

**Newsletter Activity
Supervisory Board
October – December 2013**

Executive Summary

In the last quarter of 2013 the investigations continued in relation to the three Complaints received during the year.

As regards Complaint S01/13, concerning the alleged inconsistency in Open Access's refusal to activate LLU lines for Fastweb, the Supervisory Board closed¹ the proceeding having concluded that the findings from the investigations conducted did not reveal any discriminatory conduct against Fastweb. In parallel, specific monitoring was put in place regarding the LLU line refusals (so-called KOs) due to the presence of network multiplexing equipment made by Open Access to the Other Licensed Operators.

With regard to the Complaints S02/13 and 03/13, the deadline was extended for completion of the investigations, which are still under way.

In relation to the Undertakings Groups, the Supervisory Board (SB) obtained the usual documentation from Telecom Italia regarding the fulfilment of the obligations due for compliance, together with progress reports on issues requiring further investigation.

With regard to Undertakings Group no. 4 in particular, the SB, with Resolution no. 21/2013², initiated specific monitoring on a number of KPIs that have continuously shown more favourable performance for the Retail segment than the Wholesale segment.

The analysis also started on the Retail and Wholesale KOs, which continues the same analyses conducted by the SB in previous years.

During the quarter under review, the SB carried out the checks in the North West, North East and South regional areas ordered by the Resolution no. 3/2013³ to verify the correct application of the work order queuing system, known as the "single queue mechanism".

On 25 November 2013, the SB met with the Chief Executive Officer of Telecom Italia, Mr. Marco Patuano. During the meeting, the CEO expressed his appreciation for the professionalism shown by the Board and confirmed Telecom Italia willingness to cooperate in full with the work of the SB.

The SB also met, on the same date, with the head of Telecom Italia's Open Access function, Mr. Stefano Paggi, who described the new organisation of the Open Access Function and the organisational logic behind the new structure.

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

² http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_21-2013-Avvio_vigilanza_su_KPI.pdf

³ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n3-2013-Coda_Unica.pdf

Progress report regarding the fulfilment of the Undertakings

Undertakings Group no. 1

(Launch of New Delivery Process)

The process of migration of the main Other Licensed Operators to the New Delivery Process has substantially been completed, with the sole exception of Wind for the LLU service.

With regard to the Single Queue system, in November the WOs transferred to the Single Queue and successfully closed totalled approximately 3,000 for the asymmetrical bitstream service, 1,750 for LLU and 125 for WLR. In this regard, the inspections continued in the geographic areas to determine whether the single queue mechanisms have been correctly applied (see *the explanatory paragraph below*).

Undertakings Group no. 3

(Establishment of a performance monitoring system for SMP services)

With regard to the matters relating to Undertakings Group no. 3, we are still awaiting the approval of the new basket of KPIs by the Authority.

The SO continued in the certification of the basic data used to calculate the performance indicators included in the Undertakings Group no. 4.

Undertakings Group no. 4

(Guarantees of transparency of the monitoring system)

During the quarter under review, Telecom Italia sent the SB the monthly reports for September, October and November, and the quarterly report for Q3 2013.

The SB found data regarding certain indicators that appear to indicate potential problem situations. As a consequence, during the Board Meeting of 16 October, it adopted Resolution no. 21/2013⁴, in which it asked Telecom Italia for a series of information regarding the Delivery and Assurance KPIs that show more favourable performance for the Retail segment.

⁴ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_21-2013-Avvio_vigilanza_su_KPI.pdf

Undertakings Group no. 5

(Transparency guarantees of the Technical Plans for Quality of the fixed access network)

Telecom Italia sent the SB the report for Q3 2013 of the Technical Plans for Quality of the fixed access network, which contains information on the preventive maintenance work carried out on the access network during the period under review, the 2014 Annual Plan, and the planning for Q1 2014 on Network Quality.

Telecom Italia also sent a progress report as at Q3 2013 on the distribution of lines with multiple repeat tickets, in accordance with the requirements of Resolution no. 6/2010, as envisaged under the On-Going Project.

Undertakings Group no. 6

(Transparency guarantees of the Technical Plans for Development of the fixed access network)

The SB reviewed the documents received from Telecom Italia containing the final figures for Q3 2013 and the programme for Q1 2014 regarding development of the fixed access network (NGAN, Broadband Coverage and Allotments). In December, Telecom Italia also sent a revised version of the Programme for Q4 2013.

