



GLOBACOM`S COMMENTS TO NCC`S CONSULTATION PAPER ON DOMINANCE IN SELECTED COMMUNICATIONS MARKETS

INTRODUCTION

Identification of Relevant Markets

The Commission has defined two specific telecommunications markets in Nigeria namely: 1. Mobile Telephone Services and 2. International Internet Connectivity for which it seeks to investigate conditions of possible dominance.

In the case of Mobile Telephone Services, Globacom is of the opinion that the Commission ought to have been more specific since the mobile telephony markets in Nigeria is essentially in two categories viz CDMA and GSM. There are five major operators in both band Starcomms, Visaphone, Multilinks, Intercellular and Zoomobile for CDMA and MTN, GLO, Zain, Etisalat and MTEL for GSM.

It is important therefore to demarcate these two markets due to difference in technology and different constraints in ability to penetrate the market. Too much focus on GSM as dominant will create the impression that the choice in Nigeria is GSM and this would most likely reduce the interest of investors in CDMA.

COMMENTS

The following are Globacom`s comments to the issues raised in the Consultation Paper:

i) MOBILE WIRELESS MARKET

- **Pg 7 point 5.2(a):** Over the years MTN market share has come down from 50% in 2006 to 41.2% in June 2009. Globacom introduced per second billing / & ₦1 SIM in Nigeria and this brought revolution in Nigeria. Customers started enjoying best value for money and market forces have ensured that various operators get customers based on their product/service offerings. We feel that NCC can keep on providing level playing field among various players and customer will opt for operator which will satisfy his needs. We agree with the opinion that the dominant position of MTN has been eroding and with free market competition they may be the leader in the next 12 months but definitely not a dominance operator as we expect their share to come down.
- **Pg 8 point 5.2(b) :** Due to early start MTN has been able grab large chunk of the market and this gives a lot to competitive edge to MTN in terms of cost advantage and economies of scale. Same infrastructure will be used for much higher number of customers & revenue and cost per unit will be lower for MTN but this is applicable to other operators as they grow their subscriber base.



However, Globacom totally disagrees with the opinion that the number of employee is an indication of economies of scale. This is an era of Contract Staffing and outsourcing of non essential arm of operations therefore reduction in the number of staff is NOT a measure of achieving significant economies of scale.

- **Pg 8 point 5.2(c) : Control of Essential Facilities**
 - Interconnect difficulties: Globacom`s experience during its roll out with MTN and Econet (now Zain) has clearly shown that interconnect is a pure bilateral agreement with guidelines from operator but NOT run from the office of regulator, there are essential condition to be met in order to safe guide investments and unscrupulous demand.
 - Share access to needed facilities: We do not see the need to declare an operator dominant before the enforcement of collocation and shared facilities. NCC should be effective with the enforcement of it rules.
- **Pg9 point 5.2(d) :** This is the right time to launch number portability in Nigeria. This step will give maximum choice to the customers and operators will be pushed to offer good services and best value for money to customers.

Customers are sometimes compelled to stick to operator whose quality of network is not good or operator is offering high tariffs due to the fear of changing his mobile number. Customer might be using the mobile number for quite some time and he cannot afford to change the operator as since it would require changing his mobile number. By changing the mobile number customer fears the loss of business therefore he is forced to use inferior services.

We think NCC should take proactive steps and introduce mobile number portability. **However, number portability should be launched in totality. This means customer has a choice to keep his number and change his operator from GSM to GSM, GSM to CDMA, CDMA to GSM, GSM to Landline & Landline to GSM.**

Negotiating Position of Customers: Globacom is of the opinion that the issue of number portability should not be lumped with Dominance determination. NCC is free to issue guidelines for implementation of Number Portability since Dominance should not be criteria for number portability.

- **Pg9 point 5.2(e) :** NCC has been quite proactive in issuing licenses to new operators and ensuring level playing field among various operators. Currently, there are **5** GSM players and 5 CDMA players in market. Current policies have ensured healthy competition among operators and customer is getting best value for money.



