

international mobile roaming some possible solutions

Ewan Sutherland

Contents

- Complaints
- Competition law
- Regulation
- Diffusion
- Transparency
- Reding Roaming Regulation
- Other solutions
- Conclusions and issues

Complaints

- Excessive prices
- Very complex tariff schemes
- Obscure and missing information
- Diffusion of abuses to new services
- Absence of any effects of competition
- Persistence of all of the above

INTUG roaming price study 1999

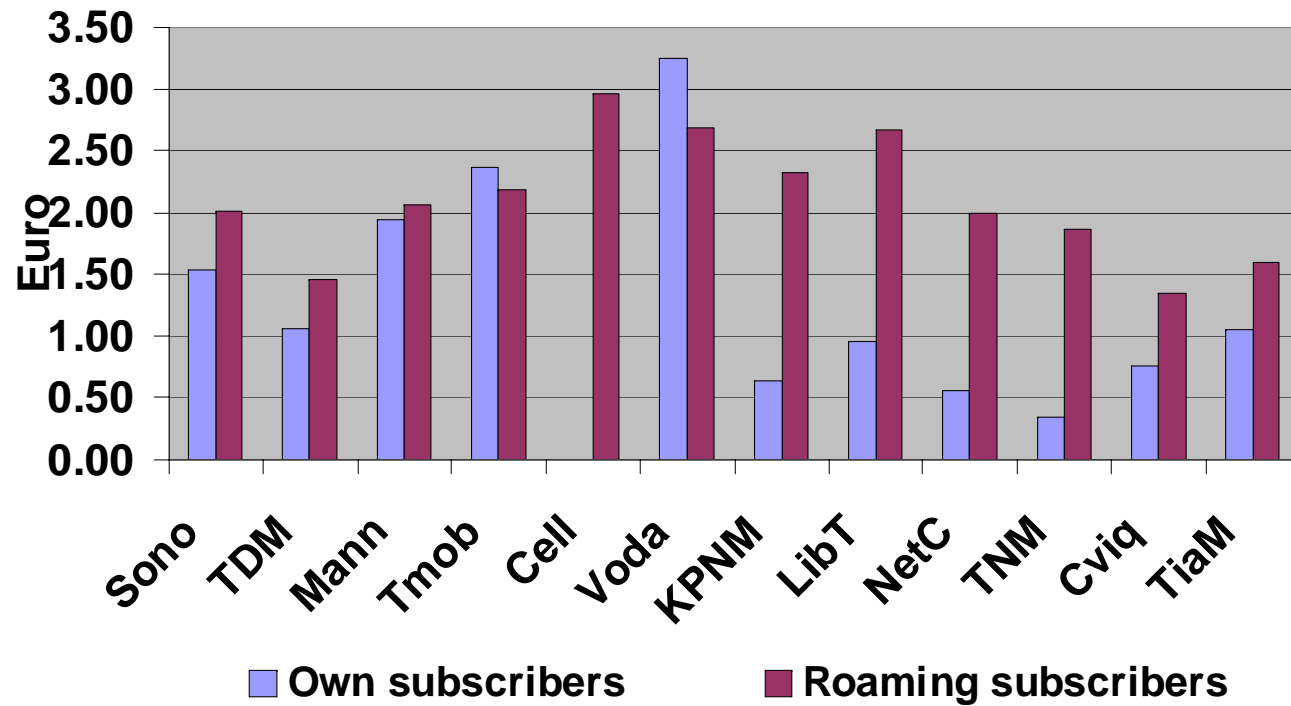
INTUG study background

Roaming charges 2 iii 1999
www.INTUG.net

- European users feel increasing anger in what appears to be significant overcharging when roaming
- “the roamer is an animal to be skinned”
- the roaming environment is cartel-like in its dynamics
- competition is ineffective - inter alia due to the lack of transparency
- what are the facts?

