Should the mobile interconnection be regulated?

Outline

- Not structure my comments directly around the legislative criteria
- Going to talk about termination only, origination does not seem to be acquired
- Unlike the PSTN case these OTA services are only acquired for two-way access, not one-way access
- The most similar market is EFT-POS and ATMs
- To start discussion not conclude the debate

Market definition

- “Single operator voice termination to mobile handset” market definition is most appropriate
- The appropriate service to analyse is wholesale termination, this service is not supplied in the same market as any retail service, and (except when offered by integrated providers) does not typically feature in promotion of retail mobile services
- Once a customer has chosen a network there is no effective supply side substitute available. If a customer’s handset could be directly addressed by any network (theoretically technically achievable) this would not be the case – this is however a technical development that is possible
- There is little effective demand side substitution – the A party is unlikely to change who they decide to call based on differential termination rates, especially if these differential rates are not identified in retail F2M prices
- The attempt to draw the market wider does not create a highly competitive market. The retail market is highly concentrated with significant entry barriers. This limited competition in the retail market shrinks dramatically if you include all the wholesale markets (e.g. you lose the effects of resellers, you include more infrastructure issues)

Substitution Alternatives - Transit

- The theoretical possibility of transit services has been raised by some providers as a possible substitute. This is clearly rubbish as the transit provider still has to seek terminating access.
- The analogy of international refile doesn't work, because that is a market where the access seeker who acquires transit traffic develops a degree of countervailing market power.
- In the Australian market the only carrier potentially able to exercise such countervailing power is presumably Telstra.
- Having Telstra re-acquire the F2M traffic as transit appears counter-intuitive.

Any-to-any Connectivity

- We continue to make the assumption that every network will seek access to every other network.
- We should play the “what if” game – what if a new entrant wanted to charge a higher mobile termination price, could Telstra decide not to seek terminating access?
- Theoretically yes – would it be a a misuse of market power? Issue changes depending on whether there is or isn’t the ability to get a third party assessment of price.

Elasticity and Ramsey Prices

- More effective arguments seem to be those that acknowledge above cost pricing but try to argue this is efficient above cost pricing
- This is the Ramsey price argument – that the efficient way to recover fixed costs is in inverse proportion to elasticity
- Fails
  - No one can demonstrate the prices are Ramsey efficient
  - As the mobile penetration rate has increased their should have been serious rebalancing from termination to retail
- Thought experiment – what happens if just one mobile operator tries to reduce termination price by 10% - gets stimulation as if only reduced price by 3% - therefore the termination market is more inelastic than the downstream retail market
- Integrated operators see a different elasticity for the internal and external downstream market

Monopoly rents

- Some play is made by mobile operators that they do not obtain monopoly rents from the termination service
- This claim is based in part on a claim that empirically these firms do not overall obtain monopoly rents – hard to test both through integrated operation, and through the assessment of appropriate return on capital (I.e. do capital markets factor in an expected monopoly rent)
- It is argued the rents wouldn't occur as the retail service is effectively competitive and so rents would be competed away in that market
- This argument confuses the regulatory discussion – the concern with monopolies is not about the acquisition of rents per se, it is about the under production of output and effect on downstream markets or end-user utility

Regulation in perpetuity

- Some argue that all these arguments for regulation never go away – and therefore as regulation should be transitory and it won't be then we shouldn't regulate (the German argument)
- Completely misses the point that we do regulate monopolies in perpetuity if we can't introduce competition
- There are two remedies
  - Change the technical characteristics of the service so that handsets can be addressed for termination from multiple networks
  - Improve mechanisms for cross-industry co-ordination (bizarrely if we actually let the MNOs collude on termination the price might decline)
- The question is not whether to regulate or not, but what form the regulation should take