

**WORKSHOP ON COMPETITION ASSESSMENT IN THE CONTEXT OF THE REGULATORY IMPACT  
ASSESSMENT**

**CASE STUDY  
CONSUMER ALTERNATIVES AND DECISION MAKING**

**Forced deadlines into mobile phone contracts**

It is common in Mexico, as in other countries, that telecommunications companies which provide mobile phone services set compulsory fixed-term contracts for subscribers. Recently there have been attempts by Congress in Mexico to reduce these contracts. Among the objectives outlined in the initiatives submitted are to empower consumers, reduce penalties for early exit and eliminate perverse incentives that reduce the quality of the service provided. In order to do this, there have been proposed modifications to the Federal Consumer Protection Law to establish that "under no circumstances" compulsory fixed-term contracts for subscribers may be longer than six months from the signing of the relevant contract. In other words, it seeks to reduce the "switching costs" that can, under certain circumstances, lead to less consumer mobility.

**Responsible institution**

- Federal Consumer Protection Office

**Additional information**

- The mobile phone market is highly concentrated in Mexico. The main operator has a market share (by number of lines) of nearly 70%, and its closest competitor holds a share slightly above 20%.
- The sector regulator of telecommunications in Mexico (the former COFETEL) always faced major difficulties to enforce regulation in this market. With the recent constitutional reform in the sector it is expected that the new regulatory body overcomes such difficulties.
- The Federal Consumer Protection Law is of general application throughout the economy and not just in a specific sector such as telecommunications.

**Reflection elements**

- While the costs of switching provider may reduce the mobility of consumers, Should not be taken into account the costs that the service providers incur when consumer change companies?
- What other elements besides the compulsory fixed-term can reduce the mobility in the mobile phone market? Therefore, should the problem be addressed only through tackling compulsory fixed-term contracts?
- Is through legislative action the best way to achieve the objective of protecting consumers? Why do it in a general legislation for consumer protection if the objective was addressed only to the mobile phone industry?
- Could it be possible to consider other intervention alternatives like information mechanisms so that consumers are better informed about the different mobile plans and packages that offer different compulsory fixed-term contracts?
- In a highly concentrated market, would the promotion of competition not be a natural mechanism to induce service providers to reduce their compulsory fixed-term and give consumers better service conditions?
- What elements were taken into account to establish a period of six months and not of nine months or a year? Would not this measure eliminate an additional element to compete (the possibility to offer different compulsory fixed terms in different packages) in the market?



# COMPETITION WORKSHOP

Mexico City



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## Session 2 Break-Out Cases

### Mark Ronayne

Mexico

September 24, 2013



## Check List Parts One and Two

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- **The government is deregulating the local natural gas market. Previously, the market was supplied by a vertically integrated utility, providing both distribution services, that will continue to be regulated, and natural gas supply, to be deregulated. Consumers will be broken into 2 separate businesses. However, the persons that previously acquired gas for the integrated utility will be allowed to continue to work at the utility with the deregulated gas supply business paying the portion of their salary reflecting time they spend acquiring gas for the deregulated business.**
- **To date most gasoline stations have stored their gas in underground tanks. To help prevent soil pollution from gasoline leaks, the government is considering banning the use of below ground gasoline tanks at new gas stations in favour of above ground tanks. How might your assessment change if stations that are already using underground tanks are also required to install above ground tanks?**



## Check List Parts One and Two

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- **In response to a number of recent drowning incidents involving children, the government is considering new regulations requiring swimming pools to have 5 foot high surrounding fences.**
- **In an effort to protect local cod stocks the Newfoundland government is proposing a bill that will restrict the number of fishing licences, and the size of boats, and density of nets that can be used (less dense nets allow smaller fish to escape).**
- **In the past, the government controlled the level of a particular pollutant in a river by assigning rights to businesses along the river to discharge maximum amounts of the pollutant. Consideration is being given to replacing the current approach by capping the level of pollutants that may be discharged at the same level and requiring businesses to acquire rights to discharge the pollutant.**



## Check List Parts Three and Four

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- **In response to concerns about the innovativeness and international competitiveness of the domestic plastics industry, the government is considering creating a national plastics research center. Related policies will include the creation of a joint research program bringing together leading researchers from the domestic manufacturers.**
  - **How would you assess the potential competition effects if:**
    - **Research is limited to basic pre-commercial research, for example, to advance scientific knowledge of plastics.**
    - **Research involves later stage research leading to the creation of new patentable inventions.**
- **How might your answer be affected by any arrangements on the use or licensing of the results of any joint research?**



## Check List Parts Three and Four

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- **In response to complaints from residents about the proliferation of roadside signs, the local government is considering imposing restrictions on the size and density (i.e., how many property owners can allow over a given stretch of road?) of signs that can be maintained by property owners.**
- **In an effort to create greater accountability and avoid the inappropriate rewarding of contracts, the Minister of the Department of Public Works is considering a policy to make all supply bids public after contracts are awarded.**