Globacom believes that the restriction on market entry in the mobile sector does not favour MTN because their dominance has been eroded by new entrants as earlier stated that their market share has reduced from 50% to 41%

We do not see any barrier in the market entry as various guidelines such as Collocation, Interconnectivity and facility sharing based on mutual commercial condition is enough for ease of market entry. In fact a well planned operator can roll out from bottom to top and shared facilities from different operators to get better QoS, a case study is that of Visaphone. A company with mobile license that decides to start building infrastructure must have based its decision on strategic plan for future. Declaration of dominant operator may result in investors developing cold feet on the Mobile arm.

- **Pg10 point 5.2(f) :**

Impact of new technology (3G): All operators have paid huge sums of money to get 3G license and the cost of 3G infrastructure is very high. Both factors have made 3G services very expensive for the normal customer. This has hindered the growth of 3G services in Nigeria. Penetration of 3G services will help in removing the digital divide in Nigeria and lead to overall development of economy and infrastructure. There are some developed countries where no license fees was charged by the government to the operators and launch of 3G services was viewed as overall infrastructure development.

3G has not given any added advantage in terms of market share to any of the 3 major operators. The \$150 Million paid to NCC can be termed to be capital tied down which could enhanced the network roll out of operators and as such gives advantage to new and small operators and new entrants

In view of the above, we feel that NCC should look at compensating the operators so that operators can pass the benefit to the customers and make service affordable for customers. This can lead to next wave of infrastructure development.

Financial Resources: Access to financial resources, equipment or technology and also management stability are definitely an indicator of market size of which all operators are fully aware, Telecoms industry is a high capital intensive and regulatory declaration of dominant will for part of overregulation which will drive investors to dominant operators as they will see their investment to be very safe.

It is not expected that NCC would stop any operator from further investment in their network and expanding coverage in other to reduce their dominance and give advantage to small operators

We feel that NCC should continue to create an even playing field among various players and take proactive steps like introduction of mobile number portability. Market forces will ensure that operators will get the market share on the bases of their performance.



Preliminary findings: Globacom agrees that MTN does not hold individual dominance in view of the fact that its market share has been declining over the years.

We make bold to say that MTN as of date does not control the infrastructure as their number of BTS and OFC mileage are not up to 30% of the overall while the OFC laid is less than 30% of total. NCC is free to dispute this with data at its disposal.

COLLECTIVE DOMINANCE – pg 13

Allusions have been made in the Consultative paper under the paragraph on Market Share in page 15 about a possible tacit collusion amongst the three operators to divide the market amongst themselves alone denying the other two small operators to get a foothold in the market.

Globacom disagrees with this assertion. A careful observation of the growth of the Nigerian telecoms market would reveal that tremendous competition has been unleashed over the years amongst the big three operators, and it has actually helped the overall telecoms market to grow. It has also helped the newcomers in the sense that they have had the advantage of getting into a market which is conscious of value for money.

Furthermore, the Consultative paper appears to be talking about the Nigerian Wireless market therefore not restricted to any radio technology in particular, even though it has kept its focus mainly on the GSM market. We also must not forget there has been an appreciable growth in the CDMA market in the meantime and the way it is today the same subscriber has a choice of choosing the best tariff from all and making his/her calls accordingly. Therefore it cannot be correct to say there has been any tacit collusion amongst the big three to ward off new entrants.

There is healthy competition in the market with 4 private GSM players and 5 CDMA players in Nigeria. The telecoms market in Nigeria is sufficiently competitive and all operators are trying their best to attract and retain customers by either dropping tariff or launching new services.

Tariffs in Nigeria have come down significantly. Some of the product innovations launched in Nigeria by Globacom are per second billing pulse, 1 N SIM, 40% discount on Friends and family calls and so on. Price of new prepaid SIM has come down to N100 in the market.

Basically there is no evidence of collective dominance in the telecoms market. However, NCC may choose to carry out a consultative study or set up an Anti- Monopoly Commission as in Ukraine to investigate and determine if there is collective dominance or anti monopoly act and give data to the Operators to support its existence if any.



