

Unclassified

DAF/COMP/LACF(2011)1

Organisation de Coopération et de Développement Économiques
Organisation for Economic Co-operation and Development

08-Jul-2011

English - Or. English

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

LATIN AMERICAN COMPETITION FORUM

Session III: Triple/Quadruple Play in Telecoms

Call for Country Contributions

13-14 Septembre 2011, Bogotá (Colombia)

The attached document is circulated in preparation for the discussion under session III of Latin American Competition Forum at its forthcoming meeting to be held on 13-14 September 2011 (Colombia). Written contributions for that session should reach the Secretariat by 17 August at the latest. Advance notice of contributions by 15 July would be useful.

A background note by Portugal is circulated separately under DAF/COMP/LACF(2011)2.

Contact: Ms. H el ene Chadzynska, Administrator, LACF Programme Manager
Tel.: +33 (01) 45 24 91 05; Fax: +33 (0)1 45 24 96 95; Email: helene.chadzynska@oecd.org

JT03305065

Document complet disponible sur OLIS dans son format d'origine
Complete document available on OLIS in its original format



DAF/COMP/LACF(2011)1
Unclassified

English - Or. English



LATIN AMERICAN COMPETITION FORUM

-- 13-14 September 2011, Bogota (Colombia) --

Session III: Triple/Quadruple Play in Telecoms

CALL FOR COUNTRY CONTRIBUTIONS

1. This request for contributions is circulated in preparation for the discussion to be held in Session III of the Latin American Competition Forum (LACF, 13-14 September 2011 in Colombia). Session III will discuss competition issues raised by triple/quadruple-play in the telecommunications sector. You are invited to make a written contribution to this discussion. In addition, a Background Note by the Portuguese Competition Authority is circulated separately (DAF/COMP/LACF(2011)2) to stimulate the discussion in Bogota.

2. Broad competition issues in the telecommunications sector were discussed at the 2008 LACF.¹ The country contributions and the discussion illustrated that, over the last two decades, most Latin American countries have privatised public telecommunications companies, established and strengthened regulatory agencies in the sector, and promoted market competition. The Latin American region has entered a new phase, characterised by technological convergence, which necessitates changes to both the way competition law and policy is applied in this area and the development of the competition/regulatory framework.

3. The main impact of the impressive progress made in the information and communication technologies (ICT) sector is the convergence between different industries and services. Technological convergence is often defined in simplified terms, as a process by which telecommunications, information technology and the media - sectors that originally operated independently of one another - are moving closer together. In economic terms, technological convergence connects two or more existing, but previously distinct, production chains and markets.

4. This process of fast technological convergence has prompted the emergence of bundles of services, namely of triple-play, which include (i) fixed telephony, (ii) fixed broadband access to the internet, and (iii) subscription television. In addition, there has been a change in consumer behaviour, with

¹ See the Issues Papers and country contributions at:
http://www.oecd.org/document/9/0,3746,en_40382599_40393122_42846793_1_1_1_1,00.html

an increasing interest in buying these services jointly from one supplier, instead of buying them separately from different suppliers. As a consequence, triple and quadruple play offers are starting to feature strongly in the telecommunications sector.

5. These technological changes have brought about a new paradigm to the industry. Most of the competition between firms now involves bundles of services. This presents new challenges for competition authorities and sector regulators in terms of (i) defining the relevant product market for bundled services; (ii) assessing the potential pro- or anti-competitive effects of bundled services; (iii) the need for an *ex-ante* regulatory regime for bundled services; (iv) the impact of vertical integration on competition in these markets, given that some firms are both wholesalers of content (e.g. movies, TV shows) and retailers of triple-play products. .

6. During this session at the LACF, competition authorities will have the opportunity to share their experiences of the impact of triple play services on competition in the telecoms sector, and the competition, regulatory and economic assessments that have been developed in response to these bundling strategies. Competition authorities should also feel free to share experiences raised by the emergence of quadruple and even quintuple play.

