the needs and problems encountered by other players in the market is not negatively affected by otherwise inevitable company prejudices.

In the case of Italy, due to its peculiar institutional position, the Supervisory Board can actively contribute to the best implementation of the Undertakings by verifying and stimulating the Company departments, and at the same time informing AGCom of all the initiatives and the resolutions adopted, even as an outcome of the complaints of the other licensed operators.

### **3. The state of implementation of the Undertakings**

According to the assignment received, the Supervisory Board has monitored that Telecom Italia has actually implemented the Undertakings in the manner and time schedules assigned, by adopting a number of Determinations and formulating Recommendations aimed at improving the efficacy of the same Undertakings in terms of transparency, flexibility and non-discrimination.

In outlining a summary of the state of implementation of the Undertakings it is good to bear in mind that the length of time provided for their fulfilment at their approval by AGCom has not yet been totally completed.

Implementation of the Undertakings is a medium-term process whose results can be fully appreciated only in the long term, in a relatively stable regulatory framework.

After all, as regards the British experience, only at the end of the first three years after the adoption of the undertakings by British Telecom was it possible to begin to appreciate the positive impact they had on competition and equality of treatment amongst operators and to reflect upon possible updates and supplements to the original agreement.

From this standpoint, the timely fulfilment of the Undertakings by Telecom Italia is a necessary condition, but it is not always enough for the beneficial effects to fully unfold for the entire market. This remark may even seem banal, if one keeps in mind the technical complexity of many of the new operational processes introduced by the Undertakings.

From this point of view, it is significant that the other licensed operators have recognised the seriousness of the efforts Open Access has made to overcome the difficulties that crop up as things progress even through its repeated meetings with the Supervisory Board.

The willingness of operators to listen to and to cooperate with each other while legitimately pursuing their separate commercial strategies is a condition necessary to reach the full development of the Italian electronic communications market. And it will be more so in view of broadband and ultra broadband networks.

For this reason, with the guide of the Authority, the Supervisory Board wish to contribute to develop a cooperative playing field that increases the degree of confidence and consideration among market players and between them and the customers.

What has been said so far explains why an assessment of the state of implementation of the Undertakings as well as their effects must necessarily be complex and articulate, without giving in to enthusiastic presentations or, on the contrary, general and indiscriminate complaints.

The consolidation of many Undertakings in the context of the new regulatory framework defined by the NRA is intended to further strengthen the assignment of the Supervisory Board and ease reaching the underlying objectives of the Undertakings.

This forces us to proceed analytically by examining the different questions as they emerge during the application of each of them. That is what I will try to do concisely in this session; for more details, please see the Annual Report.

### **3.1. New delivery and assurance processes**

The objective of the Undertakings Group No. 1 is the overall improvement of access services delivery and assurance activities provided by Telecom Italia in its position of operator with significant market power.

Thanks to an overall reorganisation of company processes of Telecom Italia's Wholesale and Open Access departments, some guidelines have been outlined aimed at reaching a more comprehensive internal / external equality of treatment.

Many innovations have been introduced by the Undertakings, which increase the mutual exchange of information between Open Access and the alternative operators through the Wholesale department. The goal is to set up a model allowing each operator to handle the troubles encountered in the delivery process, in order to be able to manage them in real time, as is done for the end users of Telecom Italia.

Falling within this perspective are the interventions made by the Supervisory Board to attempt to reduce rejected installations (so-called KOs), due to technical troubles due also to network saturation.

These interventions have, for instance, led to anticipate the installation of some of the features of the new delivery process, through distribution of an information technology system called SWAP, which all operators were able to use as early as September 2009. This application, previously tested with Fastweb in a limited geographic area, allowed for a customer KOs reduction, and permits OLOs to verify the customer's actual will, while keeping distinct the cases in which a problem occurred due to unavailability of the customer.

The same approach shall be followed as regards network KOs, for which will be made available as from March 31<sup>st</sup>, 2010 an equal treatment system for the activation requests. A single queue system shall be set up for all orders in case some network element turns out to be saturated or unavailable.

