



Abuse of Interconnect Obligations by EU Mobile Networks

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Telecommunications regulation has come a long way over the years but has regulation actually been effective? In Europe, we have some compelling words on paper that provide a framework for regulation, yet progressive mobile messaging companies still find that they face what amounts to anti-competitive behaviour from a number of European mobile network operators (MNOs).

This anti-competitive behaviour is clearly seen in the area of interconnect in the mobile market. Interconnect between networks is essential for 3rd party network operators, such a mobile messaging company HSL, to deliver new or competing services to mobile subscribers and it is here that stronger and firmer regulation is essential. Based on HSL's experience when attempting to obtain interconnect in Europe there are a large number of MNOs in Belgium, France, Germany, Italy, Netherlands, Spain and the United Kingdom that HSL believes are behaving in an anti-competitive manner.

It can take many months or years for resource intensive, financially expensive and exhausting commercial discussions around interconnect to conclude, only for negotiations to fail and for the regulator to then be brought into the picture. Unfortunately, some 3rd party operators feel they simply have to give up their ambitions to interconnect with an MNO before their National Regulatory Authority (NRA) ever becomes involved.

MNOs in Europe often cite "network integrity and security" as a reason for refusing access to their network, typically when a 3rd party operator wants to

interconnect with an MNO using SS7 – a low-level telecoms interface that is at the core of telecommunications networks around the world. In some instances SS7 is the only usable interface for services and therefore is essential for the success of the interconnect and the service provided via this interface.

The very nature of SS7 as a low level access to the network means that 3rd party operators can provide a wide range of services to consumers and even services that compete with those provided by the MNO. For example, for the mobile subscriber of an MNO to send mobile-to-mobile SMS via a 3rd party network operator, instead of using the MNO's own service, the chosen 3rd party operator must gain access via SS7 to the subscriber's own MNO's network. So one can understand why MNOs may be reluctant to allow 3rd party operators to interconnect via SS7.

SS7 interconnect provides access to sensitive aspects of an MNO's network which has associated risks. MNOs may state that these risks are more likely to materialise unless it is another MNO that is interconnecting. In this situation the MNOs believe there is a unique reciprocity, and a balance of risk that encourages both sides to ensure that there is no breach of network integrity and security. However, MNOs dogmatically refuse to accept that these associated risks are also mitigated by 3rd party network operators being contractually obliged not to interfere with the other party's network, and misuse of sensitive subscriber data is prevented by data protection and privacy legislation.

Interconnect is only one area that has seen anti-competitive behaviour; pricing is a more obvious tool that can be used by MNOs to distort what should be a level playing field. A recent example of this is that of a UK MNO increasing its wholesale SMS termination charge from 3p to 4p for networks outside the UK, but keeping a charge of 3p for networks inside the UK. The actual cost to an MNO of terminating an SMS that is generated and delivered in the UK is less than 0.5p with the additional cost of an SMS being delivered into a UK MNO from outside the UK typically less than 0.2p. How can a price hike of this degree be justified? Some may argue that this is simply delivering healthy

margins for the MNO but at whose expense? Non-UK MNOs? UK and other EU companies using non-UK MNOs? Not exactly competitive behaviour.

It is reasonable to assume that the telecommunications market will be led by the dominant players however, in the EU regulation is there to ensure that all operators compete on a level playing field and that there should be no special privilege for MNOs over other forms of large and small public network operator.

Naturally MNOs need to realise a return on their investment in the infrastructure that they deploy, and regulation should be light enough to enable them to do so but not so light as to facilitate anti-competitive behaviour.

With the mobile market so strongly led by MNOs and regulation currently being ineffective, 3rd party network operators are left with little option but to follow and agree with the dominant players, which can only result in innovation and competition being stifled.

The involvement of NRAs such as Ofcom in the UK to regulate pricing and access is essential if we are to have a fair and competitive market. Without this intervention, consumers across Europe will continue to have only limited choice of service, primarily from MNOs and at inflated prices, and 3rd party network operators will fail to successfully enter the market and deliver benefits to EU consumers.

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About HSL:

HSL (Hay Systems Ltd) were founded in Edinburgh, Scotland in 1999 and offer high quality and cost-effective mobile messaging services with global network coverage of more than 400 mobile networks.

HSL's services are operated across three independent service sites based in the UK and North America, and the company has office locations throughout Europe, the Middle East and Asia-Pacific.

The robust, reliable infrastructure, coupled with their SS7 connectivity allows HSL's services to be utilised by many types of organisations, including both large and small enterprises and other wireless service providers and mobile networks. Clients include BAA, Cisco Systems, DHL, Schlumberger and Sony Ericsson.

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