7. Countries are invited to address the extent to which bundling services have been deployed by providers and their impact on competition in their national and regional markets. A series of questions below is intended to guide country submissions, but countries should feel free to address other relevant issues in their contributions.

8. Speakers will be selected on the basis of written contributions submitted to the OECD Secretariat in response to this call. All participating countries are invited to prepare submissions. To assist the OECD Secretariat with the detailed planning of the session, **advance notice by 15 July 2011** of your intention to provide a contribution would be helpful. The contributions should be sent by email to Erica Agostinho [Erica.agostinho @oecd.org] (copied to: Helene Chadzynska [helene.chadzynska@oecd.org] **by 17 August 2011 at the latest** (in electronic Word format, 5 pages maximum in Spanish or English). Country contributions will be circulated to participants through the OECD (<http://www.oecd.org/competition/latinamerica>) and Colombian websites (URL to be circulated shortly).

QUESTIONS FOR CONSIDERATION IN COUNTRY CONTRIBUTIONS

1. Product Market Definition

1. How does your agency define a triple-play bundle? For example:

- A product that includes the three services, described above, sold with a single invoice?
- A product that includes the three services, where each service has an individual tariff plan but the joint sale is subject to a discount?
- A product that includes the three services and has a specific tariff plan?
- The set of the three services marketed as a bundled, independently of the way it is billed or priced?
- A product that includes the three services and is perceived by consumers as a bundle, independently of the way it is billed, priced or marketed?

2. In your experience, e.g. sector studies, cases or policy discussions, are triple-play offers defined as a separate relevant product market? Is there more than one relevant product market for each product in the triple-play offer? Do other bundles of telecommunication services, such as quadruple-play products, constitute relevant product markets?

3. In your experience, is the SSNIP test [Small but Significant and Non-transitory Increase in Price] the right tool to define markets of bundles of telecommunication services, namely of triple-play offers? If not, what alternative test should be used?

2. Competitive Effects of Bundling

4. Please describe how your agency assesses the potential anticompetitive effects of bundling of telecommunication services, e.g., triple-play offers, including:

- Does bundling of telecommunication services increase switching costs and limit consumer mobility? Is the complexity of tariff plans for bundles being used by firms to impose search costs on consumers?
- Does bundling of telecommunication services limit entry of new firms, or force the exit of existing firms?
- If bundling of telecommunication services has anticompetitive effects, what are the appropriate remedies?

5. What is the impact of bundling of telecommunication services on the allocative and distributive efficiency of the telecommunications industry in your jurisdiction?

- Do bundle offers induce the inefficient production of some services?
- Are the possible efficiency gains resulting, for instance, from economies of scope, being passed on to your consumers?
- How does your agency evaluate the impact of bundle products on consumer surplus and social welfare?

6. In your experience, what are the main challenges in the analysis of predatory pricing in the context of bundle offers? How should costs be allocated in this context?

3. Regulation

7. If, bundles of telecommunications services, e.g., triple-play products, constitute a relevant product market in your jurisdiction, and if there are firms with significant market power in these markets, are these markets subject to *ex-ante* sectoral regulation? In the affirmative case, what are the *ex-ante* regulatory obligations? If not, should such regulation exist particularly in light of the emergence of quadruple play services, and what should it entail?

8. In your experience, does the presence of bundles of services undermine the regulation of its individual components, or of upstream markets? If yes, what competition or regulatory measures have been applied?

9. What are the concurrent competences, if any, of competition authorities and sector regulators concerning bundled telecommunication services?

4. Vertical Integration

10. What is the impact in your jurisdiction of vertical integration on competition in the supply of triple/quadruple play offers, if any? Please illustrate your answer by reference to relevant cases.

