Autorità per le garanzie nelle comunicazioni

(Communications Regulatory Authority)

Annual Report

on activities carried out and work programmes

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Presentation by the President of the Authority

Corrado Calabrò

Rome, 15 July 2008

Autorità per le garanzie nelle comunicazioni
(Communications Authority)

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1. Communication between citizens and politics. Toward the *"par condicio"* (equal time) reform

Just two years after the last elections, the Italians were called to the urns once again.

In spite of the proliferation of the new communication media, the election campaign is still conducted almost entirely on television. It is television that dictates the times and manners of the political discussion.

Therefore understandably, the law carefully governs the distribution of the TV air times and entrusts the Communications Regulatory Authority with the task of overseeing the application of the *par condicio* (equal time) rules in the radio and television sector.

But the scenario we were facing during this last election cycle is very different from that envisaged by the laws to be applied, i.e. the convergence of the actors of the election campaign into two coalitions.

This is what happens in all major democracies. In Italy, on the other hand, we had eighteen different lists competing, and fifteen candidates for the office of Prime Minister, which all demanded equal time on television and cross-interaction.

The situation was further complicated by the proliferation of the news and current events programmes and by their overlapping, with ontological change, with the political communication programmes, the classic "electoral tribune" programmes, which have lost much of their appeal.

In this situation, we provided the exegetic criteria for the application of the principle of equal treatment, to be intended – we specified – as similar treatment for similar situations. It was an interpretation that stood up to the test. Meanwhile, we intervened several times – with resolutions passed unanimously – in particular with respect to news programmes, for the rebalancing of the information given. And this rebalancing, in substance, was successful.

All things considered, the election result led to the formation of a Parliament with the lowest number of parties since the post-WWII period.

But the difficulties encountered in the application of the law in effect – difficulties which came close to impracticability – confirm the need for its revision, which is necessary in order to adapt the law both to the reality to which it intended to refer and to the technological change that has taken place (e.g. think of the Internet)[1].

2. The evolution of the television system

As I was saying, the main source of information for citizens is still, at the present time, television.

Nevertheless, video content aggregators offered by users or social networking sites (such as *YouTube* or *Facebook*) coexist alongside the major players providing traditional contents and the producers of new genres.

Multimedia is the emerging activity among young people: the use of the old media (radio, television) is combined with that of the new media (Internet, pay TV, videophone, MP3 players). Young people download audiovisual contents at times. Adults, generally speaking, are still following the traditional, standardized hours and events. But, thanks to the PVR (personal video recorder[2]), more and more people of all ages are starting to

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[1] *A recent study by the Pew Research Center on the US 2008 Presidential elections has revealed the importance of the Internet in the formation of the opinions of American citizens: 46% of all American citizens have used the Internet to obtain information, 30% have downloaded videos concerning the elections, and 10% have interacted with the candidates through social networking sites (Facebook).*

[2] *There are also portals that are spreading rapidly abroad for viewing audiovisual contents in a customized manner. This is the case, for example, of the BBC's iPlayer.*

watch videos of programmes (including the news) they were unable to see when they were aired, recorded and saved for playing and watching at times more convenient for them. The traits of the immediate, unique, excluding, and passive reception of television broadcasting thus tend to become recessive and merge with the typical methods of use – individual and elective – of contents on the Internet.

In the new television, there is a trend toward a process of disintegration (unbundling) of the audience of the generalist channels, of a proliferation of specialized digital programmes, and of a targeting of the offering of audiovisual content. From the early part of the decade up to today, on the major European television markets, the haemorrhage of viewers from generalist channels ranges from 20 percentage points in the United Kingdom to 7.5 points in Italy.

In Europe[3], the transition to digital television is going through a phase of great progress: in 2007 17 million users registered for digital television services (on all platforms[4]).

Italy shows the same dynamics that characterize the evolution of the audiovisual sector in Europe and worldwide: the past year has seen a further consolidation of the weight of pay TV vs. the total amount of sector resources, a strengthening of the new digital platforms (satellite and terrestrial) to the detriment of analogue TV[5], and an increase in the competitive pressure determined by a transflow process by which traditionally free television channels enter the pay TV sector and growing shares of advertising market are acquired by pay TV operators. For the first time, in 2007, a value of advertising revenue was registered below the threshold of 50% of the total TV sector revenues (48.8% vs. 50.2% in 2006), while the growth of pay TV continues (from 28.2% in 2006 to 28.8%

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[3] *The leader of the transformation process is the United Kingdom, with almost 22 million digital users, followed by France with 16.3 million and Italy with 12.5 million.*

[4] *Satellite, digital terrestrial, cable, IP TV.*

[5] *For the first time, families with digital television systems passed the threshold of 50% (54.2%).*

in 2007), and there is a slight percentage reduction of the subscription fee (from 19.6% in 2006 to 19.4% in 2007).

