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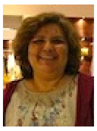
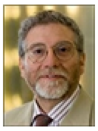
EU Telecoms Competition and Regulation: Paradoxes of Subsidiary and a Single Digital Market

Blog Editor

In a previous post, we addressed that the recent massive expansion of online services and mobile applications puts pressure on EU's traditional telecoms to reassess their business structures. **Silvia Elaluf-Calderwood** *and* **Jonathan Liebenau** *reflect on the importance of a well-functioning single European telecoms market but warn about the implications that subsidiary policies may have in the region.*

In a recent Op-Ed piece in the Wall Street Journal, David Cantor called for changes in practices that would bring about a single European telecoms market. He points out that the efforts to use principles of subsidiary to balance competition with integration since 1998 have failed and that the consequence has been a loss of competitive edge. In what he presents as a dramatic plea for a shake up in the current industry structure, he suggests that a solution will be found in the creation of a couple of pan-European backbone operators.

We at LSE Tech, and colleagues who have worked with us have been conducting research over the past few years that address elements of this argument. In an article for *First Monday*, Panayiota Tsatsou extends work she conducted with two of us some years ago (Tsatsou et al., 2009) to argue that European Union normative practices legitimized government intervention in the communications market for social purposes and allowed continued public monopoly over radio and broadcasting to continue past 1998. However, the emerging communications policy could be dealt with in a way that is consistent with principles of subsidiarity and also utilizing mediating mechanisms of the EU to stimulate NRA independence and to monitor decision–making procedures of cooperation between NRAs, member states and the EU. Mediating mechanisms, as Tsatsou argues, can address the "principal–agent" relation and put "accountability instruments in centre position", allowing "national regulatory authorities (NRAs) to use their discretion intelligibly and reasonably". This can facilitate the empowerment of NRAs and their discretion, making at the same time NRAs more accountable. One presumed advantage of this, expressed by Brunekreeft and Meyer (2011), is that a different focus on QoS, in particular with regard to tiering, is likely to foster more investment. This could be seen as a means of respecting both the peculiarities of national markets and the opportunities afforded by different business models. Various other perspectives have emerged from research in this area. Martin Cave (2009) argues that the early success of the post-1998 reforms was based on regulation excising retail price controls, universe service obligations, and access pricing restrictions. In a previous blog we have looked to the issues of net neutrality and regulation. However, our work (Liebenau et al. 2011 and Liebenau et al 2012) and that of some others identify underlying problems associated with the need to fund significant investment in new network infrastructure (Kramer and Wiewiorra, 2012).

Recent framing of the problem has presented net neutrality and the industry ability to compete with non-European rivals as exchangeable positions. This is something we have discussed in a previous blog where we referred to research that takes different perspectives to net neutrality in Europe and USA. We have also raised the problem of how regulators deal with European legal, social and regulatory heterogeneity. From our perspective, it is misleading to regard net neutrality and competition as exchangeable and the argument distracts from understanding of the core problems of the industry.

The paradox of the European telecommunications industry is that while trying to keep its "social" norms and its "competitive" edge in equilibrium, it has weakened its own ability to innovate and compete. This has effectively ceded the lead to US counterparts whose network business models increasingly are adapted to new revenue schemes and integrated, modular strategies. Cantor and others argue that it is futile to try to reform existing telecoms regulatory frameworks within the policy of subsidiary and implies that it will not address issues such as what to do with the VoIP business or investment in new networks.

Based on a range of perspectives from journalists, business analysts, economists and our own academic research, there is an urgent need to break away from the 1990s ideals of subsidiary and the resultant institutions of regulation and business practice. Only when the realities of network architecture, utilization and business models become the basis for the operation of the infrastructure will innovation and investment return to the European telecommunications sector. Cantor is not wrong to stress the need for a functioning single European telecoms market, but he is not going to get it by neglecting the realities, as well as the ideals, that underpinned subsidiarity and its recognition of the heterogeneity of markets.

This article gives the views of the authors, and not the position of the London School of Economics.

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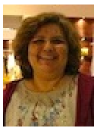
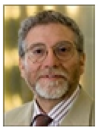
About the authors



Silvia Elaluf-Calderwood – *LSE Management Department*
Dr Silvia Elaluf-Calderwood is a Research Fellow at the LSE Department of Management. She holds wide experience in the telecommunications industry in the UK and the Netherlands, and has a technical and managerial background in the Internet and Telecoms business.



Jonathan Liebenau – *LSE Management Department*
Dr Jonathan Liebenau is a Reader in Technology Management, LSE. He Specializes in fundamental concepts of information, and the problems and prospects of ICT in economic development. Previously worked in academic administration, technology policy, and the economic history of science-based industry, all positions in which he has emphasised the use of information in organizations. He is the author or editor of a dozen books and over 70 other major publications. He has provided consultancy services to leading companies and strategic government agencies, including Dell, BT, IBM, Microsoft, TCS, Nortel, EDS, Lloyd Thompson, and in the UK Government, the Office of Science and Innovation, the Department of Trade and Industry and the Home Office.

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