



Commission for  
**Communications Regulation**

# **Annual Electronic Communications Compliance Report 2013**

**Reference:** 14/37

**Date:** 23 April 2014

**An Coimisiún um Rialáil Cumarsáide**  
**Commission for Communications Regulation**

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## Additional Information

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# 1 Introduction

The Commission for Communications Regulation's ("ComReg") is the statutory body responsible for the regulation of the electronic communications sector (telecommunications, radiocommunications and broadcasting transmission) and the postal sector in Ireland. In accordance with Irish and EU legislation, ComReg is the national regulatory authority for these sectors and its responsibilities include setting regulatory policy and the monitoring and enforcement of regulatory obligations.

ComReg performs a variety of monitoring and enforcement roles such as compliance with spectrum licensing conditions, compliance with the Premium Rate Service framework, compliance by operators with obligations imposed by ComReg and compliance by operators with regulations imposed by Regulations. This report deals with the compliance and enforcement undertaken by the Wholesale Compliance and Retail Compliance teams which focus primarily on compliance in respect of the obligations of communications network operators and service providers. This report covers the period 1 January 2013 to 30 December 2013. Postal Compliance, Spectrum compliance and Premium Rate Service compliance are outside the scope of this report<sup>1</sup>.

This document should be read in conjunction with Wholesale Compliance Annual Report 2012 (ComReg Document number 13/22) and Wholesale Compliance Interim Report 2013 (ComReg Document number 13/86).

As noted, ComReg's Compliance teams are responsible for monitoring and enforcing the compliance of communications network operators and service providers with any regulatory obligations and also handling formal disputes between communications providers. Section 3 of this document provides comparative statistics for the period 1 January 2013 to 30 December 2013 against 1 January 2012 to 30 December 2012. These statistics show the numbers of compliance cases opened and closed and the timescale for dealing with cases. The 2013 annual report incorporates statistics for ComReg's retail and wholesale compliance functions.

ComReg is also responsible for handling Misuse cases. These cases predominantly comprise of incidents where businesses have their telephone systems hacked and unauthorised calls to the value of thousands of euro are made without the knowledge of the business. Section 4 of this document gives details of ComReg's investigations into cases of misuse

Finally, the mechanism by which a communications provider should submit a complaint to Wholesale Compliance is detailed at Appendix 1. The mechanism by which Consumers should submit a complaint to ComReg is detailed at <http://www.askcomreg.ie>.

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<sup>1</sup> Details of findings of non-compliance in respect of premium rate services are published on ComReg's PRS-related website, <http://www.phonesmart.ie> under the Code of Practice tab here [http://www.phonesmart.ie/Code\\_of\\_Practice/133#.Uw4JfHC8DcM](http://www.phonesmart.ie/Code_of_Practice/133#.Uw4JfHC8DcM)

## 2 Summary: Compliance and Misuse

This section presents a summary of the combined Wholesale Compliance, Retail Compliance and Misuse investigations during 2013. Further detail on Wholesale and Retail Compliance can be found in Section 3, detail on Misuse can be found in Section 4.

In 2013, ComReg opened a total of 70 new investigations and also closed 62. The detail of the total number of active investigations active each month in the period can be seen in Figure 1 below:

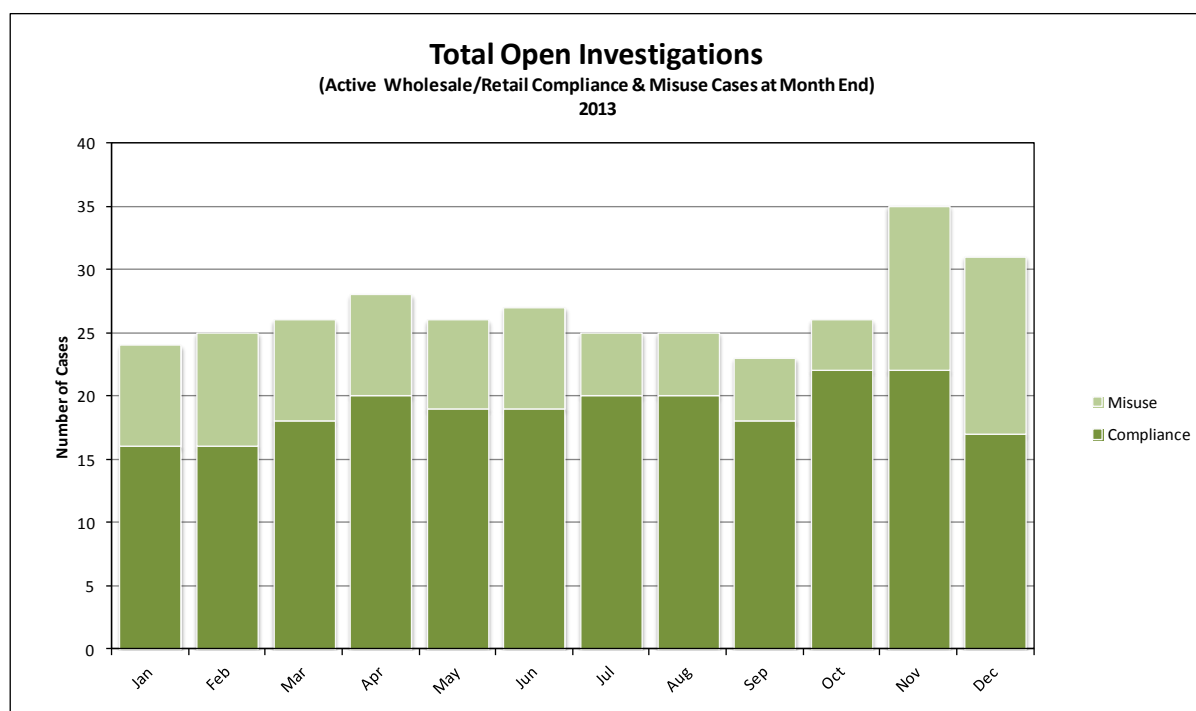


Figure 1: Total Active Investigations by Month.

Greater detail regarding the total number of Compliance and Misuse investigations opened and closed during 2013 can be seen in Table 1 below:

	Compliance	Misuse	Total
New Cases Opened	24 <sup>2</sup>	46	70
Cases Closed	24	38	62

Table 1: Total Investigations Opened/Closed during 2013.

A period-on-period analysis shows that 2013 saw a higher caseload. 70 new investigations were initiated, slightly up on the 53 new investigations initiated the previous year.

The average case duration in 2013 was 5.8 months, the distribution is shown in Figures 2 and 3 below:

<sup>2</sup> Wholesale Compliance accounts for 18 Opened and 24 Closed.