In general, the shares of the major operators do not appear as stable as in the past, and a slight increase is also registered by minor operators, who, percentage-wise, showed a greater growth than in 2006 (Telecom Italia Media goes from 162 million euro in 2006 to 188 million in 2007, with a percentage increase[6] of 16.2%).

The concentration of two broadcasters as far as audience is concerned remains[7], but in an overall economic set-up that by now sees three operators in comparable positions, owing to the ever-growing role acquired by Sky Italia: in 2007 RAI registered revenues amounting to 2.74 billion euro, RTI had 2.4 billion[8], and SKY had 2.35 billion.

In Italy, local broadcasting has a presence that is incomparable elsewhere. It is a by-product of our history and culture, and is important for providing an outlet for a plurality of viewpoints and news sources, but also for the training of professional skills, discovery of new talents, and testing of new formats.

In recent years the Authority has directed its action toward providing immediate, concrete responses to the requests for competition and pluralism coming from the system and from national and EC institutions.

Last year the Government definitively set the end of 2012 as the deadline for the total digitalization of the analogue networks[9]. But – as I mentioned in the Reports of past years – the indication, in addition to being extended, risks proving unrealistic without the preparation of a plan for the progressive transition to digital television by geographic areas. We should

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[6] *On the total revenues from television services (advertising, pay services, and wholesale revenues).*

[7] *The total audience of RAI and Mediaset totals 82.3%; the total advertising revenes of both amounts to 84.1%& of the total revenues for the market.*

[8] *The sales figures refer to the Italian market and take into consideration only net revenues from advertising and pay TV.*

[9] *Decree-law no. 159/2007, converted, with amendments, by Law no. 222 of 29 November 2007.*

thus favourably greet the rule contained in the conversion law[10] of Law-decree no. 59 of 8 April 2008, by which it becomes necessary to define within three months' time, in accordance with the Authority, the calendar for the definitive transition to digital terrestrial television broadcasting, with an indication of the territorial areas concerned and their respective deadlines.

The Authority is ready to begin and quickly conclude, on the basis of the priorities that will be set, the activities for which it is responsible in the planning of the "all digital" areas, and will base its action on the EC principles, reasserted by the Court of Justice[11], of an efficient use and fair, transparent, non-discriminatory management of the frequency spectrum, as well as of the expansion of the number of operators.

On the basis of the positive experience of the past months in Sardinia[12], the Authority will proceed with the identification of the digital networks, consulting with the parties concerned. This strategy has made it possible, in Sardinia, to provide for a rapid, effective, and efficient implementation of the frequency planning, complying with the international parameters, guaranteeing uniform coverage and a rational distribution

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[10] *Law no. 101 of 6 June 2008.*

[11] *Fourth Division, ruling of 31 January 2008 (case C-380/05).*

[12] *Resolution no. 53/98/CONS of 23 January 2008 defined the frequency assignment plan for the digital television broadcasting service in the region of Sardinia in view of the planned switch-off. The new assignment plan envisages 21 UHF frequencies with a coverage of more than 80% of the territory; of these, it establishes that 14 are to be assigned to the national broadcasters and 7 to the local regional broadcasters, according to fair, transparent, and non-discriminatory criteria; also envisaged are 2 VHF frequencies with a coverage of more than 80% of the territory, which are assigned to the national broadcaster; in addition, there are 6 frequencies with coverages between 50 and 70% of the territory, which are also assigned to the national broadcaster, while 10 frequencies with subregional coverage will be assigned to the local, multi-provincial, and subregional broadcasters.*
Among the frequencies with coverage of more than 80%, 2 are reserved for the entrance of new-entry operators, according to rules that will be determined by the Authority and the Ministry of Communications, while the remaining 5 frequencies of subregional coverage will form a reserve which can be used during the phase of negotiation of the international and bilateral agreements with the neighbouring countries. This result falls within the framework of the international planning decided in Geneva in 2006 and renders, in perspective, the use of the radio spectrum efficient and pluralistic, as determined by the European Commission.
Only one television broadcaster contested the plan, specifically challenging the note of the Ministry of Communications notifying it that it was not to receive the temporary assignment of the rights of use of digital frequencies. But this past 12 June the T.A.R. (Regional Administrative Court) rejected its stay request.

among the national and local operators, and freeing up frequencies for assignment to new-entry operators.

In this regard, and with reference to another point of the Action Plan, i.e. the international coordination, it is necessary to continue with the coordination action with neighbouring countries started up by the Ministry of Communications with the Authority's technical contribution.

The hope is that over half the Italian population will be able to make the transition to digital television within the next 24 months.

In the meantime, the Authority has undertaken the initiative to allow new suppliers of independent contents to enter the television system. This may mark a turning point. I am referring to the competition for the assignment of 40% of the broadcasting capacity of the major integrated broadcasters (RAI, Mediaset, and Telecom Italia). We have by now reached the final phase of the public selection procedure, which has entailed the presentation of 25 applications by 18 operators (numerous foreign ones).

