

Access Regulation in Mobile Wireless?

Marius Schwartz
Georgetown University
mariusschwartz@mac.com

Spectrum Policy: From the Foundations to the Future

Georgetown University's Center for Business and Public Policy
Washington, DC
April 25, 2008

Background and This Talk

- Recent calls for regulation of US mobile wireless networks to force "open access" for independent suppliers of devices or software applications
 - Skype's FCC Petition (2-07); Google's initiatives (700 MHz auction, Net Neutrality)
 - Wu (2-07), citing FCC's successful *Carterfone* / Part 68 rules (1975)
- This talk briefly summarizes economic case against: Schwartz and Mini (5-07)
- Conclude: *Carterfone* simply does not fit
 - "If it doesn't fit, you must acquit ..."

1

Carterfone Targeted Very Different Industry

- Regulated monopoly Bell system had strong unilateral ability & incentive to exclude competitors from adjacent markets (customer equipment; later, long-distance)
 - Ability flowed from monopoly control over vital local networks
 - Incentive ensured by the price regulation: lower margin on access to local network than on selling adjacent services
- Wireless industry is substantially competitive (show)
 - So no prima facie case for considering access regulation
- Wireless industry is complex and rapidly changing
 - Regulation much harder than with simpler, stable interfaces

2

Competition in US Wireless

- Intervention threshold: access regulation is drastic remedy typically confined to monopoly / dominant firm
 - Lack of "perfect competition" is not nearly enough — require clear and serious failure of competition, that's absent here:
- Industry Concentration is very far from monopoly
 - 4 national carriers, several regional
 - Subscriber concentration lower than in Europe (except UK)
- Conduct shows considerable rivalry
 - Technological responses to rivals (network upgrades)
 - Comparative advertising against rivals
 - Willingness to supply resellers (MVNOs)
 - Diversity of approaches (e.g., in degree of openness)

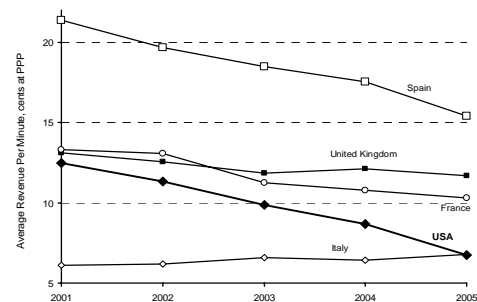
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US Performance Not Lagging Europe

- Europe often cited as relevant benchmark; US performance does not lag — if anything, is ahead:
- Price (ARPM) level and trend: Fig. 4
 - Lower in US, and fell faster since 2001
- Usage (MOUs per subscriber / month): Fig. 3
 - Much higher in US, and rose faster since 2001
- Deployment of wireless broadband networks
 - US compares favorably in coverage (OECD 1-07) despite auctioning broadband spectrum later, and less of it

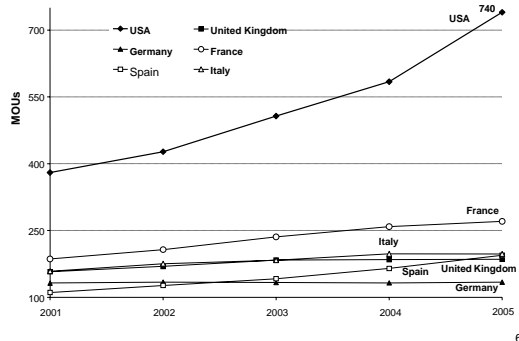
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Fig. 4 – Average Revenue Per Minute, U.S. and Major European Countries, 2001-2005



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Fig. 3 - Monthly Average Minutes Of Use, U.S. and Major European Countries, 2001-2005



Alleged Anti-Competitive Practices: Caveats

- Various “restrictive” practices cited as anti-consumer and proof of weak competition (locked or “crippled” phones, closed interfaces for applications, etc.)
 - Alleged goal is to stifle competition in complementary services (e.g. applications) or from partial substitutes (e.g. Wi-Fi)
- These practices do Not show lack of competition, and all can serve generally acceptable business purposes
 - Price discrimination
 - Control cost, quality, security, etc. – benefit consumers
- Hard for outsiders to distinguish good v. bad purposes
 - My view: barring clear failure of competition (absent here), resist second-guessing – allow firms broad latitude

Alleged Anti-Competitive Practices: Some Examples

- Locked phones:
 - Subsidy argument; most phones in UK subsidized + locked
 - Demand for unlocked phones greater in Europe: to avoid high int'l roaming rates, must switch carriers (but not in US)
- “Crippled” phones: AT&T allegedly chose Nokia e62 instead of e61 to deny use of Wi-Fi
 - AT&T disagrees: e62 much cheaper, better fit for US. Krakow review: e62 is “spectacular ... It may just be the best smartphone around.”
- “Gatekeepers” to Applications: tradeoff between (a) tight integration (Mac world) and (b) greater variety
 - (a) matters more to “average” user than to most adventurous

Efficient Regulation Very Hard in Wireless

- Access regulation works better when technology of interfaces is *relatively* simple & stable, as in Part 68
 - Simple: e.g., much of Part 68 rules involves specifying dimensions of plugs and jacks
 - Stable: any change to basic telephone sets was required to be backward compatible with very old sets
- Mobile wireless is quite different in both respects
 - Complexity: APIs for diverse, complex applications
 - Rapidly changing: standard setting is hard, and efficient interfaces constantly evolving
- Regulation would face high technological complexity, and likely to impose high costs.

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