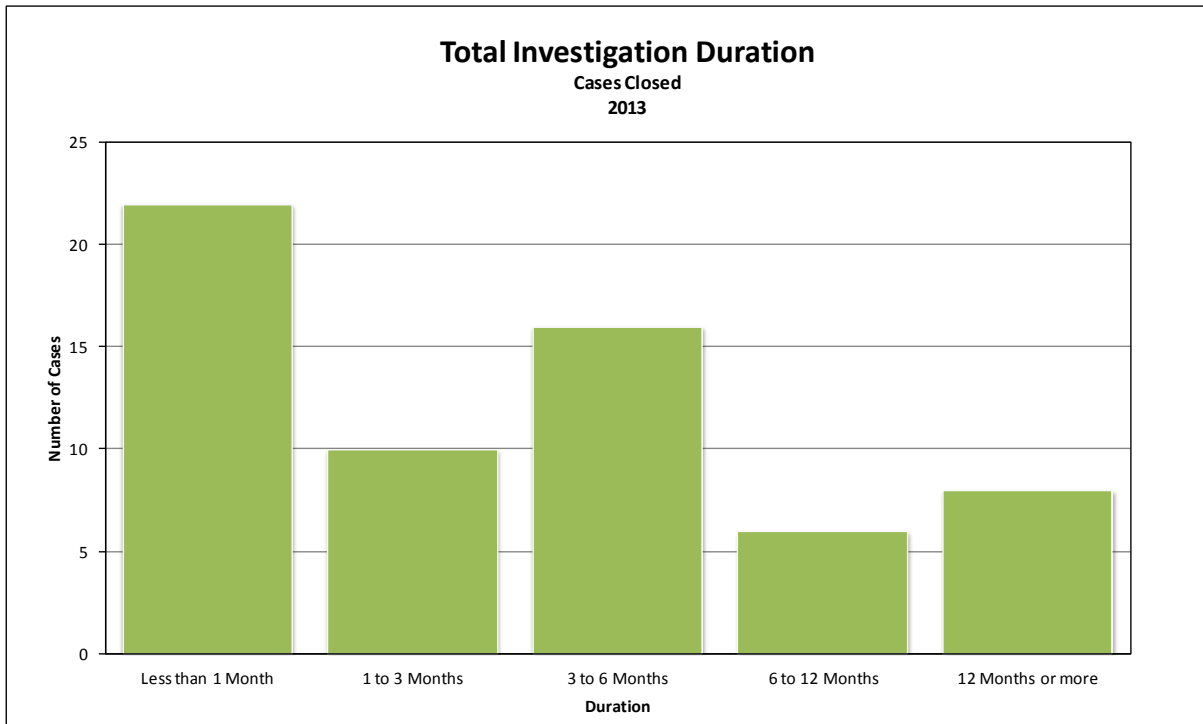


Figure 2: Total Investigation Duration.

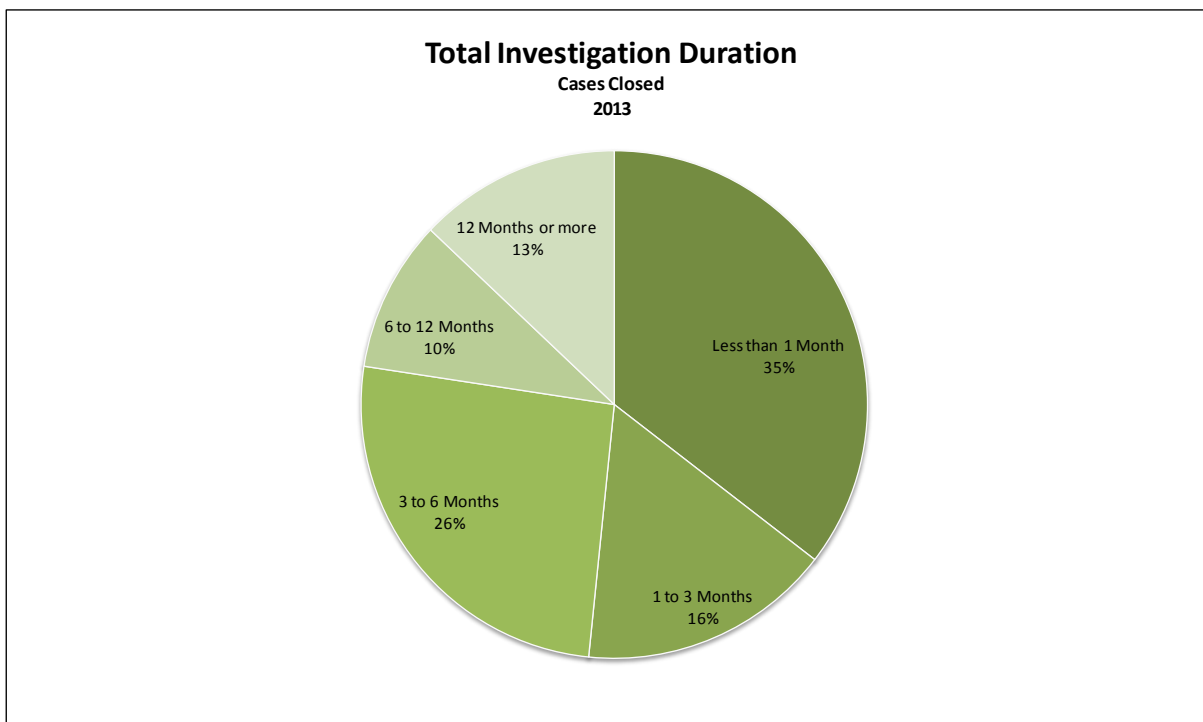


Figure 3: Total Investigation Duration.

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

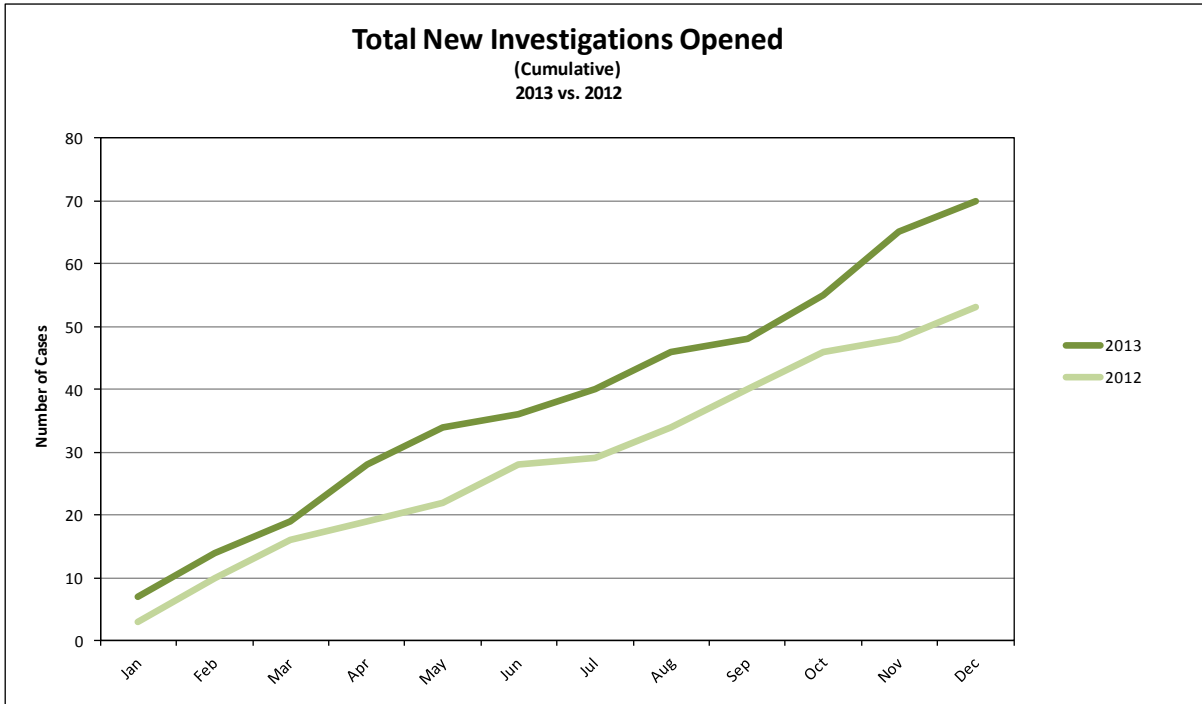


Figure 4: Total New Investigations Opened in 2013 vs. 2012.

In 2013, a total of 70 cases were closed compared with 63 cases closed in 2012. The average case closure rate was 5.2 per month in 2013 compared to an average rate of 5.3 per month in 2012.

