

OECD – Experts Meeting on telecommunications services

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Good morning Ladies and Gentlemen,

It is a pleasure to be back at the OECD in the palatial new setting.

Telecommunications markets have strange structures. We have progressed from natural monopolies to a surprising degree of comfort with duopolies and oligopolies.

Market concentration

That means we need to measure the market concentration. In which way is the Herfindahl-Hirschman Index (HHI) moving and how quickly? How does it compare with other countries and other markets?

Before we calculate the HHI we need to have an accurate definition of the market. This is complicated as technology changes, allowing innovations in products and services, constantly shifting the boundaries of markets.

We have to be sure that we are measuring the concentration of real markets.

To take a specific example, one of the mysteries, at least to me, has been why France has managed only to issue three licences for mobile telecommunications. It is a wealthy country, it has a relatively concentrated population, it has the fully liberalized European Union legal framework and it has interested operators in adjoining countries who might be expected to jump at the chance. Logically, France should have found it easy to issue a fourth and, perhaps, a fifth licence.

* The views expressed in this presentation are those of the author and do not represent those of the OECD, or any current or previous client.

Timing is crucial in these matters. A delay in the licensing of an additional entrant can greatly reduce its opportunities to make profits. In particular, it allows those licensed first to become “incumbent operators”.

South Africa is an obvious example, with two strong operators and one weak, late-comer. A further entrant into the South African market would face a tough fight for either market share or profits. It is now very hard to imagine anyone being willing to enter in that market.

Yet timing is not something easily represented in tables and indices.

We all know the result of having only three players on the French mobile market, it created the conditions for collusion. The case was leaked to *Le Canard Enchaîné* at the end of the summer of 2005, before being officially announced by the *Conseil de la Concurrence* later that year. Some issues were dragged through the *Cour d'appel de Paris* and the *Cour de Cassation*.¹

The cost to French consumers was very high. There were inflated charges for half a decade and a loss of confidence in the operators.

The detection of the collusion was a side effect of the roaming dossier opened in 1999 by the then Directorate-General IV of the European Commission. It requested data on market shares which alerted the French competition authority to a disquieting stability in those numbers. The evidence the French authorities later uncovered was of a laughably simplistic scheme to fleece consumers.

Yet, I do not recall anyone complaining in advance about the failure to issue the additional licences. This was, perhaps, a reflection of the general acceptance of French economic nationalism.

Would indicators have alerted us to this possibility? I am not at all sure. Whereas, examination of detailed market shares and trends in pricing did point to the problem.

International mobile roaming

International mobile roaming has been a grotesque failure of policy and regulation. After a decade of investigations we still have no convincing or plausible model of the economics of roaming markets. The changes in

¹ http://www.concurrences.com/article_revue_web.php?id_article=13927&lang=en

technology and the changes in the flows of money are still very poorly understood and inadequately documented. It would require a detailed analysis of data going back years to understand the evolution of these markets.

It is worth noting that the interlocking roaming agreements were, from the outset, conceded by the operators to be in violation of competition law.

Roaming charges are being eliminated in Africa as a result of commercial pressures. It is the absence of any significant number of people foolish enough to pay outrageous roaming charges that drives operators to find a new business model. It is a way for more extensive operators to use their geographically contiguous licences to force competitors to react by having to struggle to cooperate to match their offers.

In terms of indices I cannot think how I would represent a comparison between the political imposition of Commissioner Reding's Roaming Regulation and the abolition of roaming charges by natural selection in Africa.

Counting customers²

About one year ago, Bulgaria reached 138 per cent mobile teledensity, something that is demonstrably implausible.

You do not need to understand too much about demographics to know that many people cannot afford or cannot use a mobile phone. Infants do not yet use mobile phones and neither do many of the elderly, both representing significant proportions of the population. Some people are too poor, some are too ill and a few are in gaol, where they are not allowed to use a mobile phone. Thus, achieving a figure above 90 per cent of real and distinct human beings with mobile phones in a country is about as high as is possible.

The explanation of 138%, i.e., a surplus of about half the population of Bulgaria, is not difficult. Large numbers of Bulgarian citizens left their motherland to seek employment elsewhere, as many as 1.5 millions. These people return from time to time and do so armed with a Bulgarian SIM card and mobile phone number. Similarly, French and British citizens bought holiday homes in the Bulgarian mountains or at the Black Sea coast. They too have a Bulgarian SIM card with a Bulgarian number for use on their holidays. Thus, sitting here in Paris, we are in the Bulgarian "national" market for mobile telephony.