The aim is to foster the development of the television sector through a promotion of contents that enhances creativity and intellectual ownership, and which is perceived by users as an enrichment of quality and diversification.

We are also following up[13] on the responsibilities attributed to the Authority by the new regulations on audiovisual rights on sports events, marking the transition from a system centred on the ownership of rights by single football clubs to a new system based on co-ownership of rights between the competition organizer and the clubs. This will be followed by the regulation of the reporting rights, based on a proper balance between the interest in commercial exploitation of television rights by the operators who have acquired them and the general interest of the collectivity in the knowledge of the sports events.

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[13] *Resolution no. 307/08/CONS of 5 June 2008.*

And here I would like to mention the principles of the new Directive on Television Without Frontiers, which, in order to defend the fundamental freedom to be informed, states that holders of the exclusive broadcasting rights of events of great public interest must also allow other television broadcasters to use brief excerpts, under fair, reasonable, and non-discriminatory conditions.

I want to stress the importance of the rapid transposition of this Directive, also for the aims for which it was adopted by the European Union[14].

The Authority will promptly implement – within the limits of its sphere of responsibility – the decisions of the Council of State of 6 May of this year with regard to the appeals filed by Europa 7, and will provide technical support to the Ministry of Economic Development for the tasks assigned it.

This past 1 July, the Authority took over the presidency of the Mediterranean Network of Regulatory Authorities[15]. This circumstance intensifies the close relationship of the Italian Authority with its sister Authorities of the Mediterranean basin (including, in addition to the European Authorities, those of the African countries and Middle East as well), with the aim at fostering a democratic and advanced system of television communications in an area that is of congenial interest for us.

3. Personal dignity in the radio and television system: from silly TV to quality TV

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[14] *The aim is the adaptation of the regulatory framework in order to take into account the impact of the structural changes, the spread of the new technologies, and to guarantee optimal conditions of competition and certainty in the media sector.*

[15] *Réseau des instances de régulation méditerranéennes – RIRM.*

Over the years, the differences between the programmes of the public radio and television service and those of commercial TV have become evanescent, with a lowering of the quality bar that fades the mission of the public service and positions our television below other European televisions.

We have the example of the BBC, which provides the entire world (including Italy) with interesting scientific, historic, and geographical documentaries and, generally speaking, produces products of valid cultural content (plays, concerts, but also cult sports events) for targeted audiences. French television has also taken giant steps in this direction.

The service contract with RAI envisages raising quality, and a special Committee has been created to monitor compliance with that aim. But it will remain an idea only on paper unless RAI itself, with the professional resources necessary for its implementation, becomes convinced of it. I am thinking of the wealth of contents it has at its disposal; I am thinking of its archives, which form a fundamental piece of our history.

The picture that emerges from a recent study[16] is that both news programmes and analytical commentary are dominated by news items told with the audience ratings in mind. This leads to excessive intrusions into the private lives of persons, encroaching upon the untouchable nature of personal freedom and dignity guaranteed by the Constitution.

We are seeing, more and more frequently, the "mimesis of the trial" on television, which adopts patterns, rites, and theories that are typically trial-style, reproducing them with the manners, timing, and language of the television medium. Justice is perceived especially as how it appears, and it appears as it is represented by the media. From the information on the trial – justified by the "right to news" – we have gone to the trial conducted on the news media: a media hall that becomes an alternative courtroom, an "omnivorous" way to gather every piece of knowledge that makes it to a

[16] *"A year of television news" edited by ISIMM Ricerche.*

microphone or camera. In these dynamics, it is the judgment handed down in the trial, the real one, that turns out to be less reliable and in any case late-arriving, since public opinion has already memorized as “true” the version subliminally offered by the audiovisual medium.

The level of civilization of a country is measured first of all by the respect for and compliance with justice, and then by an independent and efficient judicial system. But it is not possible to make up for the excessively long times of the justice process by transferring the trials from the courtrooms to television, with the further risk of arousing in certain judges the temptation of protagonism.

The reform of RAI is a subject for the attention of this new legislature just as it was, unfortunately in vain, in the past ones. It is an important topic from the ideological-political standpoint and an urgent on at the practical level. RAI cannot compete – and cannot even function acceptably – as hampered as it is by a web of administrative-accounting rules that would not be very suitable for a traditional Administration (and which are not at all inseparable from the organization’s public service mission)[17] and, at the same time, paralyzed by political pressures and counter-pressures. It is highly desirable that the reform of RAI arrives as soon as possible, focusing on efficiency, perhaps defining and prefiguring several unavoidable rules that combine the entrepreneurial nature of the governance with the pursuit of the basic aims of a public service with marked aims of general interest, freed from the embrace of the political parties.