A comparison of the cumulative count of closed cases for 2013 versus 2012 is shown in Figure 5 below:

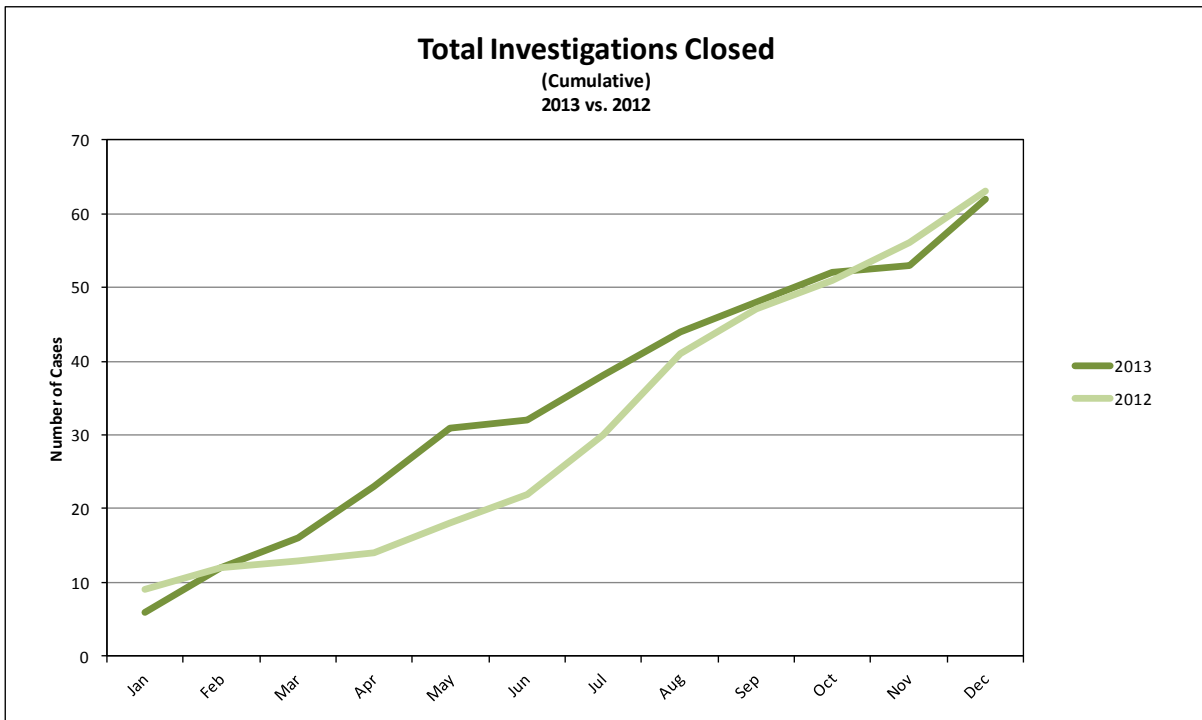


Figure 5: Total Investigations Closed in 2013 vs. 2012.



The average number of open (active) investigations per month was 25.8 in 2013 compared to 30.7 in 2012. The total number of open investigations per month is shown in Figure 6 below

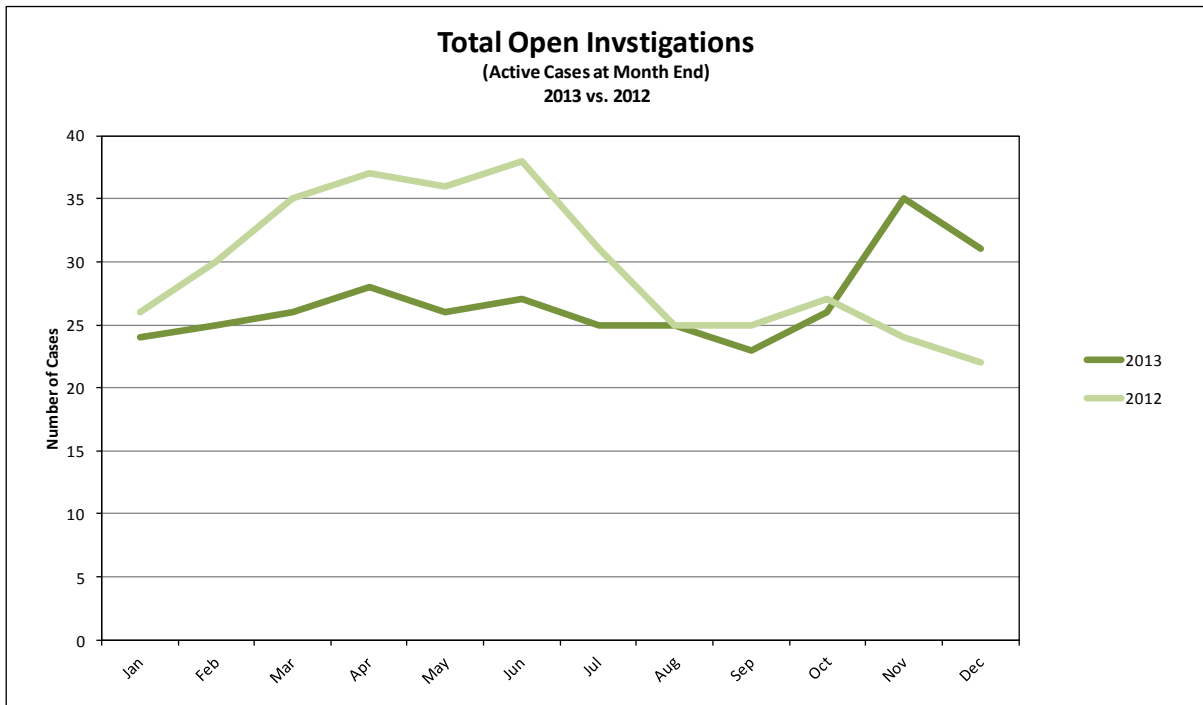


Figure 6: Total Open Investigations by month in 2013 vs. 2012.

Finally, in 2013, 77% of all cases were closed in 6 months or less in comparison to 69% in 2012, as shown in Figure 7 below.

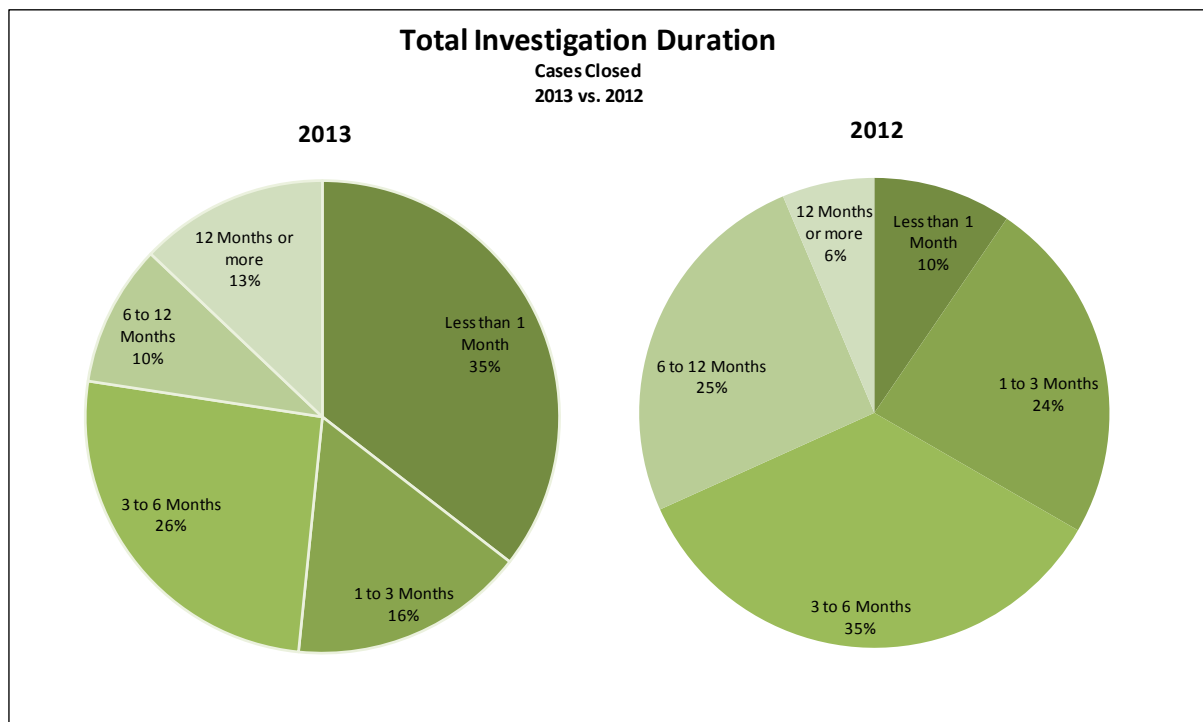


Figure 7: Total Investigation Duration in 2013 vs. 2012.

## 3 Wholesale and Retail Compliance

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

In 2013, the Wholesale and Retail Compliance teams opened a total of 24 new Compliance investigations and closed 24.

