

PARITÀ DI ACCESSO

Organo di Vigilanza



# 2016 Annual Report

2015 Activities and Results

 **TIM** | **Telecom Italia**



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# Executive Summary

This document represents the summary of the various activities conducted by the Supervisory Board in 2015, as well as a final assessment of the activity performed in the last three years by the Board of Directors, whose mandate will end on 31 May 2016.

The report also aims to represent a comprehensive analysis, albeit in synthetic and non-exhaustive terms, of the technological and regulatory transformation that has characterised the industry in recent years, while at the same time describing the actions and initiatives that the Supervisory Board has taken to respond adequately to the growth of market needs and the evolutionary changes of the environment in which it ended up operating.

The descriptive section of this report describes the framework of the operations of the Supervisory Board, the action of which has unfolded [under the new regulatory framework laid out by the industry Authority](#), an operation that characterised the year just ended and which has seen an increased autonomy and independence for the Supervisory Board to protect all the Operators, thus laying down the conditions for increased supervision of internal-external equality of treatment.

Likewise, in 2015 there was an acceleration in legislative and regulatory actions aimed at encouraging the development of the infrastructure in the telecommunications market; specifically, with the [National Ultra-Broadband Plan](#) the Government has set the goal of bringing down to zero, in three years, the *gap* accumulated by our country with regard to the rest of Europe by reaching 85% of the population with a network of at least 100 mbps, thanks to a

public-private investment of €12 billion by 2020.

With regard to the duties and functions of the Supervisory Board, as we have mentioned, 2015 was a year of change for its institutional structure and its governance, as well as the strengthening and extension of its powers and its areas of operation.

The provisions contained in Resolution no. 718/08/CONS, a measure that initiated the experience of the Supervisory Board and has marked its tasks, functions and actions, underwent a significant (because it could no longer be postponed) innovation with the [approval of Resolution no. 623/15/CONS by the National Regulatory Authority for Communications \(AGCom\)](#) in November 2015 at the conclusion of the procedure relating to the identification and analysis of the markets for the fixed network access services in the 2014-2017 period.

In the light of the experience gained since its establishment, the current Council of the Supervisory Board, which took office in 2013, soon realised that there was a need to introduce certain corrective and reinforcement elements to a benchmark regulatory system (the “Undertakings”) which, if not promptly updated, was likely to soon become obsolete, no longer being able to fulfil with the necessary effectiveness the task initially conferred by said Resolution no. 718/08/CONS on the Supervisory Board of ensuring adequate quality standards in the protection of equivalence of access.

In addition to these considerations, and in close connection with the evolution of the overall frame of reference, the last quarter of 2015 saw [a major innovation in the equivalence model adopted by Telecom Italia](#), laying the foundation for a renewed policy on guarantee of equality of treatment and whose results will be seen from 2016.

On 5 November 2015, the Board of Directors of Telecom Italia approved the start-up of the project for the **introduction of a new equivalence model, aimed at further increasing the efficiency and effectiveness of the delivery and assurance processes** of wholesale access services to the Telecom Italia fixed network supplied to its sales departments and to the OLOs.

Based on this decision, a change was made to the company's organisational structure with the placement of the **Open Access and National Wholesale Services Functions in hierarchical dependence on the same manager within a new Wholesale department**. According to Telecom Italia, as a result of this organisational innovation, the new equivalence model thus emerging will place the sales and marketing divisions of Telecom Italia and the OLOs on the same level, with a consequent strengthening of the internal-external equality of treatment and transparency in the handling of requests for line activation.

The experience and professionalism, combined with the availability of the members of the Supervisory Board and the staff of the Supervisory Office, were regularly held in high regard by the industry Authority and the Antitrust Authority, with which it has never failed to maintain an effective dialogue aimed at providing the technical support required in fulfilling its exclusive powers.

During 2015, **there were several meetings and moments of cooperation with the National Regulatory Authority for Communications (AGCom)**. In particular, mention should be made of the contribution provided by the Supervisory Board to the economics and statistics service at the Authority in question, which conducted cross-sectional analyses of the structure of the network markets subject to regulation, including the electronic communications sector. In this context, the Supervisory Board provided its assessments of the methods and

models of analysis of the fixed network market, for the construction of a proxy model of the Telecom Italia access network.