4. The other communication media

[17] *In fact, in light of the regulations in effect (cf. Articles 41 of the Italian Constitution and 2355ff of the Italian Civil Code), the corporate governance framework is, in itself, “neutral” with respect to the aims – of private and/or public interest – to be pursued with it.*

In an extremely competitive market situation, the development of radio continues: in 2007 there was a consolidation both of penetration with families (arriving at 73%), with a distinct increase in the listening audience and, as a result, a certain increase in advertising investments (+8.2%). Also showing consolidation is the process of convergence with the other media (TV and publishing) and the integration with the Internet, which pushes in the direction of the overlapping of the radio audience – young and accustomed to connection and interactivity – with that of the Internet.

Speeding things up, for radio the digital Age will begin in 2009. Here, too, the road to follow is the progressive planning of digital radio by territorial areas. The consultation called by the Authority highlighted a great community of intention toward the introduction of the new technologies, overcoming the contrasts of the past. There is not so much talk of how to arrive to a digital system, as of what to do with it. The Authority will accompany the development with a regulation focusing on the principles of pluralism, technological neutrality, and competition.

Publishing, also, is characterized by a growing push toward integration with the other traditional and new media, also aiming to overcome the structural limits determined by a long-lasting weakening of the traditional demand. The integration is taking place in particular between the printed press and the Web, and is determining the transformation of the publishing operators into multimedia groups, capable of providing contents on paper and audiovisual media, also by means of the Internet, radio stations, and TV channels.

The spread of the free press continues.

Within the perspective of a legislature, it is possible to launch a regulatory season of rationalization and simplification that leads to the drafting of a single media code, in which the press reform, pending for a long time, can also be included.

5. The telecommunications sector

Up until recent times the development of the telecommunication sector has been one of a continuous jet.

Italy has the highest dissemination of cell phones in the world (one and a half per inhabitant).

We are in the vanguard in technological innovation and evolution and in innovative offerings (triple play; quadruple play, fixed-mobile convergence); ranking first in Europe and second in the world in the dissemination of third-generation mobile services (UMTS); world leader in the market of contents and services for mobile telephony[18] and in particular for mobile phone television.

Italy is the world's fifth-ranking market in telecommunications in per capita sales, and first in mobile telephony voice services. And it is an open and competitive market, with one of the most advanced regulatory systems: in Italy there are foreign and multinational operators such as Vodafone, British Telecom, Telefonica, Swisscom, Wind, and Hutchinson Wampoa.

The concentration index has continued its structural decrease in **all** the markets of the telecommunications chain.

In mobile telephony, the entrance of virtual mobile operators (over 500,000 customers in just a few months) further enlivened the already-existing competition.

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[18] *With sales of 1.2 billion euro and a growth rate of 15%, which has remained practically unchanged since 2006 (2008 Report of the Sector Observatory of the Politecnico of Milan).*

The technological and services evolution was accompanied by a continuous drop in prices which, in a distinct countertrend to the increase of the cost of living and prices of **all** services of public utility[19], reached almost 30% (28.3%) in the last decade. Only during the last year the decrease in prices has been, as a whole, 8%, arriving at 14.6% in the mobile telephony sector. ISTAT (Italian National Statistics Institute)[20] highlights the fact that the telecommunications sector was practically the only one that countered inflation.

Intervening once again in May of this year[21], the Authority approved a draft provision that outlines a course of further reduction of the mobile telephony call termination charges which will bring, in 2011, the rates of the three main operators[22] to drops of about 35%-40%, with further savings for citizens of 1.5 billion euro. The reduction of the mobile termination charges remains, however, an aim to be pursued progressively, in light of the actual market situation, and not with criteria decided *a priori*. Our priority is, rather, focused on the less well-to-do families who will have to be protected from the risks deriving from the sector's price dynamics and growing inflation.

The flat and semi-flat offers for mobile telephony services are having a hard time taking off; for the normalization of the market it would be advisable – as I already pointed out during the past legislature – to suppress the government concession tax on subscriptions.

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[19] *In 2007, the rates for goods of public utility grew by an average of 2.3%, with an increase of 4.3% for energy products, 1.7% for postal services, 7.1% for railway services, and 4.8% for potable water. The increases of recent months are even higher.*

[20] *ISTAT 2007 Report, Chapter 1, pages 34 and 37.*

[21] *Resolution no. 305/08/CONS of 21 May 2008.*

[22] *Currently: 8.85 eurocents for Tim and Vodafone; 9.51 cents for Wind; in 2011 they will drop to 5.9 cents a minute*

In fixed telephony, Telecom Italian continues to hold its historic primacy as the former monopolist, but in the past three years its market share has dropped by 10 points (from 94 to 84%)[23].

This has corresponded to a distinct recovery of profitability of the alternative operators to Telecom, with increases arriving as high as 60%; in the past year OLO's investments in fixed-network fixed assets have grown (with an increase of about 15%).