During 2013, the following formal compliance and enforcement action was taken:

- A notification, pursuant to Regulation 19 of the Access Regulations<sup>3</sup>, was issued to Eircom Limited (“Eircom”) where, following investigation, ComReg found that the Eircom had not complied with its obligation to meet reasonable requests for access<sup>4</sup>.
- A notification, pursuant to Regulation 19 of the Access Regulations, was issued to Eircom where, following investigation, ComReg found that the Eircom had not complied with its non-discrimination obligation<sup>5</sup>.
- A notification, pursuant to Regulation 31 of the Universal Service Regulations<sup>6</sup>, was issued to Eircom where, following investigation, ComReg found that Eircom had not complied with its obligation to meet reasonable requests for access.
- A notification, pursuant to Regulation 31 of the Universal Service Regulations, was issued to Meteor Mobile Communications Limited (“Meteor”) where, following investigation, ComReg found that Meteor had not complied with its obligations regarding the notification of its customers of modifications to contractual conditions<sup>7</sup>.
- An amended notification, pursuant to Regulation 31 of the Universal Service Regulations, was issued to Eircom where, following investigation, ComReg found that Eircom had not complied with its obligations with respect to conditions and procedures for contract termination<sup>8</sup>.

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<sup>3</sup> European Communities (Electronic Communications Networks and Services) (Access) Regulations 2011 (S.I. No. 334 of 2011).

<sup>4</sup> For further information please see ComReg Document Number 13/16.

<sup>5</sup> For further information please see ComReg Document Number 13/78.

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

<sup>7</sup> For further information please see ComReg Document Number 13/85.

<sup>8</sup> For further information please see ComReg Document Number 13/114.

- One opinion, pursuant to Regulation 19 of the Access Regulations, was issued to Eircom where, following representations by Eircom in response to a notification of a finding of non-compliance, ComReg was of the opinion that Eircom had not complied with its non-discrimination obligation and the non-compliance had not been remedied<sup>9</sup>.
- One notice, pursuant to Section 44 of the Communications Regulation Act, 2002<sup>10</sup>, was issued to Pure Telecom Limited (“Pure”) stating that, following investigation, ComReg had reasonable grounds to believe that Pure had failed to adequately display a customer reference code on bills to enable customers to switch service providers and consequently was not in compliance with Section 18.6.1 of the General Authorisation<sup>11</sup>. A payment in lieu of prosecutions to the value of €1,500 was made by Pure<sup>12</sup>.

Additionally, following an admission of a breach of the non-discrimination obligation in respect of retail versus wholesale repair times for services in the Retail Narrowband Access Market, Eircom paid a penalty of €275,000 in lieu of High Court action<sup>13</sup>.

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

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<sup>9</sup> For further information please see ComReg Document Number 13/35.

<sup>10</sup> Communications Regulation Act, 2002 (No. 20 of 2002), as amended by the Communications Regulation (Amendment) Act 2007 (No. 22 of 2007), the Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010 (No. 2 of 2010) and the Communications Regulation (Postal Services) Act 2011 (No. 21 of 2011).

<sup>11</sup> General Authorisation, Conditions for the provision of Electronic Communications Networks and Services (Document No: 03/81 R3, Date 23 March, 2011).

<sup>12</sup> For further information please see ComReg Document Number 13/38.

<sup>13</sup> For further information please see ComReg Document Number 13/79.

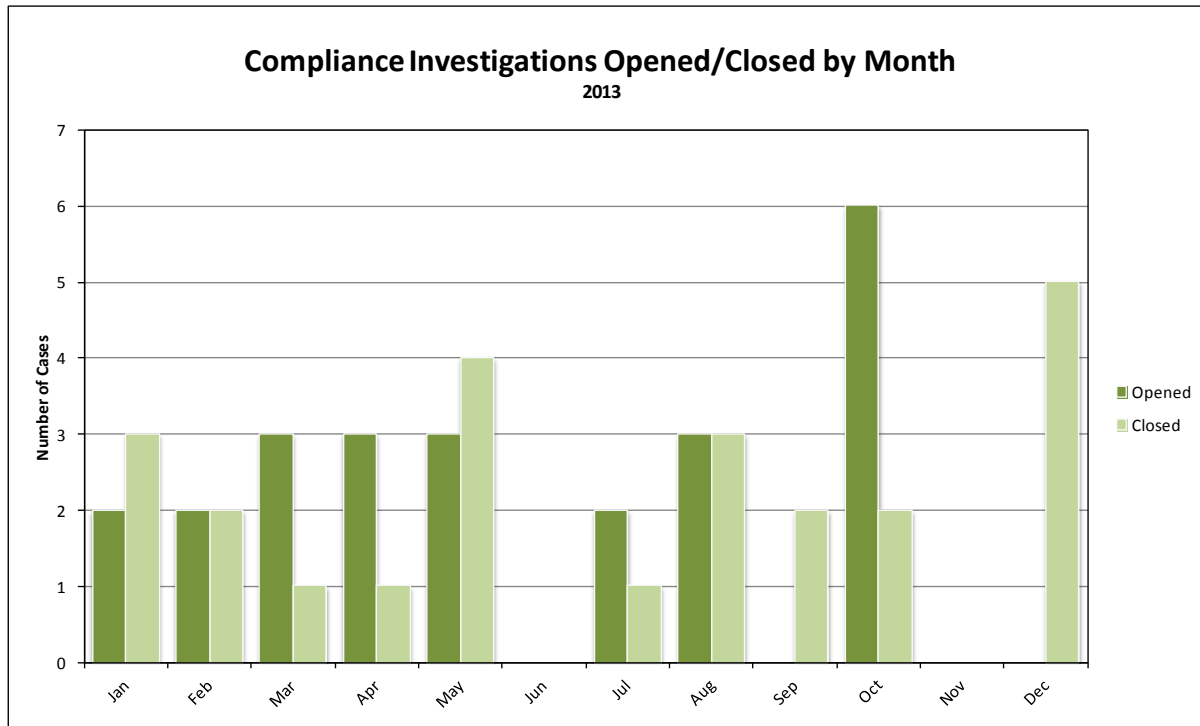


Figure 8: Compliance Investigations Opened/Closed by Month.

The average number of open Compliance investigations per month during 2013 was 18.9 compared to 21.3 in the previous year. The total number of open investigations per month is shown in Figure 9 below.

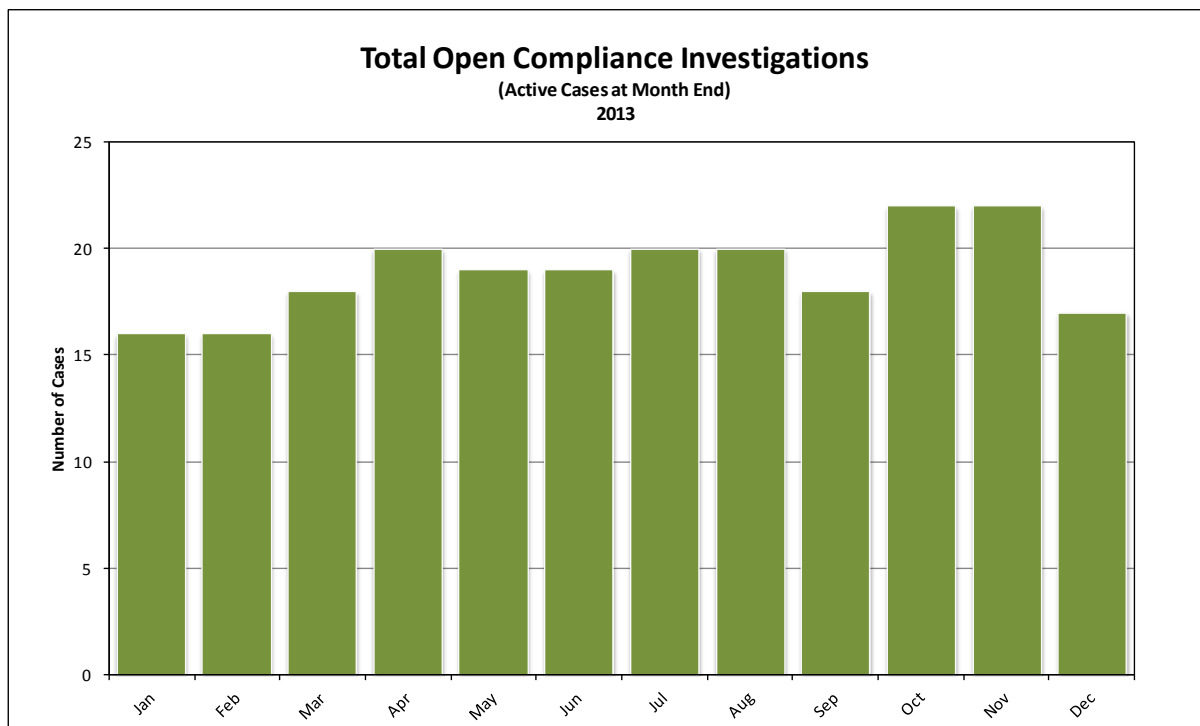


Figure 9: Open Compliance Investigations.