REFERENCES

- Adams, R. M., K. P. Brevoort, and E. K. Kiser, 2007, “Who Competes with Whom? The Case of Depository Institutions,” *Journal of Industrial Economics*, 55(1), 141–167.
- Adams, W.J., and J.L. Yellen, 1976, “Commodity Bundling and the Burden of Monopoly”, *Quarterly Journal of Economics*, 90, 475-498.
- Bakos, Y. and E. Brynjolfsson, 2000. “Bundling Information Goods: Pricing, Profits, and Efficiency”, *Management Science*, 45(12), 1613-1630.
- BEREC, 2010, “Report on the Discussion on the application of margin squeeze tests to bundles March”, BEREC.
- BEREC, 2010, Annual Report , May 2011.
- Björnerstedt, J., and F. Verboven, 2009, “Predicting the Price Effects of a Merger in the Swedish Market for Analgesics - a Simulation Analysis”, discussion paper.
- Brenkers, R., and F. Verboven, 2006, “Market definition with differentiated products: lessons from the car market”, in *Recent Developments in Antitrust: Theory and Evidence*, ed. by J. P. Choi. MIT Press.
- Bork, R., 1978, “The Antitrust Paradox”, New York: Free Press.
- Capps, C., D. Dranove, and M. Satterthwaite, 2003, “Competition and market power in option demand markets”, *The Rand Journal of Economics*, 34(4), 737–763.
- Carbajo, J., D. De Meza and D. Seidmann, 1990, “A Strategic Motivation for Commodity Bundling”, *The Journal of Industrial Economics*, 38(3), pp. 283-298.
- Chen, Y., 1997, “Equilibrium product bundling”, *Journal of Business*, 70, 85–103.
- CEPAL, V. H. Valdés, *Estudios y Perspectivas N° 115, Regulación económica de aerolíneas en el Istmo Centroamericano*.
- Chipty, T., 2001, “Vertical Integration, Market Foreclosure, and Consumer Welfare in the Cable Television Industry”, *American Economic Review* 91(3), 428-453.
- Crandall, R., 1990, “Vertical integration and q ratios in the cable industry”, FCC Mass Media Docket No. 89–200.
- Crawford, G., 2008, “The discriminatory incentives to bundle in the cable television industry”, *Quantitative Marketing and Economics* 6, 41-78.
- Crawford, G., and A. Yurukoglu, 2009, “The Welfare Effects of Bundling in Multi-Channel Television Markets”, mimeo.
- Davis, P., 2006, “Spatial Competition in Retail Markets: Movie Theaters”, *The Rand Journal of Economics*, 37(4), 964-982.

De Bijl, P. and M. Peitz, 2003, "Regulation And Entry Into Telecommunications Markets", Cambridge University Press.

Debreu, G., 1959, "The Theory of Value: An Axiomatic Analysis of Economic Equilibrium", Cowles Foundation Monographs Series.

Director A. and E. Levi, 1956, "Law and the Future: Trade Regulation", Northwestern Law Review, 51, 281.

European Commission, 1997: "Commission Notice on the Definition of the Relevant Market for the Purposes of the Community Competition Law", Official Journal of the European Communities, C/372, 9.12, p5.

European Commission, 2006, "E-Communications Household Survey", Special Eurobarometer.

European Commission, 2008, "E-Communications Household Survey", Special Eurobarometer.

European Commission, 2010, "E-Communications Household Survey", Special Eurobarometer.

Ivaldi, M., and S. Lörincz, 2009, "Implementing Relevant Market Tests in Antitrust Policy: Application to Computer Servers", discussion paper, Toulouse School of Economics.

Kaplow, L., 1985, "Extension of monopoly power through leverage", Columbia Law Review, 85, 515–54.

Klein, B., 1989, "The Competitive Consequences of Vertical Integration in the Cable Industry." mimeo.

McAfee, P., J. McMillan, and M. Whinston, 1989, "Multiproduct Monopoly, Commodity Bundling, and Correlation of Values", Quarterly Journal of Economics, 84, 271 –284.

Nalebuff, B., 2000, "Competing Against Bundles", Yale School of Management Working Papers 157, Yale School of Management.

Nalebuff, B., 2003a, "Bundling, Tying and Portfolio Effects, Part 1 - Conceptual Issues", DTI Economics Paper no. 1.

