Internet (over-the-top) services and challenges to regulation

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Israel: short snapshot

• Israel is a developed ICT economy
• Widespread adoption of fixed and mobile broadband
• More than 3 mobile 3G UMTS networks
• 2 Universal fixed broadband providers
• Average fixed broadband speed of more than 25 Mbps.
Operators: increasing competition

<table>
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<tr>
<th>INDEPENDENT</th>
<th>PARTNER</th>
<th>CELLCOM</th>
<th>HOT</th>
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**Operators:**

- **MVNO**
  - O12 smile
  - 013 netvision

- **Golan**

- **MOBILE**
  - orange
  - סלקום
  - HOT mobile

- **TV**
  - tv סלקום
  - HOT

- **Fixed infrastructure**
- **Fixed telephony**
- **ISP + international**
- **MOBILE**
- **TV**
The challenge

- The Israeli telecommunications law provides for the licensing of **service providers**, who own a network.
- However, internet-based (over the top) services do not conform to this paradigm.
- This dissonance has been a challenge to the Israeli regulator in recent years.
- Are we going to a strict separation between networks and services?
VOIP—fixed and mobile

• In 2004, MOC is called to license operators using over-the-top VOIP technology, interconnected to the fixed network (numbering, termination, etc.)
• In order to do so, MOC must “creatively” interpret the law, and conclude that VOIP providers have a “network” (even if only a minimal core network).
• Further, the MOC is called upon to decide what type of license to grant to “VOC” (voip over cellular) services by operators who are not MNO’s;
  – MVNO
  – Over-the top VOIP?
• This leads to questions of termination prices and numbering.
Net Neutrality

• In 2010, Cellcom (large MNO) includes language in its contracts that disallow the use of the data network for VOIP.
• At this point, Israel does not yet have net neutrality legislation.
• However, MOC issues an administrative order, ordering Cellcom to allow the use of VOIP, for the following reasons:
  – The customer should be allowed to use their data allocation for any legitimate purpose.
  – VOIP is not a significant user of network capacity, does not threaten network integrity, and therefore this contractual provision may be anti-competitive.
• Further to this and other cases, the Israeli Knesset (parliament) passes a net neutrality amendment to the Communications Law which, *inter alia*, forbids:
  – Discrimination by service
  – Discrimination by service provider (i.e. can use only 1 VOIP operator)
• Both by technological means, and by pricing.
Challenges Ahead (1)
who pays for bandwidth?

• Traditionally, Israeli customers pay:
  – On mobile networks, for a cumulative allocation of data
  – On fixed networks, for a speed per second.

• Israel is implementing a wholesale market in fixed networks, and already has a regulatory framework for MVNO’s
  – In this context, the question is, “who pays for the bandwidth”?
  – On the one hand, in order to have a “retail margin”, perhaps the wholesalers should provide the retailers with unlimited bandwidth, as they do for their retail customers? (“retail minus”)
  – On the other hand, if the retailers also provide other services (like OTT IPTV, for example), perhaps it is not justified to provide them with unlimited bandwidth? (Cellcom TV)
  – Who will have incentive to invest in the network?
Challenges ahead (2) regulation of new services

- Cellcom has recently announced an over-the-top internet TV product called “Cellcom TV”.
- This product, includes VOD content along with DTT service for broadcast service and content direct from websites.
- Currently, it is not subject to the regulatory regime for television content, including protection of minors, production of local content, etc.
- It is clear that the long-term solution must include some harmonization with existing frameworks for the cable operator and the satellite operator.
- A public committee led by a regulation expert (the Shjecter committee) is currently considering the matter and has tentatively suggested taxing broadband to pay for local production requirements.
Challenges ahead (3) the internet of things

• In an all-IP world, the concept of “interconnection” becomes unnecessary.
• What happens to the economics of the operators when revenues from interconnection disappear?
• What happens to regulatory frameworks?
• Can we continue to discriminate between end users based on the location of the device and the billing address of the consumer (international roaming)?
• Local regulation should take under consideration that International players may not be regulated.
Thanks

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