

European Telecoms: the upcoming regulatory challenges

Competition Policy Lab, 17 October 2013

On October 13th 2013 Bruegel hosted a Competition Policy Lab on the current challenges faced by the European telecom sector. The debate was opened with presentations by Mr Ralf Nigge, Deputy Director of the EU Representative Office of Deutsche Telekom, who brought the corporate perspective on recent policy and regulatory initiatives, and by Mr Michele Piergiovanni, Case Manager at the DG Competition of the European Commission, who analysed past and upcoming merger cases in the telecom sector¹. Mr Tommaso Valletti, Professor at the Imperial College and expert in industrial and telecommunication economics, concluded the debate commenting on the previous presentations and bringing new suggestions on how to refocus regulation and policy in the telecom sector.

Mr Nigge focused his presentation on the implications of the draft telecom package released by EU Commissioner for the Digital Agenda Neelie Kroes in September for consolidation in the sector. He started observing that the European market is very fragmented into local markets where a large number of players compete, and that while traffic is rapidly increasing the revenues of the big European telecom operators are languishing, in contrast to those of their US or Asian peers. Particularly worrisome, also from the point of view of the Commission, is the lack of network investment which is lagging behind the US. Against this overview, he sustained that the EU telecoms companies have several reasons to consolidate through mergers: first, they are facing pressure to cut costs resulting from competition by 'regulation-based entry' and Over-The-Top services; second, consolidation would foster economies of scale and density and, in some cases, better ways to cope with the fixed-mobile broadband convergence. After this introduction he commented on the Commission's draft regulation: he said the sectors sees the new spectrum policy favourably as spectrum allocation at national level would be coordinated at the EU level; however, other parts of the draft regulation were less positive: the single EU authorization and the new rules on roaming, for instance, are thought not to clearly promote consolidation or lead to an integration into a single EU market. Given this assessment, Mr Nigge sustained that to allow further consolidation and scale, a factor favouring the competitiveness of the EU telecoms sector, DG Competition should better align the definition of relevant markets to the realities of a dynamic sector, for example expand market definition in convergent services markets where appropriate. In addition, dynamic efficiencies should be better taken into account in merger control proceedings.

Mr Piergiovanni commented on DG Competition's approach to recent merger cases in the telecom sector and what of this approach could (or could not) change. DG Competition has recently dealt with merger cases of three forms: expansions into new geographical markets – which are normally not detrimental for competition; expansions into new product markets within the same geographic market – which in the past have not been seen as problematic; and finally in-market consolidations – these are mergers between competitors that are more likely to be anticompetitive. Mr Piergiovanni stressed that old and new cases of in-market consolidation need to be assessed in their local market context as the competitive conditions are very different across Europe. He also said that the national market approach is not likely to change in the near future: relevant geographic markets are likely to remain national at least for some time because of a number of reasons, including national spectrum allocation, consumer preferences and language differences. As for product market definition, he said that the impact of technological developments will be taken into consideration. He also remarked that DG Competition is willing to consider the dynamic efficiencies of mergers within the existing framework of the Horizontal Merger guidelines, but also that, according to such framework, it is up to the merging parties to prove these efficiencies, explain why they are merger specific and why they will be shared with end customers.

Finally, Mr Valletti took the floor to comment on the previous interventions. He started with a consideration for the actual state of play of telecoms in EU: he said that the situation is less bleak than what it has been described in the opening by Mr Nigge as the statistics on the sector can be analysed from different perspectives and bring to different interpretations. For example, looking at investments per revenue one can see that they have been pretty stable over the recent past and also that from a geographical perspective, investment is low where revenues are low. While the direction of the causation is not obvious, some facts stand out from the data analysis: first, fixed broadband is in no particularly bad shape in Europe; second, when actual speed is taken into account instead of nominal speed, some EU countries like UK are very

¹ All speakers expressed their own views. No opinion or interpretation that they might have given is necessarily the one of the institution or corporation they belong to.

close or above the US; third, new generation broadband like LTE are a critically weak point for Europe. In addition, taking a broader perspective, institutions should not just look at the supply side but also at the demand side, i.e. consumers: if revenues are low, perhaps consumers enjoy low prices; at the same time, one third of the European population does not possess a computer, a number that shows that public intervention on the demand side should also be considered.

As for the Commission's draft regulation, Mr Valletti stressed that campaigning for a Single Market for Telecoms is mostly a flagship initiative that might not deliver in practice: in his view, the reality is that networks are strongly bounded to the geographic dimension and pushing, for example, German companies to enter the UK market and vice-versa might not be sufficient to create an integrated market. One area that should have been pushed further in the draft regulation is spectrum allocation: the EC could have taken the role of organizing EU-wide allocation auctions or at least mandate that the licenses can be released and sold instead of granted for very long time. With free entry and exit, the anticompetitive concerns linked to telecom mergers would be much less acute. A last critique regarded the new roaming rules: binding the companies to low roaming prices would have the most likely effect to raise other prices through the so-called waterbed effect; in addition, the proposal of fixing the roaming prices across Europe seems an extreme one as there is no clear market failure and demand is naturally very different from country to country.

Event notes by Marco Antonielli