These are important innovations, even if we should bear in mind all the costs and applicative problems that such a transformation of the operational and management processes inevitably involves.

For this reason the Supervisory Board intends to work actively in order to facilitate progressive overcoming of these criticalities. In this perspective, it is necessary to assess the possibility of defining shared methods for surveying the KOs in order to clearly and univocally identify the different causes, agree on appropriate interventions with the other licensed operators and ultimately, limit disservices for end users as much as possible.

### **3.2. The level of performances and their monitoring**

The application of the new delivery and assurance processes needs to be carefully verified through a panel of key indicators apt to measure the quality of Open Access work. It is what is provided for by the Undertakings Group No. 3.

According to the principle of transparency, the Undertakings Group No. 4 provides for disclosure of the indicators set and therefore allows for measuring the actual respect of equal treatment for Telecom Italia and OLOs customers.

Incidentally, the Supervisory Board asked Telecom Italia to carefully assess the requests made by the other licensed operators in the implementation of the new indicators system. Some positive answers in that sense were given by the Company at the second technical workshop concluded in the month of July 2009.

The Supervisory Board also asked the Company to evaluate the possibility of preparing a certification mechanism of the indicators, so as to get reliable data and information, which can increase the level of confidence on the market. The new certification system shall start in 2010.

In this context one could consider the suitability of broadening further with timetables and methods shared by the operators, the perimeters of the indicators provided for by the Undertakings, by simultaneously enhancing existing synergies with process indicators already foreseen by AGCom Resolution n. 152/02/CONS.

### **3.3. Transparency of network intervention plans**

Other Undertakings Groups concern network intervention plans, both as regards maintenance and development.

It is important to clarify that the investment choices on the network compete to the Company only, as part of its independent business strategies; this is even more so in a system where the competition is played on the infrastructures too. Operators in a dominant position can nevertheless be subject to specific transparency obligations and to suitable incentive mechanisms.

In accordance with this regulatory framework, the Undertakings Groups Nos. 5 and 6 provide for specific guarantees on transparency of technical plans concerning both network quality and network development. Both plans were prepared and disclosed by the Company within the fixed deadline.

The Supervisory Board has nonetheless asked the Company for a number of detailed reports aimed at verifying the consistency of the technical plans for the fixed access network and the real impact on the failure rate. It in fact appears necessary to make clear and easy to understand the results of a very articulate activity intended to have a significant impact on a large number of systems. At the request of and based on criteria suggested by the Supervisory Board, Open Access has prepared a report on the interventions made leaning towards that objective.

The Supervisory Board stressed to the Company the importance of anticipating some of the operations provided by the plans. In this context, further improvements may stem from some modifications to the content and the degree of detail of the plans. The point is to be able to better evaluate the priority criteria adopted by Telecom Italia to programme its interventions and at the same time to facilitate the use of these information by the other licensed operators.

In the coming months, by virtue of its peculiar role, the Supervisory Board intends to enhance explicit finalisation of the Undertakings beyond the statutory obligations of the Company, even to targets of “qualitative development and improvement of the fixed access network and relevant services”, through the processing of data related to individual exchanges and field verification of operations on the systems.

It is a fundamental challenge for customers satisfaction and for market growth, even in terms of reduction of the relevant territorial disparities today existing.

### **3.4. Measures Related to Next Generation Networks**

The Undertakings adopted by Telecom Italia take into account the foreseen evolutions of telecommunications networks and the switch to the next generation infrastructures.

According to the Undertakings Group No. 9, the Company shall notify AGCom about the published offers for access to pipes and ducts as well as to dark fibre; it shall also notify the Authority about the proposal to share with the other licensed operators investments and costs to implement new pipes and ducts. These obligations will gain a growing relevance, as the market development goes on, .

The Supervisory Board verified that these obligations were fulfilled on time.