Summary reports for many of the closed cases are available on the ComReg Website<sup>14</sup>:

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

The average Compliance case duration in 2013 was 10.9 months, the distribution is shown in Figures 10 and 11 below:

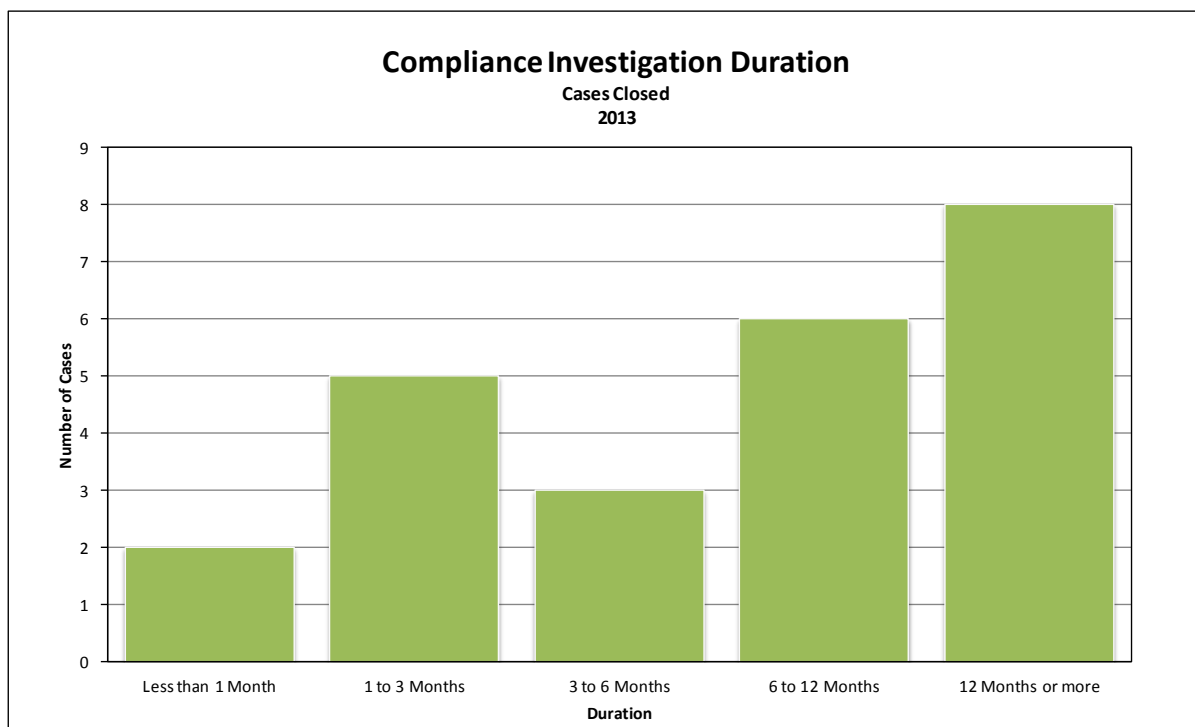


Figure 10: Compliance Investigation Duration.

<sup>14</sup> [http://www.comreg.ie/telecoms/closed\\_cases.561.1042.html](http://www.comreg.ie/telecoms/closed_cases.561.1042.html). The Closed Case summaries are not directly linked to the cases in the Compliance Annual Report. However, Closed Case summaries for some of the case closures noted in this report are available at the link shown.

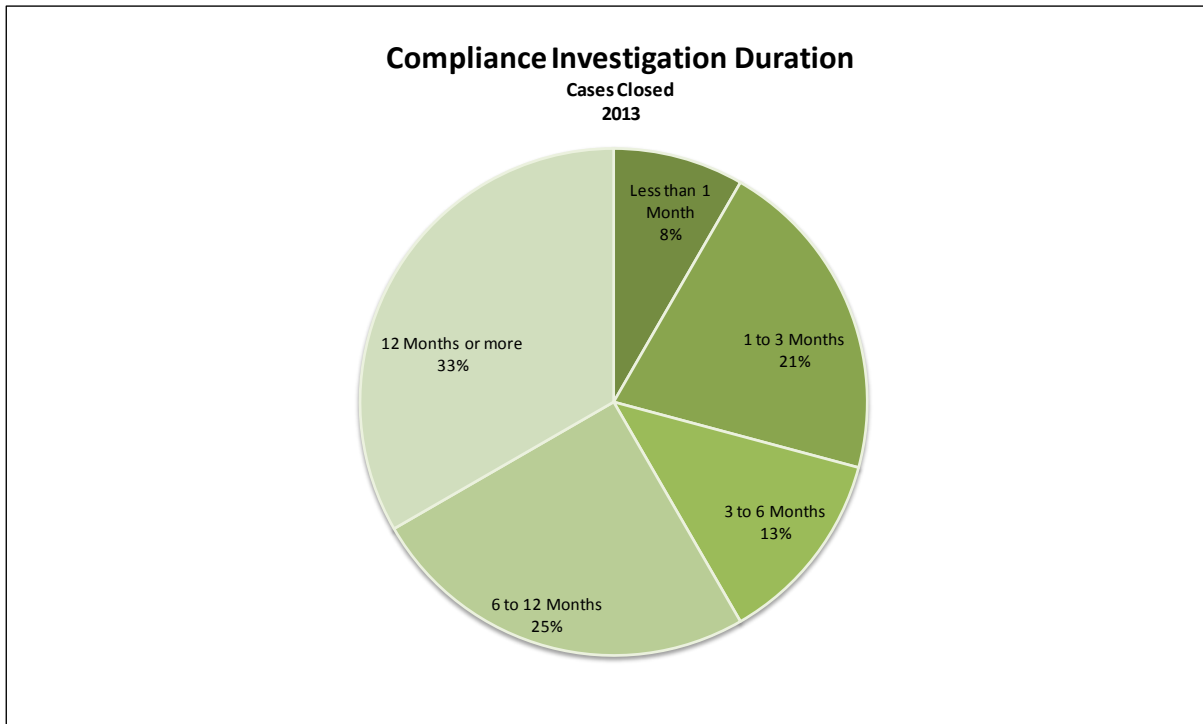


Figure 11: Compliance Investigation Duration.

Finally, in 2013, 42% of cases were closed in 6 months or less in comparison to 61% in 2012, as shown in Figure 12 below.