Also in the field of sharing of its knowledge and know-how in these areas, the Supervisory Board was able to offer its operational and functional point of view on the definition of the new KPI/KPO to the digital services and the AGCom Network development department.

In the same vein of this close cooperation between the Supervisory Board and AGCom, it is worth recalling the activities of study and analysis of certain issues considered to be a priority, as happened on the occasion of the meetings organised by the Supervisory Board with international experts, including the organisation of the 2nd International Seminar on Study of Equivalence Issues. The meeting in question, entitled “Equivalence of access in the Next Generation Networks”, was hosted by the National Regulatory Authority for Communications (AGCom) and saw the participation as speakers by the Chairman of BEREC and leading members of Telecom ParisTech and the Italian Antitrust Authority. The meeting was useful to take an in-depth look at the developmental prospects of the principle of equality of treatment in the context of next generation networks related to a European context and in the light of the common need to adopt the best regulatory models to bring this principle up-to-date in the coming years.

Alongside this collaboration with the regulatory authorities, the [Supervisory Board continued its dialogue with Telecom Italia](#) during the whole year, establishing an intense and fruitful dialogue.

The Supervisory Board closely monitored the development of the Strategic Plan 2015-2017 presented by Telecom Italia at the start of the year and, in particular,



the requirement for robust investments in the field of optical networks.

In parallel, the Supervisory Board noted with interest the new business division of Telecom Italia called “Fast Rollout FTTH/b”, created to carry out the *Fibre To The Home* project. The initiative was judged to be a significant acceleration in the FTTH coverage project in 40 cities, accompanied by the memorandum of understanding signed on 24 April 2015 between the company and Fastweb, aimed at starting up the testing of innovative solutions to achieve the objectives of the European Digital Agenda.

Finally, like every year, there have been different opportunities for interaction and debate with Telecom Italia on all the issues coming to the attention of the Supervisory Board. Alongside the usual update meetings and sharing of routes, on the occasion of the new transmission to the top management of the National Wholesale Function, in May, the Council of the Supervisory Body met the new Director of the Function to discuss issues of common interest and the common desire was reaffirmed for collaboration and reciprocity, with a view to strengthening the principles enshrined in the Undertakings.

Together with these meetings of a more institutional nature, there was ongoing dialogue and exchanges between the Supervisory Board and Telecom Italia for the verification of the progress of the initiatives undertaken by the Company aimed at ensuring the effective supervision of the processes aimed at guaranteeing the respect for equivalence of access. Mention should be made of the meeting between the Supervisory Board and the Open Access managing Director in April 2015 for the presentation of the results of the actions taken by Telecom Italia in 2014 on the telephone lines covered by the “On Going” process. Regarding other different opportunities to have meetings during the first half of the year, there were analyses of the findings with respect to the incidence of the

percentages of “KO Equipment”, an issue brought to the attention of the Supervisory Board in the complaint by Fastweb in 2013. The figures from this phenomenon have shown that the importance of the event is now close to zero, confirming the gradual reduction of refusals by Telecom Italia to the OLOs concerning this causal link.

The **very rich and complex topic of KO** was undertaken in 2015 by the Supervisory Board which, over the past few years, has supported the institutions engaged in the exploration of these issues. The end product of these efforts is the development of a careful study that analyses the broad and controversial question of the causes and effects of the repeated refusals by Telecom Italia to fulfil work orders on copper services of the OLOs (so-called “Wholesale KO”).

Driven by various judicial and doctrinal acts, the difficulties and management aspects originated by the KOs are placed at the centre of the debate, generating numerous discussions aimed at identifying useful general rules for establishing the regulatory framework within which the principles of non-discrimination and equality of treatment could easily be developed to their full extent in order to protect the market and competition.