² http://link.wits.ac.za/papers/link-Mobile_numbers.pdf

Some Bulgarians have multiple SIM cards. This is in response to special offers, to inadequate network coverage and the difficulties of porting a number to another operator.

Rather than using operator teledensity, we need to use survey data. We need to ask people if they have a mobile phone and whether they have more than one SIM card and why. We cannot use operator teledensity.

Mobile number portability

If you look in the European Commission's annual implementation report you will find countless tables.³ Each year there seem to be more, perhaps to ensure that there is some good news for everyone and that the bad news is lost in a snowstorm of data and charts.

To pick one table from three volumes is, undoubtedly, not representative. However, the data published on Mobile Number Portability (MNP) is very helpful. It explains just how ineffective this legal provision has been for individual citizens. It may well exist as a provision on the statute book, but in most member states for most customers it has not been available in any practical sense. It is only by collecting and comparing data that we learn the nature of the problem.

It is important to be able to drill down to see the detail of particular indicators to diagnose the problem.

Business users

As a former Executive Director of INTUG, I can hardly be expected not to comment on the measurement of business use of telecommunications. While the baskets of telephone usage show the costs for "business" users for fixed and mobile, these are based on non-negotiated, published tariffs. In other words, they are the prices paid by individual traders, professionals and small businesses.

They are not the prices paid by multi-national corporations.

MNCs buy combined voice and data services from a few large network service providers on a continental basis, supplemented by mobile voice and

³ http://ec.europa.eu/information_society/policy/ecommm/implementation_enforcement/index_en.htm

data, still often bought on a national basis. They negotiate contracts which are unrelated to the baskets reported in *Communications Outlook*.

Some data on the costs for multi-national corporations are held by consultancies offering benchmarking services.

Corruption

Let me turn to a subject that is not much discussed in telecommunications from fear of upsetting people and one where data are lacking. I do not suggest that our sector is worse than others, nor that it is better, merely that there is some corruption.

Part of the problem with corruption is that it is not easy to measure. However, Transparency International does a commendable job with its Corruption Perception Index.⁴ There is also valuable work here at the OECD on fighting corruption.⁵

Sometimes, in order to conduct your business in telecommunications, you need to be a close relative of the president of that country. For example, in Indonesia, it was the son of the then dictator Soeharto who obtained a licence.

In Lebanon, according to the administration there, an entirely illegal network has been built by *Hizbollah*. I do not suppose you can expect a state within a state, one backed by the might of Iran and Syria, to apply for a licence. It is the most extreme case I know of, though only one of many violations of the sovereignty of Lebanon.

In one African country telecommunications licences are easy to obtain, you just have to be a general. Prospective operators and service providers must find a friendly military gentleman, reach an agreement on his personal licence fee and off they go. Unfortunately, it is a dangerous profession, so there is always a certain level of risk.

In another African country an operator, from an OECD country, obtained a licence without paying an upfront fee. Instead, it gave a tithe of the shares to the President. The now ex-President continues to receive a healthy income from his former electors, through shares and dividends.

⁴ http://www.transparency.org/policy_research/surveys_indices/cpi

⁵ http://www.oecd.org/topic/0,3373,en_2649_37447_1_1_1_1_37447,00.html

As a subject of HM Queen Elizabeth II it is embarrassing to report that this shareholding is held by way of one of her overseas territories. Sadly, Guernsey and the British Virgin Islands are convenient places for presidents, ministers, their relatives and cronies to hold their shares in telecommunications operators.

It is some consolation that Her Majesty's Government recently revoked the visa of Thaksin Shinawatra. This sometime football magnate, has been involved in some very interesting deals in telecommunications. In his native country he selected the political party to join based on its control of the telecommunications ministry. With this political influence secured, Mr Thaksin obtained an advantageous asymmetry in termination rates to his network that unfairly disadvantaged the other operators.

Later, as Prime Minister, Thaksin obtained a satellite licence in Myanmar (Burma) for his company. He achieved this by instructing, as Prime Minister, the Thai Export-Import Bank to give loans to the military dictators of Burma. He has been found guilty of that charge in absentia and, should he ever return from exile, will go to gaol in Thailand.

The plan to construct to a next generation broadband network in Philippines was abruptly cancelled by the government. It had become clear that there was *prima facie* evidence of corruption by one of the putative suppliers.

There have been successful prosecutions in Germany, South Korea and in the USA against vendors for bribing individuals to buy particular systems.