In the third quarter of 2013, around 650 thousand property units were reached in primary (22,000 less than the planned amount) and around 6,500 in secondary (8,800 less than planned). The delays were related to the time required for the authorities to issue permits.

Undertakings Group no. 12

(Obligation to report the activation of services not requested)

Telecom Italia sent the SB a report on the figures for Q3 2013 regarding the complaints of the activation of services not requested, received by Open Access technicians.

Complaints from Other Licensed Operators

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

During a hearing held in February, the Operator Fastweb reported two alleged violations of Undertakings Group no. 1 to the SB, relating to:

- 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 alleged inconsistency between Open Access's refusal to activate lines for Fastweb due to excessive distance from the exchange, followed by the activation of the same type of lines for Telecom Italia retail customers.
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The SB, with Resolution no. 5/2013⁵, initiated an investigation regarding the validity of the accusations made by Fastweb, asking the Operator to provide detailed data and information on the alleged discriminations suffered. On 4 April, Fastweb provided the SB with a list of Work Orders closed due to KO caused by equipment.

Following on-site inspections conducted by the Supervisory Office (SO) in May and June, in order to verify the actual presence of the equipment reported, the SB, with Resolution no. 14/2013⁶ of 19 June 2013, ordered a 60 day extension to the time limit for completion of the investigation.

The analyses conducted by the SO revealed that in the vast majority of the orders refused the equipment was found to be present; however, in certain cases, the KO was correct, but not due to the “equipment present”, but for reasons mostly related to errors in the compilation of the order by the OLO. Other cases were identified where the KO did appear unjustified, almost always resulting from misalignments in Telecom Italia's information systems.

In July, following a specific request from AGCom, the SB sent the Authority the documentation containing the detailed information gathered during the inspections and the analyses conducted by the SO.

Through Resolution no. 18/2013⁷, approved at the Board meeting of 11 September, pursuant to its Internal Regulation, the SB sent Telecom Italia a preliminary communication, attaching the conclusive Technical Report on its on-site inspections carried out for the proceeding in question. Resolutions number 20/2013⁸ and number 24/2013 extended the time limit for the completion of the investigation.

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

⁶ http://organodivigilanza.telecomitalia.it/pdf/1_Determinazione_n_14_2013.pdf

⁷ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_182013.pdf

⁸ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_20-2013-Proroga_proc_S01_13.pdf

After having listened to the companies Telecom Italia and Fastweb, during two separate hearings, the SB, in the Board meeting held on 9 December 2013, adopted Resolution no. 25/2013⁹ in which it ordered the completion of the verifications regarding the Complaint in question, on the basis that the checks conducted had not revealed any evidence that the KOs made by Telecom constituted acts that breached the principle of equality of treatment between Telecom Italia Retail and the OLOs.

The Board also considered it appropriate to make some Recommendations to Telecom Italia, asking, among other things, for it to put in place all measures designed to eliminate the problems relating to the non-complete reliability of the *LLU pre-sale analysis tool*, to increase the checks on the updates of the information systems used, and to publish the termination events for the multiplexers in the periodic reports sent to the SB.

The SB also reserved the option to initiate specific monitoring on the entire set of Work Orders rejected by Telecom Italia for all the OLOs relating to multiplexer equipment, in order to verify the introduction and the effectiveness of the actions taken by Telecom Italia as a result of the Resolution (*see the dedicated paragraph below*).

⁹ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_25_2013.pdf

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

During a hearing held in February, the Operator Fastweb told the SB about malfunctions in the Wholesale CRM system used by OLOs. These malfunctions, relating to successive software releases of the system, are thought to cause problems including the blockage of multiple Wholesale Work Orders.

Through Resolution no. 6/2013¹⁰ the SB opened an enquiry into the legitimacy of the Complaint, determining that it was not "generic", not manifestly unfounded and within its remit, and asking Fastweb to provide data and detailed information on the problems reported, of a discriminatory nature.

The complainant Operator provided the SB a specific letter with information and details on the issue reported in the complaint. Also in June, the Operator Vodafone sent a letter on this subject, containing additional information on the issue reported.

Through Resolution no. 15/2013¹¹, the SB extended the deadline for the conclusion of the investigation by 90 days, and asked Telecom Italia to provide detailed information to help examine the cases subject of complaint. On 5 July the SB received the response from the Operator.

With this response, 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 of 16 October 2013, Telecom Italia presented the SB the plans for the issue of the Wholesale CRM and the improvement work carried out on the platform. Fastweb, in the hearing of 11 November 2013, confirmed the continued existence of the problems already reported. As a result, the SB determined the need to establish a suitable indicator to objectively measure the level of functioning of the Wholesale CRM system.

