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Which regulation after telcos' merger wave?

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Key issues

- Merger wave in EU:
  - Telefonica/E-Plus (Germany; mobile)
  - Vodafone/Ono (Spain; CATV) and Kabel Deutschland (Germany; CATV)
  - Hutchison Whampoa – 3/O2 (Ireland; mobile)
  - … and many other
- Interplay between mergers and regulation
  - Fixed mobile termination
  - Mergers and Bundling
  - Standard fixed access regulation or wholesale competition

Landscape: convergence & market structure

- Upstream market (production)
  - “Endogenous” sunk costs (Rosen, Sutton)
  - Dominance of high-quality products
  - Technology favours talent (“superstars”)
- Implications for broadcasters/telcos’ platforms
  - Competition among platforms passes these rents upstream
  - High fixed costs -> concentrated market structure
  - Consequence: oligopolies (not new), even more so in large markets (retail *and* wholesale; new)
  - Reinforced where network effects are strong.
- Multi-sideness:
  - One-sided logic wrong in two-sided markets (e.g., mark-ups of individual services, margin test, ...)
  - Because of externalities, two-sided markets, *even if* competitive, are *not efficient*

Implications for fixed-mobile termination/1

- Integrated (fixed and mobile) operators vs. non-integrated operators (e.g. Moble only/MVNO)
- Price distorsions may emerge (Bourreau, Cambini and Hoernig, 2014):
  - Integrated operator sets FTM calls to the rival mobile network above marginal cost, while those to the integrated mobile users are priced below cost.
  - This pricing structure creates a disadvantage for the non-integrated mobile network and even magnifies any prior asymmetries.
- How to set termination charges in evolving markets?

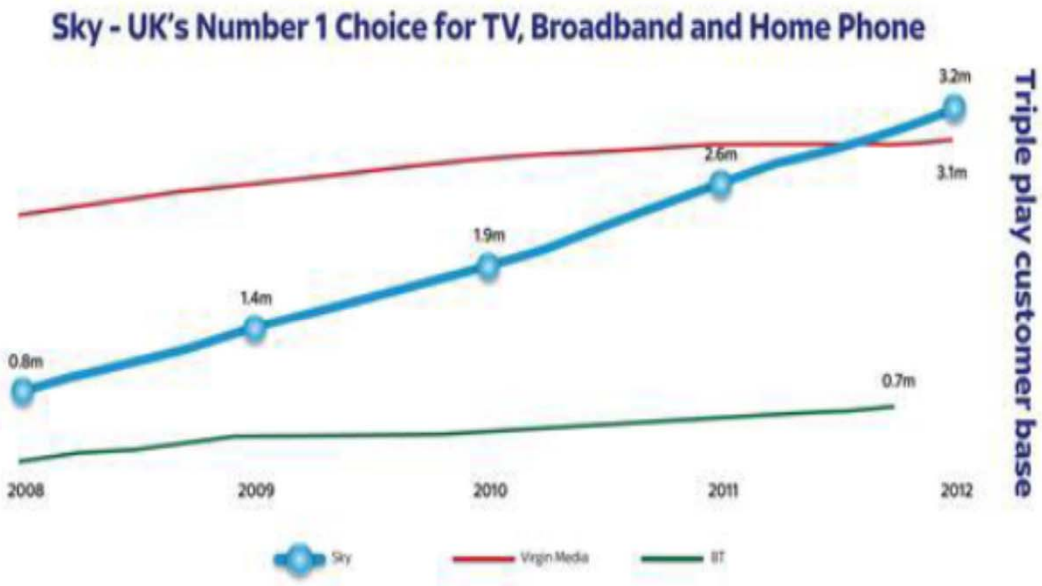
Implications for fixed-mobile termination/2