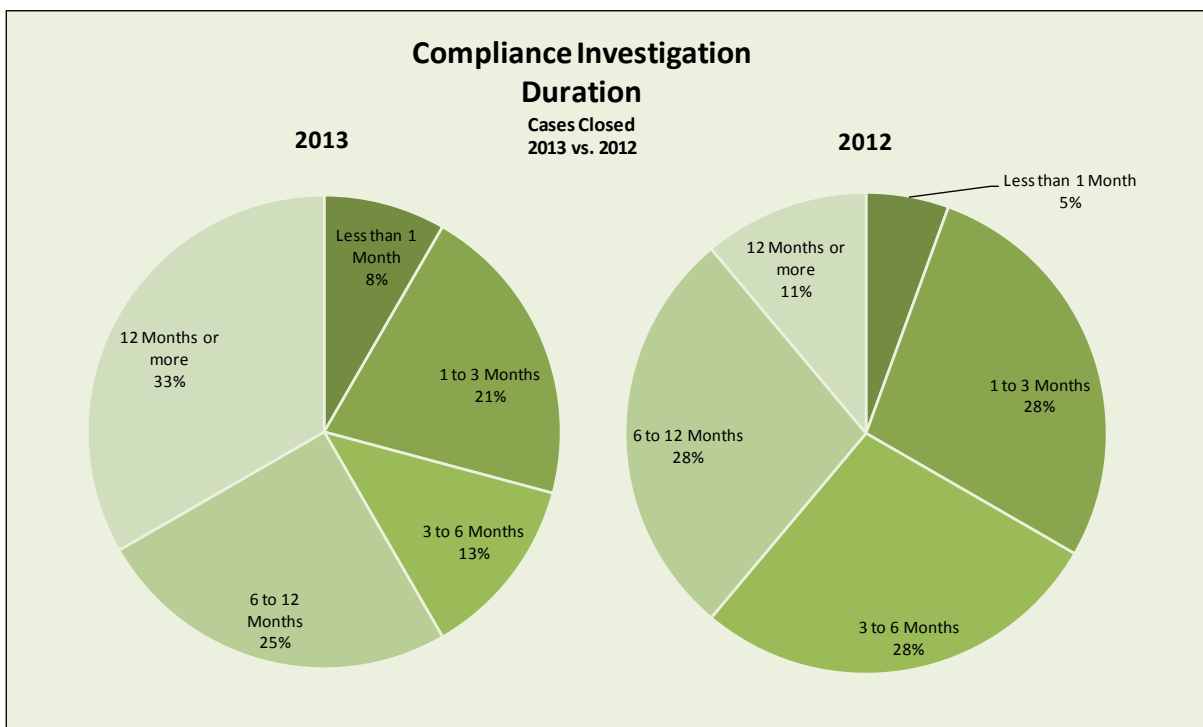


Figure 12: Compliance Investigation Duration in 2013 vs. 2012.

## 4 Misuse

On 1 July 2011, under Section 23(2) of the Universal Service Regulations 2011<sup>15</sup>, ComReg was given the power to require, on a case-by-case basis, that access to numbers or services be blocked and to require undertakings to withhold relevant interconnection or other service revenues where this is justified by reason of fraud or misuse. The powers under Regulation 23(2) are invoked for the purposes of preventing fraud or misuse of Irish numbers and for the protection of both end-users and operators.

ComReg considers that this power may be invoked in circumstances such as :

- the hacking of PBXs (companies' telephone systems). In this type of misuse, the hacker remotely gains access to a company's PBX and begins making calls to international destinations. Generally the hacker's aim is to generate a high volume of calls to a particular destination which generates revenue for the hacker. The company which is the victim of this misuse can face bills of many thousands of Euro for these calls from their communications provider. In these circumstances, the new powers allow ComReg to intervene in the often complex billing arrangements between domestic and international communications providers and require that the payments resulting from this type of misuse are withheld. Typically, when ComReg intervenes in this way a communications provider will not hold the hacked company liable for the calls.
- the sending of large volumes of unsolicited communications (typically SMS) to consumers, which are likely to result in the recipients responding and thereby unknowingly incurring charges. Typically, the original unsolicited communication that is received by consumers does not include details, of the nature or price of the service.

In 2013, the Wholesale Compliance team has opened a total of 44 new Misuse investigations and concluded 38, while the Retail Compliance team opened 2 misuse cases, which have not yet been concluded. The detail of the number of investigations opened and closed each month in the period can be seen in Figure 13 below:

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<sup>15</sup> European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 (S.I. No. 337 of 2011).

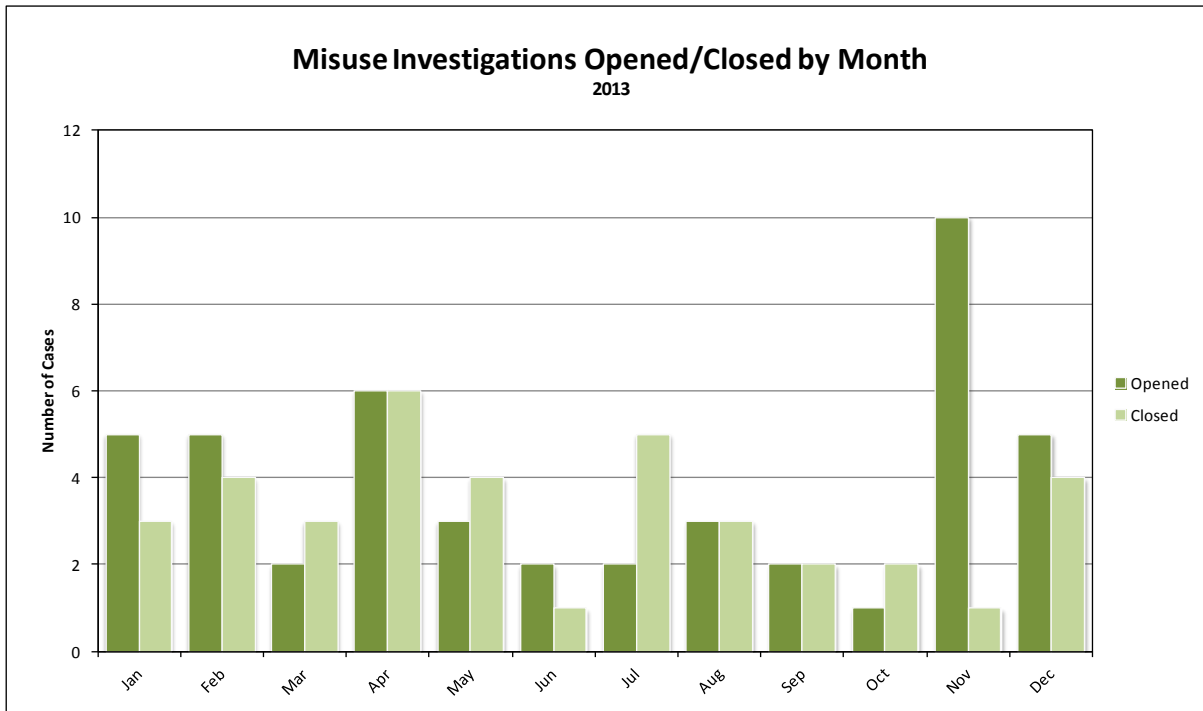


Figure 13: Misuse Investigations Opened/Closed by Month.

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

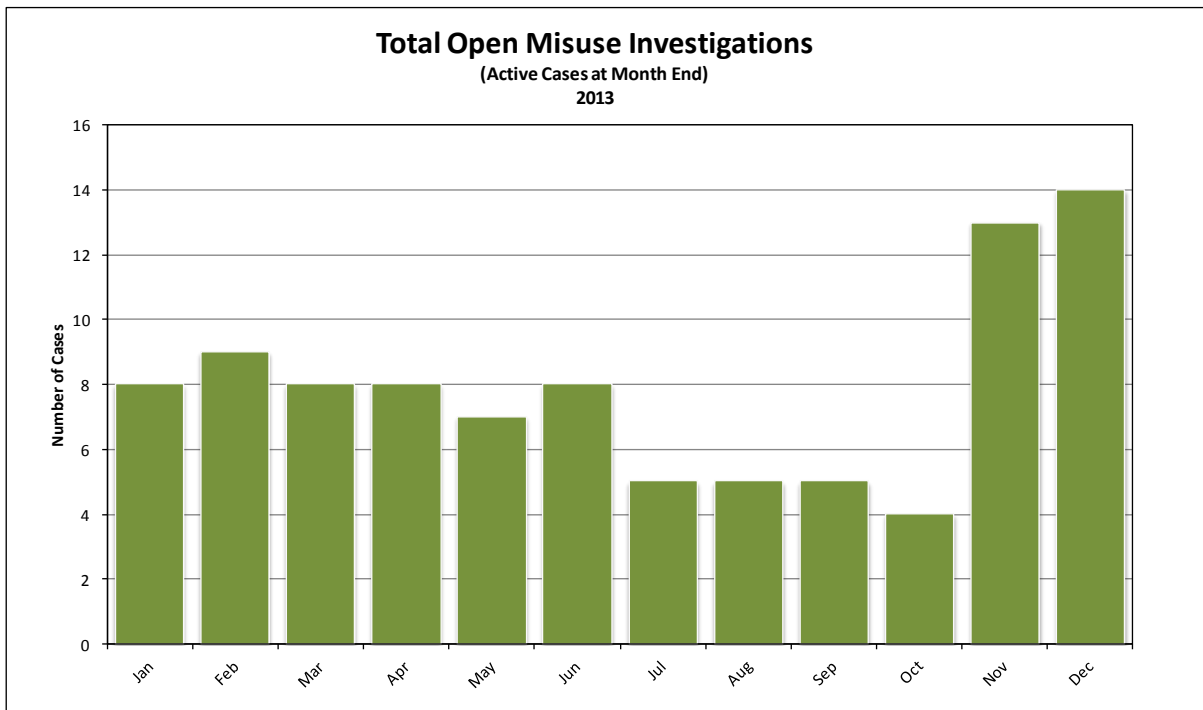


Figure 14: Open Misuse Investigations.