Already in 2014 the Supervisory Board had spent part of its activity on the issue, launching a specific analysis capable of assessing compliance with the principle of equality of treatment in the retail and wholesale offering of Telecom Italy. Precisely because of this knowledge, in July 2015, the Italian Competition Authority, as part of the investigation into the alleged non-compliance by Telecom Italia with the provisions of Measure A428, involved the Supervisory Board. The availability of the necessary technical skills and operational methods and tools resulting from its broad experience in the field have enabled the Supervisory Board to answer the call for contributions, in a note dated 31 July

2015, providing the elements at its disposal to better support the decisions by the Authority, participating in a subsequent hearing before the officials of that Authority on 17 September.

In the wake of this hearing, mention should be made of the [cognitive study of the Telecom Italia delivery process in relation to equality of treatment in its Wholesale and Retail offering](#), undertaken by the Supervisory Board in 2014 and concluded in October 2015. This type of exercise plays a particularly significant role in that it allowed confirmation and updating of the Recommendations made to Telecom Italia in 2010 and 2011 and, at the same time, has provided an opportunity for suggesting new and further recommendations for improving monitoring and management of processes.

Likewise, the [refinement continued during the year of the “proxy” model of the Telecom Italia access network](#) already developed in 2014, an operational tool with which the Supervisory Board will be able to monitor more efficiently the quality of the information made available to the OLOs and, ultimately, to exercise more informed and timely supervisory activities regarding the Undertakings. The study was the subject of a debate with the National Regulatory Authority for Communications (AGCom) which recognised the potential and value of the tool, in view of analyses shared between the two realities. Alongside this model, there was continued work on the overall analysis of the delivery processes and the related wholesale and retail comparative figures, in order to better identify any inequalities of treatment in the management of flows.

In July, the Supervisory Board ordered the start of the [analysis on the quality of NGAN connections](#), an activity based on all the data and information provided by Telecom Italia and which proved particularly useful when starting a

discussion of the quality level expressed for ultra-broadband services to retail customers of Telecom Italia and the Other Licensed Operators (OLOs). In a nutshell, the analysis examined the number of faults and the number of active customers recorded each month, broken down by service, of the primary Operators (Wind, Vodafone, Fastweb, Tiscali) and Telecom Italia Retail, regarding the offering of NGAN Bitstream and VULA services. The results showed that the overall fault rate of the OLOs in the observation period almost always remained lower than or equal to the total fault rate of Telecom Italia Retail.

It is up to the Supervisory Board, as well as the task of verification of the respect and compliance with the Undertakings referred to in Resolution no. 718/08/CONS, to meet the challenge, along with the work of the Office, of investigating any news concerning alleged irregularities or breaches of the Telecom Italia Undertakings reported by the Other Licensed Operators.

As part of this, the Report makes mention of the [Complaint investigated by the Supervisory Board as a result of the application by the Operator Wind in July 2015 \(Complaint “S01/15”\)](#), on a number of different problems recorded by the complainant Operator in the migration to the New Delivery Process. Specifically Wind reported the incorrect application by Telecom Italia staff, of the new customer contact policy in the event of activation of Non-Active Lines, as well as the failure to use the “OLO contact for on-site activities” procedure and the difficulties in accessing the Wholesale Portal, opening the CRM application and the intermittent inability to download and open the necessary files.

The verification activities undertaken showed the precise anomalies affecting the complaints reported and, on the basis of this work, the Supervisory Board considered it necessary in August to send a preliminary notice to Telecom Italia,

pursuant to Article 14, paragraph 1 of the Regulations. Following the procedure started with the same Company and the preparation of the new analysis, the Supervisory Board decided to censure the inadequacies regarding the proper implementation of Undertakings No. 1.3.3 and 1.4 under Resolution no. 718/08/CONS and setting a deadline for Telecom Italia S.p.A. to resolve the issues raised, being responsible for the subsequent verification of its compliance with the requirements. At the end of its observations, the Supervisory Board considered the remedies adopted by Telecom Italia to be effective, accordingly not considering the need to forward the complaint, respectively, to the Communications Regulatory Authority and the Board of Directors of Telecom Italia, provided for in Article 15, paragraph 3 of the Regulations.