## Check List Parts Three and Four

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- **The government is deregulating the local natural gas market. Previously, the market was supplied by a monopoly vertically integrated utility providing both distribution services, which will continue to be regulated, and natural gas, which is to be deregulated. Both charges were incorporated in a single bundled bill sent out by the vertical utility. In order for the new structure to seem familiar to households, the government is considering allowing the company's deregulated arm to continue to bill customers using a single bundled bill sent out by the regulated distribution utility.**
- **As a result of recent medical research creating a link between the amount of coffee drunk and premature births, the government is considering a new regulation requiring that coffee packaging and containers for bulk sales of coffee have a prominent warning of this risk.**



# CONSUMER CHOICE AND DECISION MAKING

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24 September



## Competition Assessment Checklist

Initial Screening: Checklist Question #4

- Does the rule or regulation **limit the choices and information available to customers?**
- This could arise, for example, if a regulation
  1. Limits the choices that a consumer can make
  2. Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers
  3. Limits useful and relevant information available to customers

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## Competition Assessment Checklist

### Initial Screening: Checklist Question #4 - 1

- **Limits the choices and information available to customers?**
- For example:
  - Regulation requires that if consumers are prescribed a brand name medication, they cannot substitute that for a generic
  - Regulation forbids price comparisons between different stores

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## Competition Assessment Checklist

### Initial Screening: Checklist Question #4 - 2

- **Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers**
- For example:
  - Regulation allows banks to charge a customer for deposits to their account from another bank
  - Rule requires customers who switch to another electricity supplier to purchase the electricity meter from the existing supplier
  - Rule prevents customer from obtaining their driving accident record from existing car insurer, so cannot show that to get alternative offers for insurance

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## Competition Assessment Checklist

Initial Screening: Checklist Question #4 - 3

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- **Limits useful and relevant information available to customers**
- For example:
  - Rule requires grocery stores to show the price per kg or per unit on the price sticker placed on shelves (Helpful for price comparisons)
  - Rule prevents pharmaceutical companies from telling customers the benefits of their products



## Session 2 Competition Checklist

Mark Ronayne

Mexico

September 24, 2013



## Limits Options and Information Available to Consumers

- Barriers to switching often important for efficient operation of markets.
- Can avoid inefficiencies from stranded costs (contracts and regulation).
  - Example: Recovery of transmission system costs and on-site power generation.
- May reflect real costs or risks of switching.
  - Examples: Retraining of staff to use new software / markets associated risk when switching from a regulated price to an unregulated one.
- Raise competition concerns when do not reflect real costs associated with switching or excessively lessen competition.



## Limits Options and Information Available to Consumers

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- Information available in the marketplace an important determinant of buyers' ability to switch.
- Particularly important to ensure that good information available in new or emerging markets to help overcome time costs, and, potentially, emotional or psychological barriers to switching.
- Examples:
  - Lack of information concerning retail electricity offers a major factor leading to reregulation of the Ontario's electricity system.
  - Warnings about risks that gas marketers required to give consumers switching off regulated supply limited willingness of buyers to switch.



## Limits Options and Information Available to Consumers

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- Switching and Information Issues in the Canadian Cellphone Market.
  - Sector deregulated in mid-1990s.
  - Subsequent studies suggested that Canadian cell phone costs may be too high.
    - 2009 OECD study ranked Canada 28 out of 30 countries for cost of medium use cellphone and data services.
  - Cellphone terms and conditions restricting the buyer switching between suppliers considered to be possible cause.
- Also widespread concern that lack of clarity concerning contract terms and conditions impeding switching, consumer selection of the best options and allowing additional fees to be charged.



## Limits Options and Information Available to Consumers

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- Concerns examined in 2012-13 Canadian Radio-television Telecommunications Commission (CRTC) Hearings.
- Main barriers to Switching:
  - 3 year terms.
  - Locking of cellphones restricting use on competitors' networks.
  - High exit fees.
- Justifications put forward:
  - Locking required to avoid fraud
    - Phones often provided free or at low prices versus list under fixed term contracts, locking prevents signing and later repudiation of contracts as way to get cheap cellphone.
  - 3 year term desired by consumers allows cellphone costs to be recovered more gradually.
  - Exit fees warranted to ensure contracts honoured and recoup unrecovered cellphone costs.



## Limits Options and Information Available to Consumers

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- Competition Bureau submission raised concerns regarding potential consumer and competition effects of consumer switching costs and barriers.
  - May counteract efforts by new or recently established service providers to attract customers by requiring them to provide a competitive offer that compensates for such switching costs.
  - Can reduce the incentive for established service providers to discount their prices and innovate by limiting consumers' ability to effectively move to other supplier.
  - Can restrict entry by increasing the costs and lengthen the time required for entrants to achieve the scale and scope of supply needed to become profitable.



## Limits Options and Information Available to Consumers

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- Recommended that the locking of phones, an artificial cost of switching, should be restricted.
- Exit fees should be kept to minimum .
- Restriction of term length should be considered to promote competition.
- CRTC decision included measures to clarify and limit the locking of phones, limit exit fees to unrecovered cellphone costs and prevent the use of contracts locking in customers more than 2 years.



## Limits Options and Information Available to Consumers

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- CRTC Wireless Code information provisions.
  - Must communicate with customers using plain language.
  - Contracts and related documents written in a way that is clear and easy for customers to read and understand.
  - Prices in contracts must be clear and indicate whether taxes included.
  - Clearly lay out any conditions under which consumers may be overcharged.