In this case too, it is good to clarify that the investment choices compete to the Company only, in particular with reference to a market still uncertain like that of next generation networks. The Company is nevertheless obligated to act transparently in the market for two reasons.

The first one is to prevent the transposition of dominant positions from the old copper network to the new fibre optic network.

The second one is to ease the development of a cooperative context that can be fundamental for a proper development of next generation networks both in a free market, and in a context of public support mechanisms too.

Besides, AGCom has entrusted the NGN Committee, which Telecom Italia joined as envisaged by the Undertakings, the task of making further proposals as regards the prospects of next generation networks development.

The Supervisory Board intends to contribute to this discussion, particularly with regards to the analysis of mechanisms apt to ensure equal access to new networks and any public resources to be allocated for building them.

### **3.5. Regulatory Accounting**

The Undertakings Group No. 8 aims to strengthen fulfilments as regards regulatory accounting responsibilities of the Company based on primary and secondary provisions. The objective is to provide AGCom with further quantitative and economic / patrimonial information so as to ease the exercise of its institutional tasks of regulation and control.

In this connection, the Supervisory Board verified that AGCom received regulatory accounting and transfer charges models which are being examined by the NRA; the Supervisory Board cannot therefore give any opinion on this issue.

It is nevertheless clear that the specific definition of implemental procedures and technical and economic contents of the above-mentioned models, to be included into the service contracts, is a necessary condition for ensuring proper visibility of the economic exchanges among Telecom Italia departments and consequently for satisfying the legitimate transparency requirements of the other licensed operators.

### **3.6. Disputes reduction among the operators and with the customers**

Another matter dealt with by the Undertakings, also in relation with the issues behind some sanctioning procedures started by AGCom is that of disputes reduction.

As for disputes between operators, according to the Undertakings Group No. 10 Telecom Italia must join a committee specifically tasked with resolving disputes of technical and operative nature related to network access services. This did occur following an adequate contract rules definition process with the setting up of OTA Italia.

As far as the disputes with customers is concerned, the Undertakings Group No. 14 responds to the need of rapidly and efficaciously solving complaints due to Company disservice, primarily as regards unrequested and surcharged services.

In this regard, the Supervisory Board has paid special attention to dispute settlement at the Regional Communications Committee (Co.Re.Com), where the adoption of a new organisational model and the application of the same approach of the Undertakings for a unitary and detailed handling of the obligatory settlement attempts have been achieved within the scheduled time and according to the manner provided for by the Undertakings.

As regards settlement procedures handled by the Chambers of Commerce, the Supervisory Board has recorded an initial delay by Telecom Italia on this matter and invited the Company to promptly conclude the process of adoption of the new methods for handling settlement petitions, even those submitted to the Chambers of Commerce system. The purpose of the Protocol of Understanding that was finally signed on November 11th, 2009 by Telecom Italia and the Union of Chambers of Commerce is the convergence of existing operative procedures at the Chambers of Commerce with the so-called “sportello unico” (single office) settlement model.

This way of dealing with settlement petitions is inspired by the so-called joint method, considered the most suitable one for making uniform the settlement procedures in the interest of consumers, regardless of the site the customer decides to file them at.

In this context, the valuable participation of Consumer Associations in sharing with the Company the way settlement petitions are handled is still fundamental to reach the primary target of safeguarding customers from disservices.

### **3.7. The Code of Practice**

The proper implementation of all of the Undertakings examined so far requires the appropriate outline of incentives and disincentives in the Code of Practice.

In this perspective, the Undertakings Group No. 2 gets a fundamental relevance in conforming the conducts of Telecom Italia departments required to act impartially in the interest of the market.

The Company adopted the new Code of Practice within the time fixed deadline and sent it to AGCom and the Supervisory Board. The latter has nonetheless intervened several times to suggest supplementations and applicative extensions, in order to strengthen the incentive and conforming target of the Code.