In relation to investigation duration, of the 38 Misuse investigations concluded in 2013, the average duration was 1.9 months as shown in Figure 15 below.



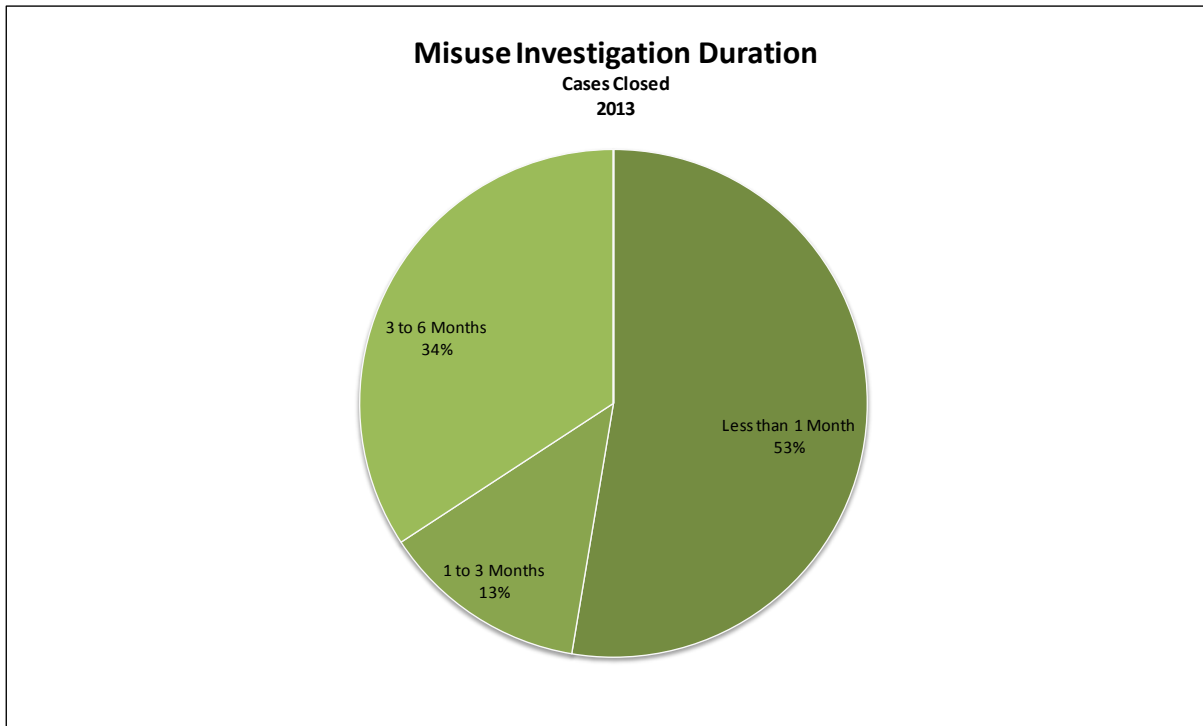


Figure 15: Misuse Investigation Duration.

During 2013, 100% of misuse cases were closed in 6 months or less in comparison to 78% in 2012, as shown in Figure 16 below.

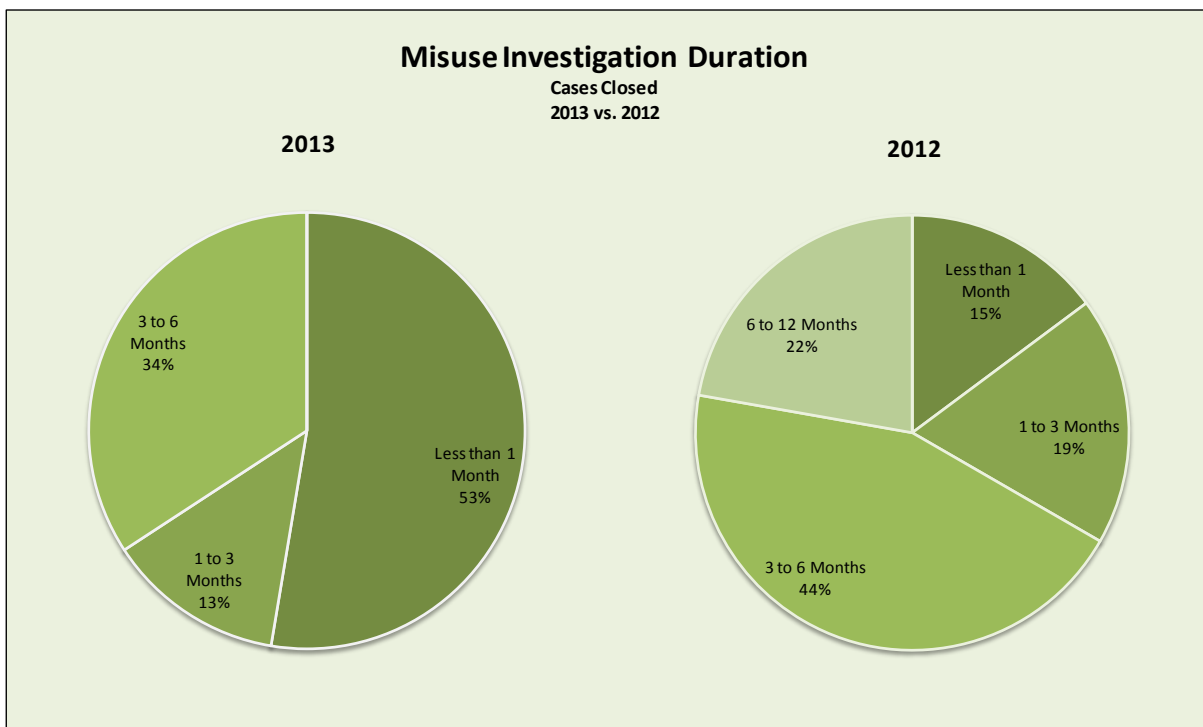


Figure 16: Misuse Investigation Duration in 2013 vs. 2012

During 2013, misuse incidents have occurred with an estimated total retail value of over €600,000<sup>16</sup>. Figure 17 below shows the date of each misuse incident and the estimated retail value. Figure 18 shows the cumulative estimated retail value.

ComReg would note that the process for dealing with misuse can be complex due to the cross border aspects of investigating these incidents. On 7 March 2013 BEREC published guidance material for Regulators on Article 28(2)<sup>17</sup> of the Universal Service Directive which provides guidance for regulators when dealing with cross border instances of fraud or misuse. ComReg is fully supportive of this approach and follows the guidelines where practical.