- US experience – a simplified approach to FTM termination:
  - Fixed incumbents (ILEC)-Local Competitors (CLEC) and ILEC-mobile reciprocal compensation rates are generally symmetric, and set at a rate that reflects the marginal cost of the ILEC;
  - ILEC-ILEC, CLEC-CLEC, CLEC-mobile, and mobile-mobile reciprocal compensation rates are determined through voluntary negotiations, and in many cases are set to zero ("*bill-and-keep*"), in particular for ILEC-ILEC and mobile-mobile interconnection.
  - Mobile operators *formally* also charge their customers for receiving calls (RPP), but flat contracts mitigate this effect.
- Digital convergence (IP telephony with IP interconnections, over-the-top content, VoIP) and multi-homing will likely make the termination issue go away.
- Potential effects:
  - a) deregulation of termination (with a cap);
  - b) *capacity based* termination charges.

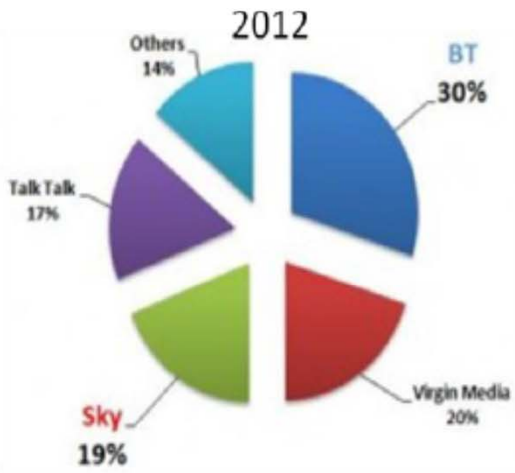
TLC/content developers mergers and bundling strategy

- Rising importance of Bundling (2011, EU)
  - 61% of broadband products bought in bundles
  - 47% of TV subscriptions bought in bundles
  - 48% of voice services bought in bundles
- Bundling has good and bad aspects
  - Cost reductions
  - Single billing
  - Price discrimination device
  - Creates strategic entry barriers

The UK case



UK broadband market share



- March 2013: BSkyB acquired broadband users from O2 and BE becoming the second broadband provider in UK;
- August 2013: BT reacted => acquisition of TV sport content (from ESPN; 1 bn £) and offered *free* to its fiber broadband subscribers

Bundles: market definition

- "New" products: analysed in the context of already defined markets, or new market?
- Empirical question. Answer may change over time (Pereira et al. 2013):
  - **Development**: just introduced, most likely analysed within already defined markets
  - **Transition**: gaining importance, may constitute a new market alongside existing ones
    - Note: Dominance in traditional markets for single products does not imply dominance in the new market for bundles. And vice-versa!
  - **Maturity**: most buy bundles, traditional markets vanish

Bundles: regulation

- Without regulation: increased integration, and decrease in number of firms
- Intervention typically to guarantee access
  - Network (telecoms) and premium content (TV)
- Not new in telecoms or TV, but hardly coexist
  - EU: open access to telcos, difficult to touch TV content
  - US: opposite
- Change of emphasis?
  - Hard to justify different treatment of telcos and cable
  - Shift to ensuring access to premium content?

Wholesale markets or regulation?

- Fixed telcos should include other wholesale services (IPTV bitstream,multicast or virtual loop) for the provision of TV content. In urban areas, more than on NGAs.
- In TV, the most critical wholesale service is access to premium content (live-sports events or first-run movies).
- Markets for such “essential” assets might emerge, when they are produced by several firms (wholesale competition).
- Does deregulation of “bottlenecks access” lead to an “efficient outcome”? Not necessarily, especially if the companies are vertically integrated (Bourreau et al., 2011).
  - The kind of market competition matters: competition is “good” if retailers sell differentiated products, otherwise regulation is still needed.

Some conclusions

- What's next?
  - Market consolidation pushed by declining revenues and technology evolution (=> the *Single Market* in EU)
  - Termination issue may disappear
  - Competition over bundles
  - Wholesale markets ... but competition may not always work
  - This calls for new and innovative regulatory rules