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Mobile telecommunications regulation of market distortions and failures

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INTUG contents

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- industry policy
- competition law
- non-competitive markets
- international calls
- roaming
- termination
- customer demands
- opening the markets

INTUG industry policy

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- the success of GSM
- the boost for UMTS
 - “technological neutrality”
- the USA does not like *étatisme*
- the commitments to the World Trade Organisation

INTUG competition law

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- Articles 81, 82 and 86 of the Treaty
- investigations (*ex ante*)
- merger approvals (*ex post*)
- complex inter-working of national
 - competition authorities
 - telecommunications NRAs
 - broadcasting authorities

INTUG many different markets

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- retail
- pan-European business
- international calls
- roaming
- call termination
- hand-sets

only retail might be considered competitive

INTUG market failures

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- absence of competition, instead you have state sponsored oligopoly
- mind-numbingly complex tariffs
- appalling customer care
- expensive international calls
- grotesque roaming prices
- cross-subsidy from call termination
- not responding to customer demand
- walled gardens

INTUG international calls

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- calls are expensive
- customers are locked in
- often poor information
- only a few countries require operators to offer carrier selection
- should be made mandatory across EU

INTUG roaming prices

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- information is obscure
- operators frequently claim no responsibility for foreign charges
- charges have massive profits
- compare with low prices on Arbinet
- lock-out of non-licence holders from GSM Association deals
- carrier selection and MVOs
- consumer protection issues

INTUG termination to mobile

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- complaint by WorldCom
- reinforced by the Analysys Report for ECTA
- some operators re-file traffic to get cheaper international rates but
 - loss of CLI
 - poorer quality
- a market which is far from competitive

INTUG customer demand

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- one supplier
- one bill
- consistent management data
- no more roaming
- integration with VPNs at VPN prices
- completing the internal market
- disappointing response to the EVUA-RFI

INTUG international calls to mobile

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- no difference in the price of an international call whether fixed or mobile
- now becoming a feature
- very hard for caller to know what is an international mobile number
- goes against the strong downward price trend
- often operators are paying themselves

INTUG the need to regulate

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- the limit on the number of licences is the central issue
- GSM licences were for voice and not the whole value chain
- now it is a bottleneck to the mobile Internet
- unknown regulatory regime for 3G
- global operators and national regulators

INTUG allocating licences

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- beauty contests or auctions?
- both can and have gone wrong
 - Republic of Ireland
 - United Kingdom
- driven by stock market valuations
- Article 11 of Licensing Directive and WTO Basic Telecommunications Agreement
- Article 86 of the Treaty

INTUG opening up the market

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- mobile number portability
- carrier (pre-)selection
- virtual operators
- merger controls
- success of these measures in fixed
- ending walled gardens

INTUG mobile virtual network operators

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- very poorly defined
- slow progress
- unhelpful non-decision by OFTEL
- massive imbalance in negotiating powers between licensed and unlicensed

INTUG Vodafone + Mannesmann

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- first recognition of a pan-European mobile market
- third party access to Vodafone network for three years
- rapid disposal of Orange plc because of overlapping operations in:
 - UK
 - Belgium

INTUG benchmarking

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- a very effective policy instrument
- drives down prices
- cost-plus because of the imbalance in the size and power of the players
- retail-minus does not work

INTUG conclusions

- a very tough area to regulate
- powerful lobbying from operators
- deceptive competition in the high street
- question of European competitiveness
- cannot allow UMTS to become an oligopoly

INTUG regulatory solutions

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- complete DG Competition investigation into roaming
- declare GSM operator jointly dominant
- introduce number portability
- open up alternative access
 - direct effects
 - pan-European and global services
- ensure equal access for service providers on UMTS