Following the hearing held on 9 December 2013, Telecom proposed a new indicator to the SB consisting of the percentage of wholesale orders that, on the date of measurement, are in a "in processing" status in Wholesale CRM, but without a formal order made to Open Access.

The SB welcomed the proposal by Telecom Italia and, having noted that the new indicator would not be available until April 2014, it extended the deadline for the proceeding to 29 August 2014 with Resolution no. 29/2013¹² of 9 December 2013, with the intention to conduct an assessment of the functioning of the instrument proposed, and verifying its actual effectiveness.

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

¹¹ http://organodivigilanza.telecomitalia.it/pdf/2_Determinazione_n_15_2013.pdf

¹² http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_29_2013.pdf

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

During a hearing held in February 2013, the Operator Welcome Italia informed the SB of issues in terms of fulfilment of the Undertakings, with particular reference to:

- the physical deterioration of access and transport lines
- Telecom Italia charging for alleged fruitless service interventions
- the inadequacy of the penalties paid by Telecom Italia for failure to comply with SLAs

The cases subject to complaint by Welcome related in particular to cases of service disruption and degradation in the access network; general service disruption in the transport network; the provisioning of bitstream services over ethernet networks; and fruitless service interventions, SLAs and the assurance penalties for bitstream services, which were deemed to be insufficient disincentives and disproportionate to the inconvenience suffered by the Operator.

In light of the SO's Technical Report, on 23 April, the SB, through Resolution no. 9/2013¹³, opened Complaint no. 3/13, asking Welcome Italia to provide detailed information and data on the alleged disruptions reported.

The Operator replied to the SB by letter dated 31 May and, following the request for further information, in July it provided complete lists of the cases covered by the complaint.

The SB decided it would be helpful to ask Telecom Italia to provide additional information about the reports of disruptions by the customers of the Operator Welcome Italia, in order to be able to carry out an in-depth and cross-referenced analysis between the different groups of issues.

The final deadline for concluding the investigation, initially set for 29 August, was extended by first by Resolution no. 17/2013¹⁴, and then by Resolution no. 23/2013¹⁵.

¹³ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_9_2013_Avvio_S03_13.pdf

¹⁴ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_17_2013.pdf

¹⁵ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_23_2013.pdf

Specific Analyses

Retail + NWS KO analysis

The "KO Wholesale Analysis Project" launched in 2010 enabled an in-depth analysis of the reasons for rejection of Wholesale Work Orders. The project's results identified areas for potential improvement of the delivery process, and can be used in evaluating the potential benefits of the introduction of the NDP. In its Resolution no. 22/2010¹⁶ the SB approved the Final Report¹⁷ with the results of the Project, identifying possible areas for improvement in the Delivery process.

Upon the outcome of the analysis of the Wholesale KOs, the SB ordered the start of a similar analysis on the KOs relating to the offer of Telecom Italia Retail services. In its Resolution no. 26/2011¹⁸ of 14 December 2011, the SB approved the final report describing the work carried out and the results of the analysis: no cases of unequal treatment between Retail Work Orders and Wholesale Work Orders were identified. An improvement was 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 adhere to the New Delivery Process.

During the Board Meeting held on 9 December 2013, the SB with Resolution no. 26/2013¹⁹ ordered a similar analysis for 2014, to be conducted on both the Retail and Wholesale segments, in order to assess full adherence by Telecom Italia to the principle of equality of treatment between internal and external parties within the delivery process.

The SO has tasked with reporting periodically to the SB on the outcomes of the checks conducted, suggesting any relevant measures to be implemented, and preparing a final report on the actions taken and the results achieved.

¹⁶ http://organodivigilanza.telecomitalia.it/pdf/19_Determinazione_22_2010.PDF

¹⁷ http://organodivigilanza.telecomitalia.it/pdf/19a_Allegato_Determinazione_22_2010.PDF

¹⁸ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n.26.2011_Analisi_KO_Retail_Allegato-Light.pdf

¹⁹ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_26_2013.pdf

Equipment KO

In the SB Meeting of 9 December 2013, the Board adopted Resolution no. 28/2013²⁰.

Through this document, an analysis was initiated on all the refusals of LLU lines (so-called KOs) due to the presence of network multiplexing equipment, made by Telecom Italia to the Other Licensed Operators. The aim is to examine the matter of KOs due to equipment presence and to determine the correctness of the refusals made.

The SO was tasked with reporting to the SB on the outcomes of the checks conducted and preparing a final report on the actions taken and results achieved.