Italy is the European country where the price for the unbundling service is lowest[24] and the second-ranking country for the dissemination of this service. In March of this year, we arrived at 3.7 million direct unbundling accesses (and shared accesses), with a definite acceleration compared to the previous year (over one million lines activated in one year, with a growth rate of 42%).

To complete the regulatory set-up of the fixed market, the Authority defined a pro-competitive measure on the fixed termination rates, which establishes a distinct asymmetry in favour of the alternative operators: the most accentuated in Europe.

Moreover, in spite of these pro-competitive data, also acknowledged by the European Commission[25], Telecom Italia's share in fixed telephony, altough if decreasing, remains higher than elsewhere. This produces effects not only on the traditional services (voice) markets, but also on broadband, where Telecom Italia still held, at the end of 2007, a share (64%) higher than that of the other European incumbents (on the average 55%; 49% in the United Kingdom).

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[23] *This percentage refers to the access lines to the fixed network. In total expenditure, the Telecom Italian share is, instead, 70%, and 76% in revenues from voice services. These shares thus fall greatly in the areas with high traffic density (Milan, Turin, Rome), where the presence of alternative operators is stronger.*

[24] *At the present time, the monthly subscription fee in Italy is 7.81 euro; in Great Britain 8.33 euro; in France 9.29 euro; in Spain 9.72 euro; in Germany 10.50 euro.*

[25] *"AGCOM has actively regulated the access to the incumbent's network. The decisions on the last mile, on the replicability of the incumbent's retail offers and administrative separation of the incumbent's retail and wholesale divisions, have produced positive results up to today." 13th Report of the European Commission, 19 March 2008.*

For this reason also, as well as to eliminate at the root the possibility of anticompetitive behaviours, the Authority – as I announced in the last Report – has undertaken a process toward conditions of an organic equality of treatment in the access to the incumbent's local network.

On 18 June, Telecom Italia turned in 72 commitments, divided into ten groups, aiming at overcoming the competitive problems of network access. This is a novelty that has very few equals in Europe. The commitments presented are not impossible to change and the Authority will evaluate them on their merits, availing itself of a public consultation, in which all the actors of the market will take part. The definitive commitments, if approved, will become binding for Telecom Italia and will change the system structure considerably in the sense of equality of access and total transparency; the regulation will take due account of this new structure.

In recent days the competent European Parliamentary Commissions passed a preliminary approval of the European Commission's proposals for telecommunications reform.

We note with satisfaction that the Parliamentary Commissions voted in favour of strengthening the cooperation among the national regulatory Authorities through the creation of a new independent body made up of the 27 national regulators: this is the line that has always been supported by our Authority in all venues, and which I described to Parliament in my previous reports.

6. Consumer relations

The relationship of the telecommunications sector enterprises with the users, for whom their service is intended, is still unsatisfactory.

In the past year we have received 60,000 complaints. The Authority intervened on all fronts: against the insertion of unfair unilateral contract clauses, against the activation and billing of unrequested services, and against delays in hook-ups and various functioning problems. A specific notice in the case of anomalous traffic and the generalized activation of a block on calls from a fixed network to “risky” or particularly expensive numbers (international, satellite, and with surcharges), often the subject of complaints filed for fraud, were imposed. Among European countries, Italy holds the primacy of transfers of phone numbers from one operator to another; but (especially in fixed telephony), the transfer times are still too long and must be shortened.

The European Commission acknowledged our regulatory measures in favour of the differently-abled.

The amount of the sanctions imposed last year for the violation of measures protecting consumers was almost 8 million euro, about three times that of the previous period of reference.

The relationship with consumers is of fundamental importance for us: they are at the centre of our attention, they are the end points of our actions. This also entails a more incisive comparison with their representative associations. We have drafted a memorandum of understanding with the National Consumer and User Board for the pursuit of aims of an educational-informational nature, initial assistance, and consultation.

A major dispute settlement activity was carried out by the Regional Communications Committees (Co.re.com.): around 35,000 cases received; more than 20,000 settlement attempts made. In order to meet the growing demand for justice coming from users, it has become absolutely necessary to simplify the procedures, assigning the Co.re.com. the task of deciding (and not only settling) disputes; the relevant framework agreement with the Regions is almost ready.

7. The prospects of the communications system. The new technologies.

Recent estimates of the European Commission state that the communication sector has contributed by up to 2.5% to the annual growth of the productivity of the national economic systems.

But every season comes to an end.

For traditional services (voice traffic), the sector is by now a mature one, which will begin its decline if the new services (data traffic, audiovisual), for which the pressing market demand and converging technology indicate there will be an expansion, are not launched.

Nevertheless, for this reason it is necessary to change speed: a high transmission speed is necessary; in other words, broadband and ultra-broadband.

In Italy, the number of broadband users has reached and gone over 10 million, with a growth rate of 20% in the past year. The penetration rate of broadband, however, remains at just 17.8%[26], while in Europe the average is 23.3%[27]; in the Asian countries (Japan, Korea, Singapore, and Taiwan), it is over 30%.