Value-Added Services

One of the markets opened to competition at a relatively early stage of liberalization was in the provision of value added services. These quickly became important sources of revenues for incumbent operators, on both the retail and the wholesale level. However, a number of problems subsequently emerged.

In many countries mobile operators were able to take control of short codes numbers, making access to mobile VAS difficult and sometimes subject to discrimination. They also charged for access to "freephone" numbers and levied their own supplementary charges in addition to fixed premium rate calls. The defence for such charges has been that the mobile access market is competitive and should not be subject to the same level of regulation as the fixed market.

Efforts to create global markets with the Universal International Freephone Number (UIFN) and cross-border free phone and premium rate numbers have also largely failed. Liberalisation has been used to argue that each operator must be allowed to make its own decision about access to number ranges and to set its own charges. The result has been ineffective and fragmentary services.

Local loops and ducts

I am not sure how many of you were at the Stavanger meeting about the deployment of optical fibre access network. There was one wonderful, jaw-dropping moment when a large incumbent operator claimed that, sadly, it did not have a Geographical Information System (GIS) and that the location of its ducts was recorded only manually.

Perhaps it was done on parchment with quill pens – I could almost smell the dead animals.

The introduction of local loop unbundling allowed many incumbent operators to engage in a variety of sophisticated examples of gamesmanship. The costs of access to exchanges were often outrageous. In one case the incumbent telecommunications operator doubled the price of electricity over the electricity utility. Some operators even refused to allow employees of other operators to use their toilets.

One operator, having stalled in the provision of the keys for a local telephone exchange finally delivered them to the new entrant. On arrival at the exchange, the staff of the new entrant found a brand new fence, with a padlock, for which no key had been provided.

It has been a pantomime, that was initially difficult to believe and certainly hard to capture as measurements. Gamesmanship is very difficult to quantify.

New Zealand

On the other side of the planet, at the antipodes, lies New Zealand, a country with a strange fascination for the dogma of market forces. Yet, in telecommunications it has proved singularly and systemically unsuccessful.

Initially, it abandoned a monopoly for regulation by its High Court and, ultimately, the Judicial Committee of Her Majesty's Privy Council in London.

This proved slow, costly and an ineffectual constraint against the power of an incumbent operator that owned not merely a national network reaching every sheep farm, but also the undersea cables. Recognising its error, legislative changes were made.

Since then, successive ministers have engaged in what has now become a sequence of policy changes, a sort of regulatory slalom.

Individually, these policy changes have been broadly in line with actions taken in other parts of the world, they have not been mad-cap or lunatic schemes. Some would qualify as global best practice. However, the collective effect has been entirely to destabilize policy. The only certainty is that the present policy will change if any operators other than Telecom New Zealand hang around long enough.

The underlying cause is relatively simple, it is that New Zealand is literally in the middle of nowhere. It is just another group of Pacific Islands, like Samoa or New Caledonia. There are no neighbouring countries with predatory operators to jump in.

Telstra and New Zealand long ago entered each other's market to take some revenue. However, it is not a check on the actions of Telecom New Zealand.

It is worth contrasting New Zealand, which is relatively wealthy and politically stable, with the ability of Bosnia or DR Congo to attract market entrants. It is a matter of spreading the risk and building economies of scale over a region.

The geography of your region, the presence of neighbours and the willingness of their operators to enter your markets is not easily expressed in a mathematical form. Yet it has been central to the development of liberalized markets. An important element has *quid pro quo*.

Conclusion

To conclude, Ladies and Gentlemen, telecommunications is a world of fairly rapid change, where long runs of data with consistent definitions are likely to be irrelevant. The pace of change is just too fast, for much of the data to remain relevant.

Geography plays a role. This is hardly surprising when telecommunications underpins globalization. Many companies are looking not at individual markets, but at regional markets.

Countries are quite good at copying legislation and regulatory decisions. There are many mechanisms for the exchange of information, not least the OECD. It is therefore important to look not at the apparent similarities or to a checklist of global best practice, but to look at the means by which it has been adapted to specific national circumstances and the effectiveness of the implementation.

It is important to note that we have no shortage of generic rankings of countries. The Corruption Perception Index is a valuable guide to the performance of countries, now stretching over many years. The World Bank has produced its Doing Business Index, which provides a general view of the problems of setting up in a range of countries.

The story of the ECTA scorecard is relatively well known, it serves little purpose in recounting it today. However, there are lessons we can learn. We have to be open about the purposes of any similar exercise. We have to disclose the raw data, to allow others to compute their own indices and to test the robustness of any conclusions we have drawn.