For this reason the Supervisory Board appreciates the fact that the Company has responded positively to its recommendations aimed at making the managerial incentive system more consistent with the spirit and objectives of the Undertakings, to improve the quality and content of professional training activities and to raise to a value shared within Telecom Italia the satisfaction of the other licensed operators. From this point of view, precise and reliable surveys conducted by listening directly to the assessments made by the latter shall be particularly important.

In response to some reports submitted by OLOs, the Supervisory Board has asked the Company to make explicit in the Code the extension to the Legal and Statutory departments of Telecom Italia of the ban against disclosing confidential data in possession of the Wholesale to the Retail division for commercial purposes. The Supervisory Board therefore hopes that Telecom Italia will develop a procedure allowing the alternative operators to access certain data in possession of the Wholesale department for aims of jurisdictional action and protection.

The Supervisory Board considers the work on the Code of Practice really fundamental even for tackling further problems and criticalities, including those subject to other more specific Undertakings Groups signed by the Company in relation to some sanctioning procedures started by AGCom.

For this reason, with reference to the Undertakings Group No. 11, the Supervisory Board has intervened to stimulate a more precise and effective company training to ensure that the ban on the personnel of Open Access engaging in commercial activities is fully respected. To that end, Telecom Italia in its training course has prepared a specific section intended to make internal resources knowledgeable about this issue: a specific case study representing the contact of an Open Access engineer and a customer asking for commercial information has been showed. Focus is on maintaining a position of impartiality between all operators and telling the customer to contact the customer care.

As regards the Undertakings Group No. 12, the Supervisory Board verified the effective publication by Open Access field engineers of the quarterly reports about the activation of unrequested services ; the Body also ascertained a progressive decrease in the number of these activations. It is extremely important to keep this issue under control; therefore the Supervisory Board asked Telecom Italia to set up a generalised intervention plan against it, keeping in mind that the cases known by the field engineers are just a small part of the total unrequested services activations.

As for the Undertakings Group No. 13, the Supervisory Board checked that Telecom Italia Customer Care received the operational instructions concerning deactivation of carrier pre-selection services; the Board keeps on supervising about this issue.

#### **4. Conclusions**

From this concise review emerges an articulate and dynamic picture of the state of implementation of the Undertakings.

The Company has introduced new organisational, managerial and operative processes. Some of them mark a radical discontinuity with respect to the past and if properly implemented, appear today suited to ensure effective equality of access once the system will become fully operational.

The experience gained in these first months confirms the specific role the Supervisory Board can play by virtue of its peculiar institutional position.

Most interventions have been adopted following informal procedures, thanks to the hearing of the different players and an ongoing dialogue with company departments.

The complaints submitted by the other licensed operators allowed for highlighting some criticalities and shortcomings in the implementation process of the Undertakings, which the Supervisory Board has attempted to face with ‘jurisprudencat times even creative.

The Company has always paid attention to the recommendations made by the Supervisory Board.

It is so confirmed from this standpoint too that the range of action of the Supervisory Board is completely different from that of the Authority, which is still the only Body competent to adopt formal regulatory and sanctioning tools .

In 2010 the Supervisory Board shall conduct a complex verification process, due to completion of some of the main Undertakings Telecom Italia should achieve by March 31<sup>st</sup>, 2010.

It shall be necessary to conduct an overall assessment of the state of implementation of the Undertakings, aimed at obtaining the necessary feedback on whether or not the objectives provided for by the Undertakings have actually been reached and, when necessary, suggesting to Telecom Italia the most suitable interventions as well as the adoption of the necessary measures.

It is good to remember that these objectives refer not only to additional guarantees of equality of treatment, but also to the “satisfaction of operators and end users, through development and qualitative improvement of the fixed access network and relevant services”.

In this framework, the Supervisory Board shall continue to concentrate its efforts, not only on formal respect of the Undertakings, but also on possible improvements which can be reached to ensure that all the underlying goals taken by the Company to the NRA and the market be reached.

In performing this duty, the Supervisory Board hopes it can be helpful to AGCom, the Company, a competitive and technological development of the market and ultimately to consumers.