Italy is behind not only in terms of proliferations (last of the G7 group), but also of the quality of the broadband connections, since it is characterized by lower connection speeds than elsewhere: only 27% of all

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[26] *The proliferation of mobile broadband (UMTS/HSDPA) totals 27% (of the total mobile line users).*

[27] *With fluctuations ranging from 26.5% in the United Kingdom, to 24-25% in France and Germany, down to 19% in Spain.*

users state they have connections with band capacities of over 4Mbps, while in the United States the figure is 41%, in Germany and the United Kingdom it is 46%, in France 54%, and in Japan as high as 86%[28].

The architecture of the fixed and mobile network was not designed for the new traffic[29].

This scenario forcefully poses the question of the creation of new broadband transmission networks. The development of the sector can only pass through the creation of this infrastructure.

Analysts' estimates indicate that in 2011 a band capacity of at least 50 Mbps will be needed, compared to the current 3-8 Mbps. This is in the near future, if we take into account the time necessary for building the infrastructure.

All over the world we are moving toward this goal: Great Britain, Holland, Denmark, Germany, and France are aiming for 50 Mbps. Japan, Korea, and China are implementing programmes for a transmission speed of 100 Mbit/s; and there is already talk of Gbit/s.

These high and extremely high speeds presuppose fibre optics cabling. Observing the principle of technological neutrality, the Authority has not failed, and will not fail, to pursue a regulatory policy that is favourable to **all** transmission technologies. And the growth and success of the mobile broadband offers, which we want to support with the assignment of new frequencies and, first in Europe, with the refarming of the existing ones.

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[28] *Cf. OFCOM,* The International Communications Market*, December 2007.*

[29] *In Italy, we depend almost completely on Telecom Italia's copper network which, as good as it may be, is unable to support the band capacities required by the development prospects: ADSL2 arrives up to a maximum of 20 Mbps, which is in any case theoretical because there are network congestion and interference problems that reduce its real capacity. And in Italy ADSL represents over 96% of the broadband accesses, whereas the figure averages around 84% in Europe (78% in the United Kingdom), 50% in Japan, and even somewhat less in the United States (around 45%). Fibre optics connections have been remaining stable for several years now, around the marginal level of 250,000 active lines. Moreover, in the United Kingdom, when the BBC put innovative audiovisual services on the network, their copper network jammed.*

But, in the current evolutionary stage, for the purposes of the transition to high and very high speed, the other technologies are supplementary and complementary to fibre optics[30].

It is not easy to precisely quantify the contribution NGNs can give to the development of the economic system.

The Japanese Government expects that, with an investment of 50 billion dollars in the project for the fibre optics cabling of the whole country, there will be a distinct net increase of the gross domestic product equal to about 1,500 billion dollars. In Europe it is estimated that the Japanese strategy of making high-speed broadband available everywhere could produce, on our continent, an annual increase of the gross domestic product of more than 1% per year for the coming twenty years. Following the same evaluation criteria, it can be calculated that in Italy the GDP growth connected with broadband development may reach 1.5%-2%.

What it can be asserted with certainty is that the new generation networks are not only decisive for the electronic communications sector (telecommunications and audiovisual, during the convergence period), but they have a strategic and driving effect for the entire national economic system.

The discussion, therefore, is not about "whether" or "if", but about "how" and "when" to implement them.

There are three scenarios in the world.

In the United States, where each operator has created its own cable and fibre optics network, there is a (albeit a seeming contradiction in terms) concomitance of network monopolists (TLC operators and cable operators), each of whom is not subject to any access obligation to its own new generation network (this, in the homeland of the "religion" of competition).

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[30] *Fibre optics form the fundamental carrying structure of broadband, with positive effects also on the use of the frequencies. The fixed network serves more and more as a support to the mobile network and, also for this reason, returns to being of fundamental importance.*

In Asia the approach is that of government control. The Japanese, Korean, and Chinese plans are based on direct government intervention for the creation of a fibre optics network that arrives directly to the users' homes (the so-called "fibre to the home", FTTH).

In Europe, albeit in the diversity of industrial policy structures, governments have by now realized the importance of public intervention to foster and complete the creation of the new networks[31], guaranteeing open networks[32].

If we take into account the size of the investment (in Italy, for the creation of a fibre optics network, it takes from 8 to 15 billion euro)[33] and its low short-term profitability, the traditional proactive regulations may appear to be insufficiently stimulating.

But which other routes can be undertaken?