Analysis of the correct application of the Single Queue

With Resolution no. 12/2012²¹, the SB began an analysis to check the correct management of the work order queuing system (the so-called "single queue " system), a supervisory activity within the gradual start-up of the NDP. The goal of the verification was to examine Open Access's correct use of IT procedures to manage the process.

During 2012, the SO 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. 17/2012²².

Resolution no. 3/2013²³ ordered the conduct of additional checks on the correct application of the single queue mechanism. The plan called for the analysis of orders in four geographic areas (one per regional area) between April and June of this year, and a further six geographic areas in the second half of 2013.

During the fourth quarter, in particular, inspections were made in the geographic areas Lombardy West (North West regional area), Sicily East (South regional area) and Trentino Alto Adige (North East regional area).

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 mechanism.

²⁰ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_28_2013.pdf

²¹ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n_12-2012-Vigilanza_su_accodamento_degli_ordinativi_di_lavoro_a_coda_unica.pdf

²² http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n%5B1%5D_17-2012_Coda_Unica.pdf

²³ http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n3-2013-Coda_Unica.pdf

Analysis of deterioration

In 2011, the SB opened Complaint S01/11, following issues raised by the Operator Welcome Italia about saturation problems with Telecom Italia exchanges for the Bitstream service. The analyses conducted led the SB to close this Complaint, whilst also asking Telecom Italia to provide periodic information on the deterioration of the lines, to prevent any future problems of saturation.

The SB closed Complaint S01/11 with Resolution no. 20/2011²⁴. In doing so, however, it also asked Telecom Italia to provide cumulative monthly data relating to the percentage of deteriorated lines repaired by the deadlines stipulated in the Service Level Agreement (SLA), in accordance with the content of Resolution no. 105/10/CIR.

The SLA requires 80% of all instances of deteriorated infrastructure (limited throughput) to be repaired within 50 calendar days of notification.

The performance in the first two months of 2013 was higher than the SLA target. In the following months the percentages fell to below 80%, in some cases to a considerable extent. In the last two months surveyed, however, the performance increased again to figures above the agreed minimum.

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http://organodivigilanza.telecomitalia.it/pdf/Determinazione_n1_20_2011_Segnalaz_S01_2011_Chiusura_del_p_rocedimento.pdf

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

Complaint 501/10 was opened after the bitstream service to approximately 500 exchanges was halted 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.

With regard to the network platform for ATM technology ADSL bitstream services, the number of amber-light status and saturated exchanges increased again during the quarter. In particular, the stock of the saturated exchanges served by DSLAM ATM 7 Mbit/s reached 797 units at the end of the year (+59% compared to the value recorded at the beginning of the year), while on the same date the ATM exchanges under amber light numbered 1,194 (+35.4% compared to the value at 1 January 2013).

Monitoring also showed that of the 797 exchanges declared saturated, only 58 (equal to 7.2%) do not have Ethernet DSLAMs, and are therefore not available for service.

The increase in the number of saturated exchanges can be attributed to the obsolescence of the ATM technology which, following the declaration by the equipment suppliers that they would be ending production, led to unavailability of the equipment necessary to expand the DSLAMs. In Decision no. 94/12/CIR, AGCom declared that "the transition from ATM bitstream to Ethernet is a key element in ensuring an adequate competitive structure and in guaranteeing adequate service quality to the end user". Accordingly, AGCom instructed Telecom Italia to pass on a series of financial incentives to the OLOs for migration to the new technology. AGCom also asked Telecom, as a condition for the recognition of ATM "End of Sale", to take the necessary steps and/or make available the necessary mechanisms for easing the process (methods for providing the services, adaptation of protocols, etc.).

Other activities of the SB

- ◆ On 25 November 2013, the SB met with the Chief Executive Officer of Telecom Italia, Mr. Marco Patuano at the Board's offices. During the meeting, the CEO expressed his recognition and appreciation of the professionalism shown by the Board in the work conducted on the various matters dealt with and confirmed Telecom Italia willingness to fully cooperate with the work to be undertaken by the SB.
- ◆ The SB also met, on the same date, with the head of Telecom Italia's Open Access function, Mr. Stefano Paggi, who described the new organisation of the Open Access Function and the underlying organisational logic. In particular, the new structure involves the consolidation of the geographic areas, which decrease from 38 to 27, and a reduction of the regional area bases, with a clear separation between operational activities (assigned to the geographic areas) and the activities of oversight and control (assigned to the regional areas).