In connection with the completed activities in order to verify [Complaint “S02/13 - Fastweb/Malfunctions of the CRM system for Wholesale customers”](#) monitoring took place throughout the whole year of the Wholesale CRM performance indicator prepared by Telecom Italia at the urging of the Supervisory Board. In the months of August and September, on the basis of the usual weekly update of the readings transmitted by the Company to the Supervisory Board, the latter encountered a seemingly anomalous trend that could be revealing of possible critical issues in the operation of the system in question. Based on these considerations, the Supervisory Office requested detailed information about the underlying causes of this trend and the related measures that Telecom Italia would have adopted to effectively prevent the recurrence of the phenomenon described above. In detecting this request, Telecom Italia has provided clarification on the reasons for the variances, mainly citing certain manual activities which have meant that the inevitable accumulation of stocks are recorded.

On the other hand, regarding the proceedings brought by the [Operator](#),

Welcome Italia, in 2013, on 16 April 2015 the Supervisory Board ordered the conclusion of proceedings “S03/13” relating to an alleged increase in the state of physical degradation of the access and transport lines, the lack of transparency and punctuality by Telecom Italia in the resolution of network outages reported by Welcome (with the consequent charging of the fees for fruitless service interventions) and the inadequacy of the penalties paid by Telecom Italia for failure to meet the operational SLA.

On the basis of the findings of the investigation, the Supervisory Board did not find any actions attributable to Telecom Italia that could have involved a breach of the Undertakings. In support of this conclusion, as well as the findings that emerged from the detailed verification, were the conclusions which emerged from the technical board of conciliation between the two sides desired and set up by the Supervisory Board in June 2014 as a moment of exchange, with the aim of solving the problems described by the complainant in a structured manner.

Through the mediation of the Supervisory Board, regular technical meetings were held in the second half of 2014, either at the Welcome headquarters or at the Telecom Italia work centres aimed at identifying the causes and related solutions aimed at overcoming the crisis.

During the confrontation, the Supervisory Office was invited to play the role of facilitator for the smooth progress of work. Alongside the traditional task of verification and investigation of the complaint, the Supervisory Board aimed with the institutionalisation of the round table to introduce a new way of working based on the establishment of a common framework able to promote a technical dialogue between the two parties, analysing needs and expectations, looking to identify the individual trigger points and providing the solutions

considered to be the most appropriate. In this spirit, Telecom Italia and Welcome Italia came together to overcome the technical critical points originally highlighted to the satisfaction of both parties.

Regarding the verification activities concluded on the complaints by the Operator Fastweb initiated in 2013, [inspections continued of the obligations on Telecom Italia following the formulation of specific Recommendations](#) falling within concluded proceedings “S01/13” (KO opposed by Telecom at requested plants where there was network multiplexing equipment) and the previously mentioned proceedings S02/13 (malfunction of the CRM system of Telecom Italy for Wholesale customers). On the basis of the periodic communications acquired by the Office, the Supervisory Board was able to verify compliance with the requirements and the mitigation of the previously reported phenomena.

[At a strictly operational level concerning the verification of compliance with the Undertakings set out in Resolution no. 718/08/CONS](#), during the year there was continuation of the usual verification activities concerning the functioning of the New Delivery Process supported by the so-called “single-queue” system, within [Undertakings Group no. 1](#).

The single-queue system provides that, in the event of saturation of resources, service requests coming from the Operators and from Telecom Italia flow together in a single waiting list and are met with a degree of priority exclusively on a first-come first-served basis, whenever the resources necessary for the production of the service become available again.

In particular, in order to verify the overall tightness of the process, and in continuity with the past, the Supervisory Office continued its field checks in order to promptly identify any critical issues within this new procedure.

Specifically, in June 2015, the Supervisory Office completed the first verification cycle, in all the geographic areas of Italy (the inspections were initiated in 2012) and commenced a new session with the aim of making a second verification of all the Open Access operating areas by 2016. During 2015, a total of 16 geographic areas were subject to visits, with more than 400 orders examined.

On the basis of the outcome of the scheduled analysis, there were no problems in the running of the order queuing process, which, however, did not prevent the Supervisory Office from formulating observations with the aim of strengthening and improving the efficiency of the process.