INTUG average international call charges

Roaming charges 2 iii 1999
www.INTUG.net



Unverified data

Foreigners roaming in Egypt

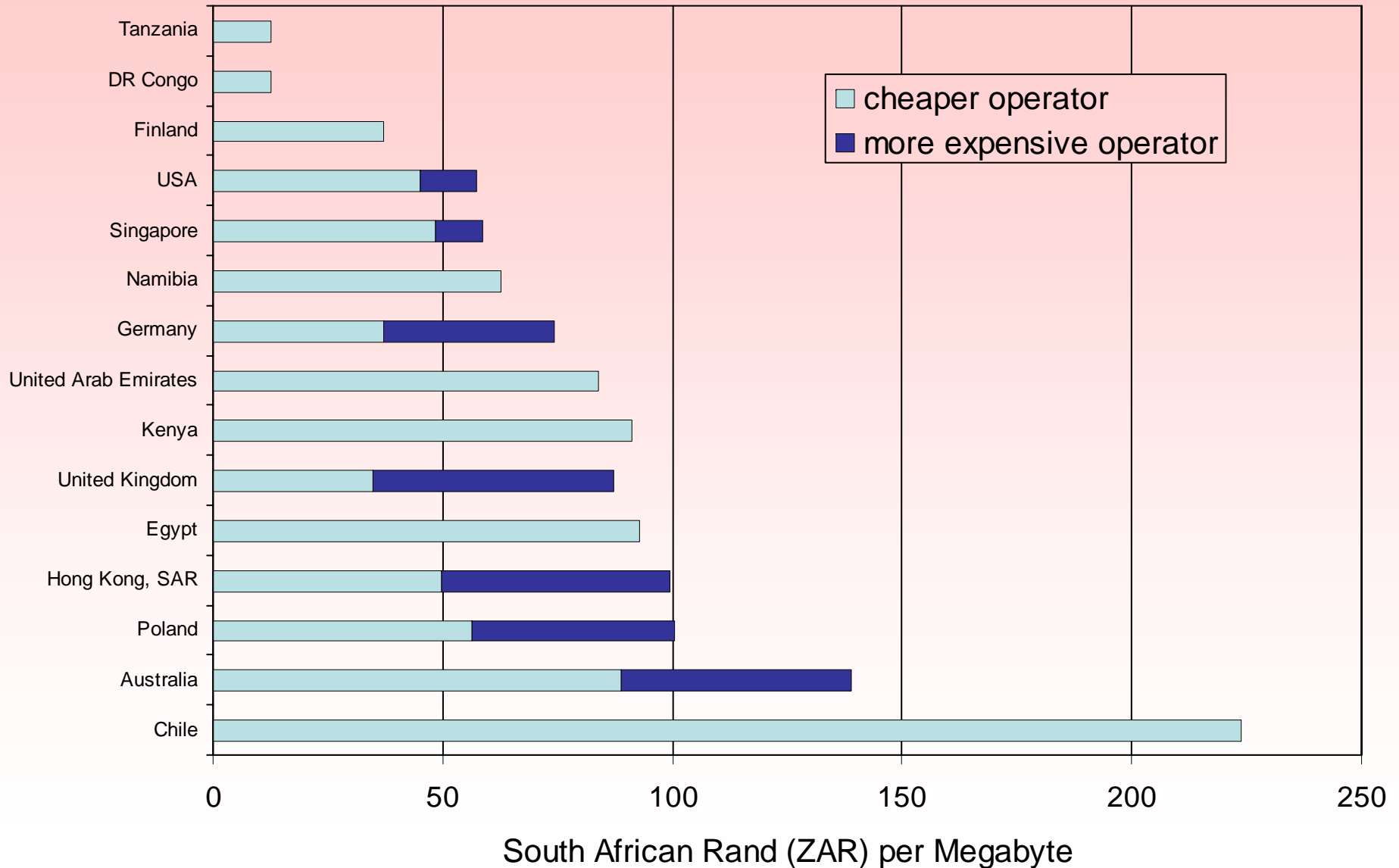


An American roaming from Cape to Cairo

	Cingular standard	Cingular World Traveler	Sprint	T-Mobile USA	Verizon Global Phone
South Africa	\$2.49	\$1.69	\$1.50	\$1.49	\$2.49
Mozambique	\$3.49	\$3.49	\$1.50	\$1.99	\$1.29
Malawi	\$4.99	\$4.99	-	\$1.99	\$1.29
Tanzania	\$3.99	\$3.99	\$1.50	\$4.99	\$1.29
Kenya	\$3.49	\$3.49	\$1.50	\$4.99	\$4.99
Ethiopia	\$3.49	\$3.49	-	-	-
Sudan	\$3.49	\$3.49	-	-	-
Egypt	\$2.49	\$2.49	\$1.50	\$1.99	-

South African data roamers

£1 = ZAR 14



The issues

- Bundling
- Leveraging of market power across national borders
- Tacit collusion
- Joint dominance
- Refusal to deal
- Competition law versus *ex ante* regulation
- Technology driving market changes

Competition law

- Inter-operator agreements were essential for pan-European services
- However, they violated Article 81 (1) of the EC Treaty
- GSM Association asked for a waiver under Article 81 (3)
- DG Competition approved the Standard Terms for Interoperator Agreements (STIRA) because it reduced the complexity of negotiations
- It required operators to decouple wholesale prices from retail in expectation prices would fall
- Inter Operator Tariffs (IOTs) were higher
- DG Competition then revived the sector inquiry