Comment on observations – Pg 13

- a) Entry barrier NCC has been quite proactive in issuing licenses to new operators and ensure level playing field among various operators. Currently, there are 5 GSM players and 5 CDMA players in market. Current policies have ensured healthy competition among operators and customer is getting best value for money.
- b) Frequent Interaction among firms: All operators are supposed to interact on regular bases on the issues of mutual concern such as interconnection, POI's and roaming. This helps in offering smooth services to the customer and is in line with what happenings in other countries.
- c) Innovation : Majority of the customers are still on 2G network and it will take many years in Nigeria for sizeable number of customers to upgrade from 2G to 3G. This is due to high cost of 3G services. For quite some time major portion of customers will remain on 2G for all operators in Nigeria. The question of reducing effort in launching new services on 2G does not arise.

Secondly, there are lots of services introduced by Globacom for the first time in Nigeria; like per second billing, I N SIM, Magic plus, Mobile banking, Black Berry, 3G, Voice SMS, etc. In addition to this we are committed to provide latest technology at affordable price to the customer.

- d) Symmetry Among Operators :
There is fierce competition between the various operators in the market and all the operators are trying to attract customers. There is race among operators to launch innovative products and services. Product launched by any operators is matched by other operators in matter of days. This leads to parity of services and prices among operators at macro level. However, different operators are following different pricing/product strategy depending upon which segment operator is trying to attract. At overall level, due to fierce competition all products get matched and there seems to be parity among operators.
- e) Fast demand growth

There are around 10 mobile operators in the market. Nigeria is one of the most competitive markets in the world. It is not possible to have collective collusion in such highly competitive market. This level of activity in the market through new launches of tariffs/products is highly visible in the market and no other category comes closer to mobile in terms of various interventions.



ii). INTERNATIONAL INTERNET CONNECTIVITY

Globacom is of the opinion that dominance in the Nigerian market for international internet connectivity is premature therefore should not be an issue at this stage until the final commissioning /rollout by all intending investors.

CONCLUSION

Globacom is not favorably disposed to the determination of Dominance at this stage due to the following reasons:

1. The market competition has given wide choice to subscribers to choose both in terms of technology, price and products
2. The infrastructure development in the country is still at its infancy with no Operator having dominant control and the assumed majority share of MTN has been on the decline with new operator, in addition we are of the opinion that the relaunch of MTEL will give further reduction in MTN market share
3. Globacom would require an acceptable data to change its opinion on the issue of collective dominance. Globacom is of the opinion that NCC should like in all countries employ a consultant to carry out anti monopoly study and make a regulation accordingly
4. The collapse of Nitel's infrastructure and power supply has made all operators to rewrite their business plan by providing individual infrastructure such as fiber and generator sets, we are of the opinion that as soon as these infrastructures are put in place the operators concerned will relaunch back into their main business line
5. It is unfortunate that NCC has not enforce the licence obligations of mobile operators who are having mobile and Universal license especially in the Regional roll out, Globacom is of the opinion that such will give Nigerian other choice
6. Infrastructure coverage as of today is still at disadvantage to North East Region of the country due to underdevelopment and inability of CDMA to roll out in the region. If dominance is declared it may discourage operators from investing in such regions.
7. It is expected that new entrants should be able to bring in new innovations to bring down the price and improve QOS as Globacom did during its launch. Globacom can adequately ascribe its success story to innovative services which has been extended to the Republic of Benin where Globacom launched as the 5th entrant got to no.2 position within one year.
8. Globacom does not believe that there is need for determination of dominance before number portability can be introduced.



9. The issue of international internet connectivity is considered premature and should not be an issue until final commercial launch/rollout by all intending investors
10. Globacom wants to reiterate that it does not consider MTN a dominant operator but one of the leading operators considering the erosion of their market share over the years
11. Globacom is not colluding with any operator as its interconnect traffic has indicated that Globacom's off-net price is lower than any other operator which makes it net-payers to both MTN and Zain.
12. In the last two years the QOS parameters has improved.
13. There has been price reduction and a lot of various classes of subscribers over the last five year. We are of the opinion that price should be left to market forces while interconnect rate should be the only deriving force to be used by NCC in the reduction of OFF NET services. NCC should note that drastic price reduction offered sometimes ago drastically affect QOS hence need to balance price with quality.
14. Operators both new and old should bring innovative ideas that will make their network customers` choice.
15. Finally, Nigeria still needs a lot of capital inflow in terms of telecommunications infrastructure, declaration of dominant operator would give the impression that new entrants can start from bottom-up (i.e piggy back) with both active and passive infrastructure sharing.