Nalebuff, B., 2003b, "Bundling, Tying and Portfolio Effects, Part 2–Case Studies", DTI Economics Paper no. 1.

O'Donahue R. and J. Padilla, 2006, "The Law and Economics of Article 82 EC", Hart Publishing. OECD, 1996, Competition in Telecommunications at: <http://www.oecd.org/dataoecd/34/50/1920287.pdf>

OECD, 1996, The Essential Facilities Concept at: <http://www.oecd.org/dataoecd/34/20/1920021.pdf>

OECD, 2001, Competition and Regulation Issues in Telecommunications at: <http://www.oecd.org/dataoecd/48/39/1834399.pdf>

OECD, 2002, Loyalty and Fidelity Discounts and Rebates at: <http://www.oecd.org/dataoecd/18/27/2493106.pdf>

OECD, (2007), "Mobile Multiple Play: New Service Pricing and Policy Implications", OECD Digital Economy Papers, OECD, No. 126, Paris, p.58, at: http://oberon.sourceoecd.org/vl=38752504/cl=15/nw=1/rpsv/workingpapers/20716826/wp_5kz84nz4q6hh.htm

- OECD, 2008, Bundled and Loyalty Discounts and Rebates, at <http://www.oecd.org/dataoecd/41/22/41772877.pdf>
- OECD, 2009, Competition Issues in Telecommunications, paper prepared for the 2009 Latin American Competition Forum at <http://www.oecd.org/dataoecd/20/26/43588239.pdf>
- OECD, February 2011, Broadband Bundling, Trends and Policy Implications, DSTI/ICCP/CISP(2010)2/FINAL (http://www.oecd-ilibrary.org/science-and-technology/broadband-bundling_5kghtc8zmbx-en)
- Pereira, P., T. Ribeiro, and J. Vareda, 2011a, “Delineating Markets for Bundles with Consumer Level Data: The Case of Triple-Play”, Autoridade da Concorrência.
- Pereira, P., T. Ribeiro, and J. Vareda, 2011b, “A Simple Way to Delineate Markets for Bundles with Firm Level Data: The Case of Triple-Play”, Autoridade da Concorrência.
- Renhoff, A., and K. Serfes, 2008a, “Estimating the Effects of a la Carte Pricing: The Case of Cable Television”, mimeo.
- Renhoff, A., and K. Serfes, 2008b, “The Role of Upstream-Downstream Competition on Bundling Decisions: Should Regulators Force Firms to Unbundle?”, mimeo.
- Schmalensee, R., 1982, “Commodity Bundling by Single-Product Monopolies”, *Journal of Law and Economics*, 25, 67 –71.
- Schmalensee, R., 1984, “Gaussian Demand and Commodity Bundling”, *Journal of Business*, 57, 211-230.
- Stigler, G., 1968, “A Note on Block Booking”, in G. J. Stigler (ed.), *The Organization of Industries*. Homewood, Ill.:Irwin.
- Waterman, D., and A. Weiss, 1996, “The effects of vertical integration between cable television systems and pay cable networks”, *Journal of Econometrics* 72, 357-395.
- Werden, G, 1993, “Market Delineation Under the Merger Guidelines: A Tenth Anniversary Retrospective”, *Antitrust Bulletin*, 38 517-555.
- Willig, R., 1979, "The Theory of Network Access Pricing," in Harry M. Trebing, ed. *Issues in Public Utility Regulation*. Michigan State University Public Utility Papers.
- Whinston, M., 1990, “Tying Foreclosure, and Exclusion”, *American Economic Review*, 80, 837 –859.
- Van Reenen, J., 2004, “Is there a market for work group servers? Evaluating market level demand elasticities using micro and macro models”, discussion paper, London School of Economics.
- Yoo, C., 2002, “Vertical Integration and Media Regulation”, Vanderbilt University Law School Public Law & Legal Theory Working Paper Number 02-01.
- Yurukoglu, A., 2008, “Bundling and Vertical Relationships in Multichannel Television”, mimeo.