Sector inquiry

- Launched in July 1999
- Working document in December 2000
- Dawn raids in July 2001
- Draft statements of objections July 2004
- Private hearings in July 2005
- No conclusions ... yet
- Appeals to European Courts could take a further five years

Mergers

- All sorts of mergers have been approved
- DG Competition was very anxious to protect smaller operators lacking a wider geographic footprint
- Operators were forbidden from internalising roaming
- In Vodafone/Mannesmann roaming commitments obtained but never used
- Protection of competitors, rather than competition or consumers sustained roaming

Sector regulation

- Hesitancy to act:
 - mobile market was considered “competitive”
 - operators were European champions
 - action would only benefit “foreigners”
 - some countries have net inflows of money (regulatory capture)
- The market was included in the “new” regulatory framework in 2001 for subsequent analysis by NRAs
- Long consultations on the development of a market definition:
 - heavy operator lobbying
- Repeated delays:
 - transposition of directives
 - analyses of markets
 - concern by DG Competition about the use of joint dominance
 - roaming was left till last

Analyses of the market

- No operator had SMP
 - Ficora
 - Post- og Teletilsynet:
 - ComReg
- l'Autorité de Régulation des Communications Electroniques et des Postes:
 - "Roaming : Bruxelles doit prendre ses responsabilités"
 - failed to identify the causes of the abuse
 - suggested a new economic doctrine of "tight oligopoly" (a decade of appeals to the European courts)
 - suggested regulation as a trans-national market to set wholesale prices

Trans-national markets

- Must be declared by the European Commission under Article 15 (4)
- Must then be analysed by all the relevant NRAs sitting together under Article 16 (5):
 - First they would have to define procedural rules
 - Then agree on how to analyse the market
 - Then agree on the conclusions
 - Finally, adopt any decisions, subject to EC veto
- Any decision would be made severally and not jointly, thus subject to separate appeals in each member state