From the standpoint of demand, the current context is characterized by a structural inadequacy owing to the still-low IT literacy of Italian families and enterprises[34]. Therefore policies to support demand – such as incentives for the use of IT equipment, the raising of the level of IT literacy through adequate school and training policies, special terms for small and medium-sized enterprises for the use of broadband, increase of the level of

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31 *The French government has set a minimum goal of four million high-speed broadband users by the end of 2012; the English government has engaged Lehman Brothers to evaluate the industrial policy strategies with regard to NGN, while there is a proliferation of local level actions. Greece has announced a 3 billion euro five-year plan (1008-2013) for investments in the new networks which envisages the laying of fibre optics cables to homes (FTTH) for the urban areas, with a coverage goal of 2 million families and the use of Wi-Max and satellite for remote areas (islands and mountain areas). Spain, too, has recently announced it wants to focus on fibre optics.*

32 *Only Germany, imitating the U.S. somewhat, has decided to leave the field open to the national "champion" (Deutsche Telekom), temporarily freeing it from he regulation and obligation to allow access to its network by competitors. But, as I have often pointed out, such deregulation is in clear contrast with EC rules.*

33 *According to the evaluations presented in March 2007 by Telecom Italia, the hook-up of 65% of the population (1,200 municipalities out of 8,101) with VDSL technology requires a financial investment of around 6.5 billion euro.*
The introduction of FTTH or FTTB technologies and the extension of the VDSL coverage to reach a coverage of 80% of the population requires an estimated investment by all operators of 15 billion euro.

34 *In Italy, the IT literacy level (measured as the level of use of personal computers) is 35% lower than the European average, and about half that of northern European countries (Denmark, Finland, Sweden, Norway, and United Kingdom).*
In this context, it can be seen that Italy also has the highest percentage of users who use the Internet to view or download television programmes and contents: 34%, compared to 20% in the United States and Great Britain and 13% in Germany.

IT literacy in the Public Administration – are a necessary complement to the measures to encourage the supply of high-speed broadband networks.

Direct government intervention, within the framework of the current EC rules, is allowed only in the so-called “white” areas (with very few, scattered users) and, in certain conditions, in the “grey” areas (with low user density), but not in the “black” (competitive and high user density) areas.

In last year’s Report I had pointed out that the cost and inertia factors of the creation of a fibre optics network consist, first of all, of the long, uncertain times necessary for the issuing of authorizations and concessions by numerous local Administrations, and that the digging work alone accounts for about 80% of the total cost.

For this reason I had urged, among other things, a radical streamlining of the administrative procedures[35].

This is the policy line the Government undertook with the recent decree-law no. 112 of 25 June 2008, admitting, for example, a simple “DIA” (report of start of activity) for carrying out the digging work, allowing the sharing of cable ducts and making the fibre optics connection of buildings easier: a line that goes resolutely in the right direction.

One route, Italian also, toward the development of fibre optics networks is certainly that of the synergy with the Regional governments and local Administrations, especially with municipalities. Providing for fibre optics in the planning of new urban areas and for the laying of fibre optics lines when planning routine road maintenance, digging tunnels for the

[35] *The law instituting the Communications Regulatory Authority (Law no. 249 of 31 July 1997, Art. 1, par. 6) provides for the Authority to “report to the Government the advisability of intervention – including legislative measures – in relation to technological innovations and the evolution, at the domestic and international level, of the communications sector.”*

subway system or laying electric cables, water pipes, or sewer lines, means reducing costs and times to a huge extent[36].

The relationship wit the municipalities can lead to the creation of a series of open local networks, interconnected and integrated into the total, comprehensive network. It is in this direction that the examples, increasingly frequent in Europe, of northern cities are going[37].

New opportunities for investment in the new infrastructure become available. It is possible to envisage and even encourage forms of cooperation between the public and private sectors (project financing or public-private partnerships) and among the operators in the creation of the NGNs, in compliance with EC rules[38]. The cooperation, upstream, in the building of the networks and sharing of the cable ducts could be instrumental not only to the creation of the new infrastructure, but also to the definition of a competition-friendly arrangement, downstream, in the supply of the services. The Authority will guarantee full knowledge of the development plans for the new generation networks, promoting a common database for all operators[39] for the purpose of identifying civil infrastructure sharing possibilities.

8. The new role of the regulating Authorities

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[36] *Metropolises like Paris, Tokyo, Vienna, and Berlin are examples of how the sharing of new infrastructure (sewers, electricity, gas) has led to the rapid building of new networks, for the benefit of the entire community.*

[37] *From the "archetype", Stockholm, with the* Stokab *project, dating back as far as 1994, to the more recent Dutch projects:* Citynet Fibre *in Amsterdam,* Smart City *in Eindhoven, and the Rotterdam plan.*

[38] *It is the European Treaty itself (Art. 41, par. 3) that allows forms of agreement among enterprises, provided they contribute to promoting technical or economic progress and entail tangible benefits for the end users.*

[39] *Of great help, with regard to this goal, may be the creation of a dynamic cadastre of all public and private infrastructure that may be usable for broadband purposes. This is an instrument which proved very useful for the transition to digital technology and which may be just as decisive in the identification in a transparent manner of the possibilities for laying fibre optics cables.*

All this calls on the regulatory Authorities to a play new role: up to now their task has been the regulation of the access to existing resources, whether the frequency spectrum assigned to the various communication sectors, or the networks of the mobile operators or fixed network incumbent operator.