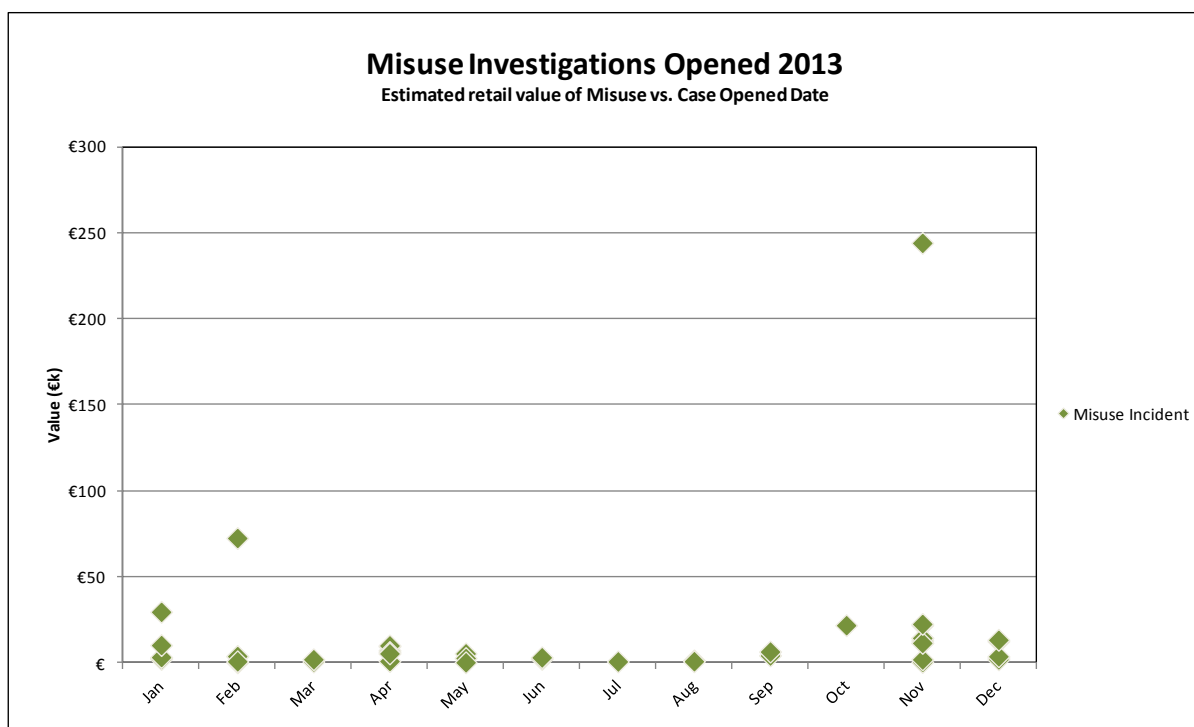


Figure 17: Misuse Investigations Estimated retail value vs. Date of Incident.

<sup>16</sup> In one instance, retail values were not available consequently, wholesale values have been used as a proxy.

<sup>17</sup> [http://berec.europa.eu/eng/document\\_register/subject\\_matter/berec/regulatory\\_best\\_practices/guidelines/1226-article-282-universal-service-directive-a-harmonised-berec-cooperation-process-berec-guidance-paper](http://berec.europa.eu/eng/document_register/subject_matter/berec/regulatory_best_practices/guidelines/1226-article-282-universal-service-directive-a-harmonised-berec-cooperation-process-berec-guidance-paper)

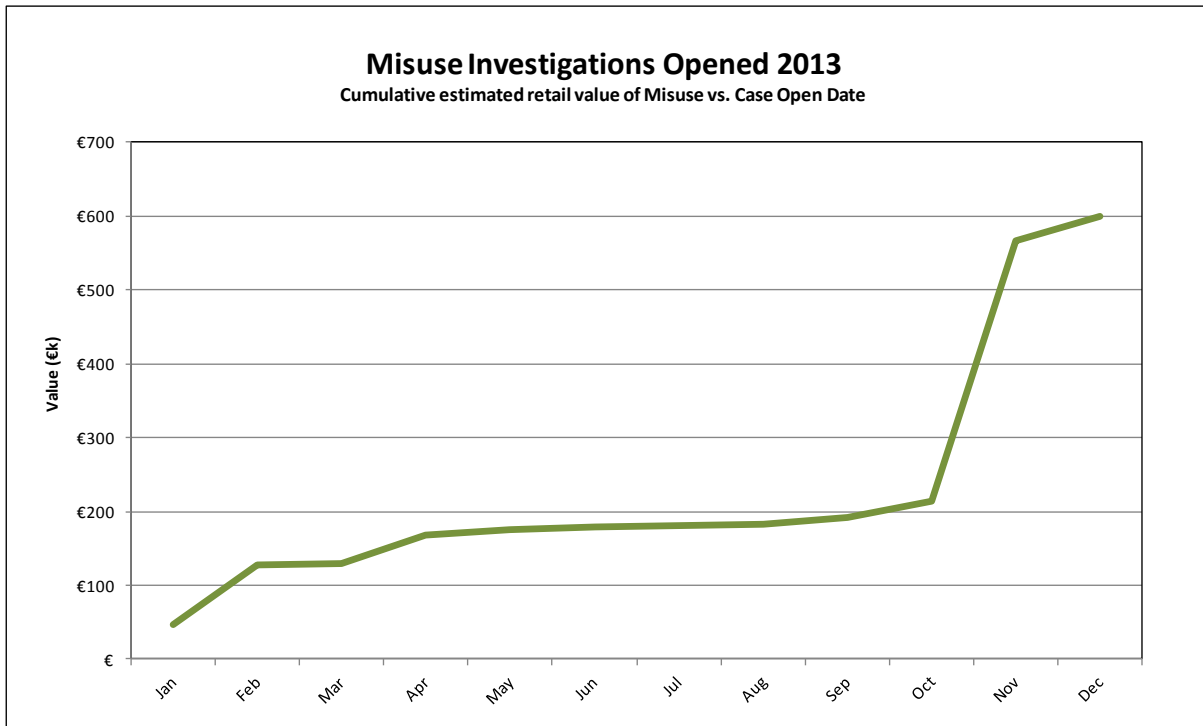


Figure 18: Misuse Investigations Cumulative Estimated retail value vs. Date of Incident.

# Appendix: 1 Contact Details

## Wholesale Compliance

Should a communications provider wish to submit a Compliance issue to the Wholesale Compliance team this should be sent, in writing to Paul Conway, Head of Wholesale Compliance, Commission for Communications Regulation, Abbey Court Irish Life Centre, Lower Abbey Street, Dublin 1. Information in electronic format may be sent to [paul.conway@comreg.ie](mailto:paul.conway@comreg.ie). Submissions should include the following:

- Submitting Operator name
- Submitting Operator contact
- Date of submission
- Responding Operator name(s)
- Summary of complaint/allegation
- The relevant obligation(s) under the regulatory framework which are alleged to have been breached.
- Details of any attempts to resolve the matter with the Responding Operator(s).
- Supporting evidence<sup>18</sup> should be submitted with the complaint and further evidence may be required by ComReg as appropriate.

## Misuse

Should a business or communications provider wish to report a Misuse incident to the Wholesale Compliance team this should be sent to, [misuse@comreg.ie](mailto:misuse@comreg.ie) with the subject line "Misuse Incident". If ComReg decides to commence an investigation, then further information may be required by ComReg as appropriate. Such information may include the following:

- Contact Details.
- Date of incident.
- Summary of incident.
- Communications provider name(s) where appropriate.
- Details of any attempts to resolve the matter.
- Gardaí Pulse Number (if incident has been reported).

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<sup>18</sup> All complaints/allegations should be supported by documentary evidence where possible.

Misuse incidents may also be reported on 01-8049600 during business hours to the Wholesale Compliance team. It is important that such cases are reported promptly as any delay could result in ComReg being unable to intervene.

**Consumer Queries and Complaints:**

See more at: [Ask ComReg – Contact Us](#)

**Text Message -**

Send a text with the word COMREG to 51500 (standard SMS rates apply) to receive a call back

Send a text with the word ASKCOMREG to 51500 (standard SMS rates apply) outlining the issue you need assistance with and we will respond to you by text.

**Web Chat -** [Live support web chat](#)

**Online complaint form -** [Complaint/query form](#)

**Email -**

Business Issues - [Businessconsumers@comreg.ie](mailto:Businessconsumers@comreg.ie)

All other Consumers issues - [Consumerline@comreg.ie](mailto:Consumerline@comreg.ie)

**Call -**

Business Issues - 01 804 9707 / 1890 200035

All other Consumers issues - 01 804 9668 / 1890 229668

**Fax -** 00 353 1 8049680

**Post -** ConsumerLine, Commission for Communications Regulation, FREEPOST, Block DEF, Abbey Court, Irish Life Centre, Lower Abbey Street, Dublin 1.