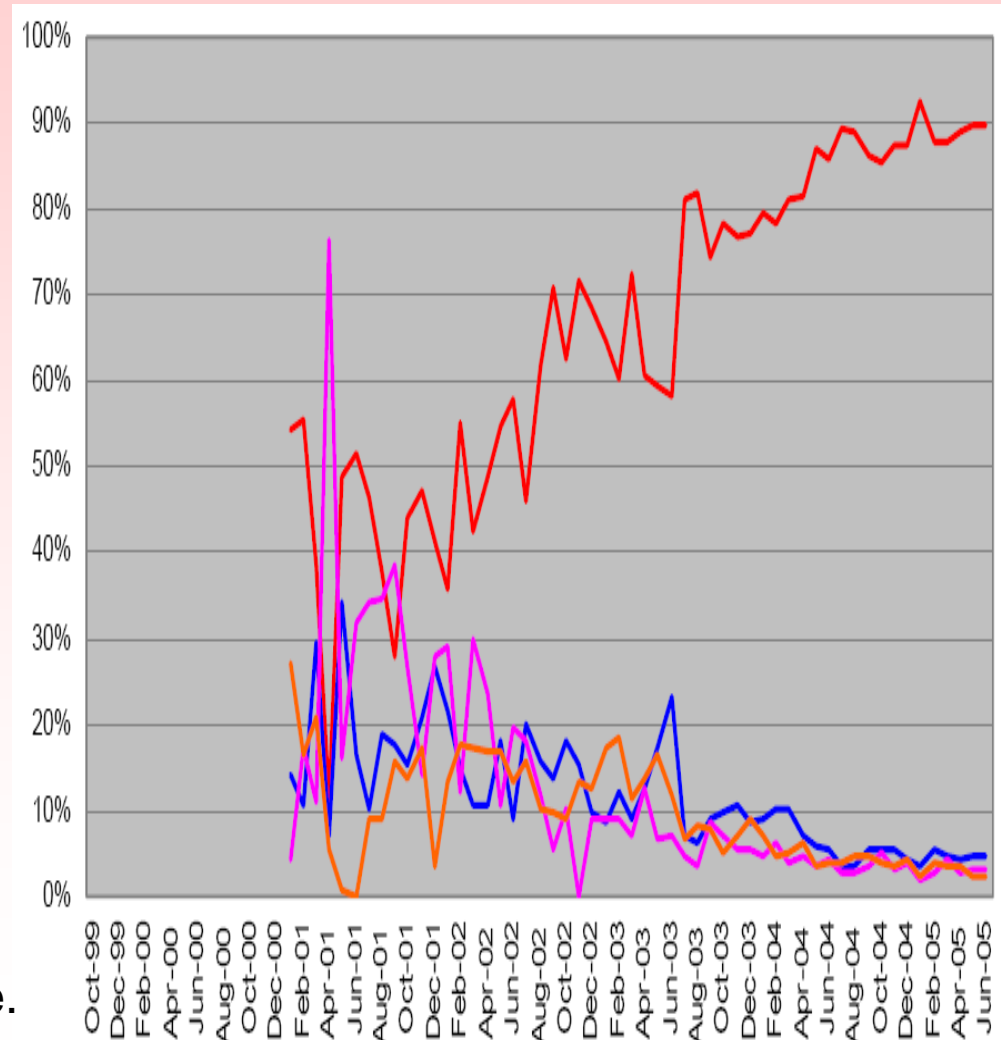
Diffusion of high “surcharges” to

- Pre-paid voice
- Text messaging
- Mobile Internet access
- Aeroplanes
- Value-added services
- Financial payments
- Digital broadcasting

Traffic direction technologies

- Supposedly:
 - introduced competition
 - Linked to price reductions (bit not evidence of this)
- Appears to consolidate traffic within larger groups
- 90% of roaming traffic on net
- Appears to make a much less competitive market structure

Source: Vodafone.



Price transparency

- A solid legal basis for action to make prices better known to consumers
- Good pre-holiday publicity
- European Commission web site
- NRAs were to follow with web sites
- How could anyone expect this to work?

A theoretical EC dilemma

- Review of the list of relevant markets was long overdue
- Remove the roaming market from the list?
 - but the excessive prices were still there
- Keep the market on the list?
 - but the definition was known not to work
- Find a better definition?
 - wholesale mobile access
 - what if the new definition proved wrong?

3R Reding's Roaming Regulation

- It is direct political action outside the regulatory package
- Proposal made in mid-July to include both wholesale and retail regulation
- A positive regulatory impact assessment
- Charges for using a mobile phone abroad within the EU not unjustifiably higher than domestic charges
- Mobile network operators have:
 - vehemently opposed the action
 - questioned everything about it
 - also acted to reduce prices and advertised this extensively
 - even acted collectively to reduce prices in likely violation of Article 81 (1) of the Treaty
 - appealed to the Ombudsman
- However, the price reductions are not sufficient to avoid regulation

Wholesale only?

- ERG has argued that only wholesale prices need be regulated
- Presupposes operators will pass on the savings
- No evidence in the past of competitive pressure on operators to reduce retail prices
- Absurd to expect it now
- Evidence from regulation of termination rates shows the reluctance to pass on wholesale reductions

Retail price control is essential

- Without the obligation to pass on savings the regulation will be a total waste of time
- 30% margin is more than in many other industries
- It leaves scope for:
 - lower prices
 - trans-national offers

The effect

- Set outbound wholesale prices:
 - national call 2 MTRs
 - call to Other EU member states 3 MTRs
- Set inbound calls 1 MTR
- Set a retail margin cap of 30 per cent:
 - before IOTs operators took < 15 % margin
- Voice but not SMS or data