In the course of such activities, in fact, the Supervisory Office found some cases which, under certain conditions and in specific circumstances, could potentially take on risk elements due to the equality of treatment and, in a spirit of loyal cooperation and with the aim of better protection of the Other Licensed Operators, undertook to report all its findings to Telecom Italia. In particular, as detailed in the chapter dedicated to it, the Supervisory Board has outlined some possible critical issues relating to the development of new network terminations designed to serve new allotments and possible forms of risk related to the distributors which are saturated as a result of the “onsite” verification technique. The ultimate goal of these reports was the desire to prevent the ineffective management of certain issues that could endanger the equality of treatment among customers of different operators.

Also in this area, another important issue was reported to Telecom Italia on 15 July, in relation to certain cases detected during the usual supervisory activities on the management of a “Single-Queue” system at AOL Liguria on 1 and 2 July 2015. On this occasion, in fact, the Supervisory Office ascertained that there had been some procedural errors regarding the case in question, relating to delivery



activities that took place in December 2014 during the emergency management of the floods that hit the region.

As part of the [Undertakings Group no. 2](#), there is to be a report on the detailed analysis carried out by the Supervisory Board of the monitoring activities conducted on the management incentive system, the Code of Conduct and the vocational training system. In particular, with regard to the training programmes administered by the Company to the staff members who are more involved in the issues concerning equality of treatment, and as detailed later, the year just ended saw the update of the Handbook in use by Open Access staff which covers the behaviour that the technical staff need to observe when coming into contact with the customers of the OLOs in order to offer greater guarantees of impartiality in interpersonal contact. Similarly, as regards the balancing of objectives related to the fulfilment of the Undertakings within the dynamics linked to staff incentives, the Supervisory Board was responsible for analysing the composition of the basket relative to the managerial incentive system for 2015 and, at the same time, verification of the final results of the MBO in 2014.

As part of the [KPIs relating to Undertakings Group no. 4](#) and forming the basis of the performance monitoring system for SMP services, there was a report on the intense verification and control activity around these indicators. In particular, in the chapter dedicated to it, there was also a breakdown of the communication of 19 July in which [the Supervisory Board reported to Telecom Italia that the Supervisory Office had reported serious delays in the receipt of data on the KPIs pertaining to the Undertakings Group no. 4 and forming the basis of the performance monitoring system for SMP services](#). In particular, as at the date of the note, reports had not yet been received for the months of April and May 2015. Recalling the fact that communication of the documentation in question

represents a regulatory obligation for Telecom Italia, whose inattention leads to consequent detriment to the regular monitoring of performance by the Supervisory Board, the SB asked the Company to provide the monitoring in question by 5 August, as well as precise and detailed explanations about the reasons and the causes that had prevented the transmission of the data in question. Telecom Italia, on the basis of formal notice in writing, promptly communicated the missing data, attributing the problems with the system to the failure to observe the agreed timing.

October 2015, one year after its launch, saw the successful conclusion of [the “P01/14” process, aimed at identifying specific KPOs concerning the monitoring system of the internal/external equality of treatment](#), with the simultaneous approval of calculation methodologies and identification methodologies for KPI fluctuation thresholds. Such methods will in fact make it possible, as provided in Undertakings Group no. 4, to make the Supervisory Board’s monitoring action stronger and more effective, as well as increasing, in terms of quality, the effectiveness of the judgement expressed on performance emerging from the related KPIs sent periodically by Telecom Italia to the Supervisory Board.

[Within Undertakings Groups nos. 5 and 6](#), finally, the Supervisory Board paid the usual attention to the analysis and the evolution of the content of the technical plans for the quality and development of the fixed access network. The main objective of the analysis of the technical plans is to check the consistency of the quarterly programmes with the statements made by Telecom Italia in its annual plans. Against this background, the Supervisory Board has periodically compared the progress of the final plans compared to the forecasts made in the annual programmes while ensuring at the same time that the published documents report on the types of information required by Undertakings Groups 5 and 6.