Today it is necessary to promote the creation of the new; that is, to oversee the access to the *non-existent* with stimulating rules that acknowledge the proper remuneration to the investments in the new generation networks, in a stable, proactive, and farsighted regulatory context.

But it is necessary to do so while preventing the new infrastructure being conceived as monopolies. As with the audiovisual sector, we must see that the transition to the NGNs does not determine forms of reconcentration of the sector. For this reason, considerations of a technical nature – such as the specific architecture of the networks – become of fundamental importance, on which only an independent Authority endowed with the necessary responsibilities and sphere of action can make wise decisions.

Precisely in recent days the Authority has launched a research programme involving the research institutions and universities to create a think tank that can be of support in the comprehensive consideration of these topics.

The convergence increases the potentials – not only economic, but also social, cultural, and pluralistic – of our country exponentially.

The expansion of the sector with the old technologies – while it has registered so much success – has by now arrived at the end of the line. Without a transition to broadband, the digital divide will not only concern the least served areas of the country, but will mark the separation between the emerging demand for new services and the capacity to meet the requests and, at the same time, between the advanced countries that go rapidly forward and Italy, running on narrow-gauge tracks[40].

Making Italy into a "fibre nation" means winding the clock back twenty years, until the plan (perhaps premature at that time) after the abandonment of which our country ended up lacking a cable network. We thus paid a high price in terms of information and competition pluralism, due to the absence of alternatives to the copper telecommunications infrastructure and the traditional radio and television networks. Twenty years later, perhaps it is not too late yet: Italy has the chance to start over again, the possibility to bring fibre (integrated with radio) to citizens' homes[41].

Ultra high-speed broadband infrastructure is the future of the advanced economic systems, the communication highways of the 21st century.

All services of the near and later future centre on broadband and ultra high-speed broadband network: fast Internet, interactive dialogue with the Public Administration, advanced remote medicine services (consulting the best specialists without leaving one's home), teleshopping, distance learning, and thousands of TV channels, enabling each user to create his or her own programme line-up. It is the way in which work, business, social, and cultural relationships are carried on that is changing in the computerized society in the globalization age.

The Authority has done, and will continue to do, its part.

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40 More than ever, in this age of globalization, evolution is galloping worldwide at a speed that was unthinkable up to a few decades ago. And the telecommunications sector is that in which the more advanced technological innovation is, the more dynamic the development of services can be.
Just to give an idea of the speed and unforeseeability of the current technological development: in 1977, the first fibre optics connection (in Long Beach, California) had a capacity of 6 Mbps and required two fibres, one for each communication direction (one for downstream and one for upstream). In thirty years the connection speed has increased a million times! From 6 to 6 million Mbps in 30 years, a staggering revolution. There is no other sector that is comparable to this.

41 As in other fundamental sectors for the country's economy, Italy starts out ahead and then changes its mind. The other countries start later but actually go ahead and arrive at their conclusion.
The power stations of Caorso, Trino Vercellese, and Garigliano were the first nuclear plants for electric power production in Europe; today they are wrecks. In the meantime France has built 49 nuclear power plants. The result: energy in Italy costs double that in France, while we remain exposed to the same risks as the French do.

Independent regulation has, and remains, irreplaceable for the innovative and competitive development of the sector and the entire economic system. But it cannot replace the industrial policy of a country.

Including the creation of broadband telecommunication networks among the priorities of the three-year plan for the country's development approved this past 18 June by the Council of Ministers[42] and concentrating the intervention on a few major national projects, the Government raised the horizon of its strategic vision.

It is worthwhile to remember, in this regard, Luigi Einaudi's observation[43], that is, that "on the market demands are met, not needs." It is therefore right and necessary to satisfy the demand on the market, but the institutions governing people must also have long-term development strategies[44].

It is infrastructure that is Italy's primary problem today; in the field of electronic communications, as in those of energy, waste disposal, high-speed railways, subway systems, and others.

We must make up our minds and decide: either we keep up with the times, or involution is awaiting us around the corner.

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[42] *The specific bill (no. 1441/C) was presented to the Chamber of Deputies this past 2 July.*

[43] *In his* Lezioni di politica sociale (Lessons on Social Policy).

[44] *On 18 June 2008, the OECD approved a statement on the development of the Internet, in which the role of governments and international cooperation is highlighted.*
The Internet is seen as a factor that goes beyond the sector, and the economic-national system as well, and which has strong implications for society as a whole, with effects ranging from healthcare to education, to the environment.
Article 87 of the EC Treaty – State Aid states:
[...]
2. The following shall be compatible with the common market:
(a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;
[...]
3. The following may be considered to be compatible with the common market:
(a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;
(b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;
(c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.