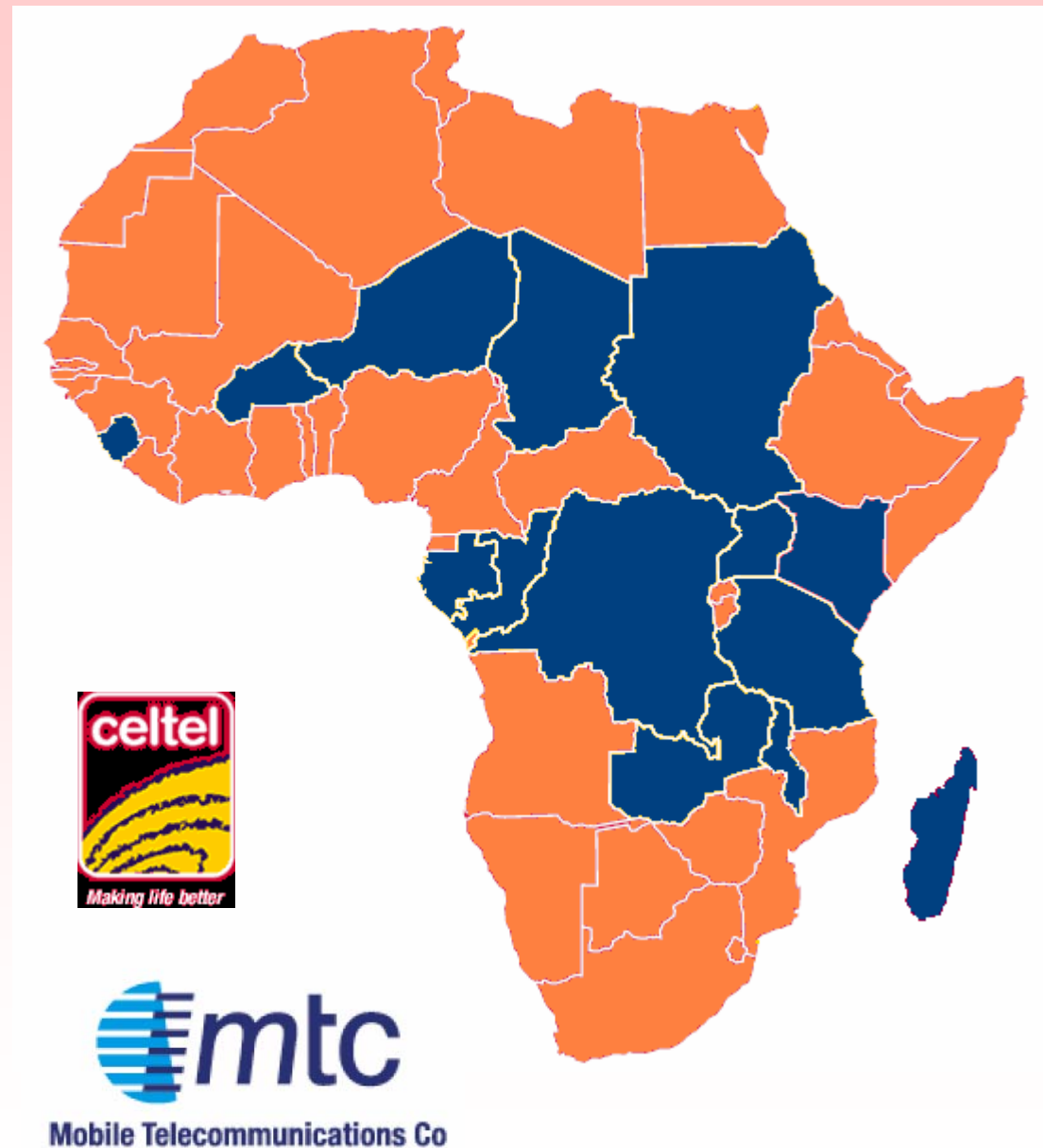
Hong Kong, SAR

- One country, two systems
- One SIM card, two numbers:
 - Hong Kong, SAR
 - China
- Calls handled on the intelligent network
- Can be called on either number
- Can make calls at national rates in both countries

Celtel

- 14 countries
- 12 M users
- 270 M citizens (lots of growth)
- Owned by MTC of Kuwait

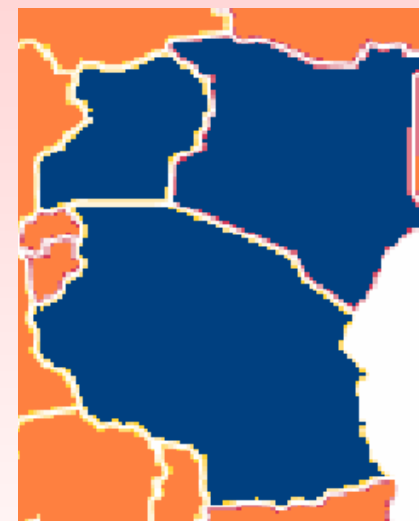
<http://www.celtel.com/>





Celtel – One network

- Elimination of roaming charges:
 - Kenya
 - Tanzania
 - Uganda
- One network:
 - local rates while abroad
 - no charge for incoming calls
 - can top-up with locally purchased cards
- Will be further expanded
- A few competing trans-African networks
- Roaming charges will disappear in Sub-Saharan Africa



Conclusions

- Nobody expected the problem to be intractable
- Mobile operators have clung to roaming revenues for lack of alternative income
- Competition law was found to be too difficult, a common problem in high technology cases
- NRAs found they lacked the tools under the new EU framework and were too busy elsewhere
- The failure to suppress old abuses allowed the operators to replicate them in new services

Issues

- If roaming is so difficult to describe, then what hope is there for:
 - Next Generation Networks (NGN)
 - Ubiquitous Network Society (UNS)
- Can we, must we, build excess competition into markets from the beginning?
- What are the limits of competition law?
- Do regulators need a “nuclear option”, in case nothing else works?

Thank you

Ewan Sutherland

<http://www.3wan.net/>

3wan [at] 3wan.net

+44 141 416 0666