Globalism and Localism in Telecommunications
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Toward an International Competition Policy in Global Telecommunications

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1. Introduction

The question confronting the world telecommunications industry today is whether the global alliances now being formed by telecommunications companies will promote or prevent competition. The future course of antitrust policy will be determined by the answer to that question.[1] In this chapter, I share some thoughts on competition and the antitrust process in general. I believe we will eventually come to understand that global carriers are not the villains that some people fear but are in fact necessary as a result of the globalization of today's economy.

Data highways, multimedia, and the intelligent use of communications in industries like energy and transportation are areas in which the telecommunications industry is transforming the structure of the world economy.[2] The ever increasing access to information and knowledge is also proving to have a major impact on global political and cultural relations as well. In short, the intelligent use of information and communications technology has become a basic requirement for private enterprises, nations, and global regions alike.

The communications industry is itself on the threshold of enormous changes. The monopolistic telecommunications structures that date back to the turn of the century are disappearing. They are converging with data processing, publishing, film, and television to form a rapidly expanding multimedia conglomerate whose shape and economic and cultural significance can only be roughly identified today.

Analysts talk about a global multimedia market worth $2.5 to $3 trillion by the beginning of the next century. Although this figure might be high, it is not completely unrealistic. In 1993, the market for telecommunications alone was in the order of $510 billion, of which communications services and software accounted for 80 percent and equipment or hardware accounted for around 20 percent. In Western Europe and the United States, this market is expected to grow in the future by 7 to 9 percent per year, and in the Far East, by 15 percent annually.

In the current, pioneering phase of this emerging megamarket, companies from different business sectors are trying to find their field of business according to their own specific interests and strategies -- some through predatory competition and others through strategic cooperation. All of these companies want to have the users or customers on their side, and only time will tell which strategies will prove most successful.

In the battle for commercial leadership, both competition and strategic cooperation are receiving an important stimulus from the public policy debate that has grown up around the catchwords *multimedia, data highways,* and *global supernetworks*. At the highest political level, a complex mixture of visions advocate both international competition and cross-border cooperation. One of the central questions is how these political visions of competition and cooperation will translate into a policy framework for the global telecommunications industry.

2. Competition and Coorperation between Companies

In the United States, Japan, and the United Kingdom, liberalization, or rather the partial abolishment of monopolies, has led to greater competition in telephone service and basic networks among other sectors. Following the European Union (EU) Council of Ministers' decision of November 17, 1992, Europe's remaining monopolies in the telecommunications industry were slated for extinction beginning January 1, 1998.[3]

Fortunately, liberalization was made necessary by a combination of customer requirements, technological progress, the acceleration of high-tech investment cycles, financing constraints by the public sector, and aggressive trade policies. As a result, a growing telecommunications market will bring new opportunities for a broader range of companies than ever before. Traditional network operators and equipment manufacturers are facing new competition from mobile communications companies, cable companies and television program providers, radio and television broadcasters, and publishers and film producers as well as from railway and energy companies with communications networks of their own. Some of these companies will remain "niche enterprises" while others may become regional or even global players. And while their survival depends ultimately on their ability to compete with one another, much, I would suggest, also depends on their ability to cooperate.

Alliances form an increasingly important part of the liberalized telecommunications market, as companies attempt to respond to diverse customer requirements and pressures for technological innovation. Experience has shown that companies that fiercely compete with each other in one area may cooperate in another. These alliances may be horizontal (e.g., between two or three telecommunications companies) or vertical (e.g., telecommunications companies with their own publishers or film producers). And while some alliances have had to overcome considerable hurdles with regard to antitrust law, others never actually emerged because they were considered strategically unwise. The bottom line is that there is a clear trend toward cooperation and the worldwide formation of alliances in the communications industry.

The wave of mergers and alliances of the 1990s has created an interesting challenge for antitrust authorities, which have to weigh the consequences of these deals for competition when deciding whether or not to allow them to go through. In fact, given the rapid pace of change in the telecommunications industry, the authorization process itself has become an important factor for competition This can be seen by the fact that certain competitors are trying to expedite their own global alliances while trying to slow down the clearance process of rival alliances. I mention this in order to emphasize how important it is for regulatory and antitrust agencies to preserve their objectivity and how necessary it is that there be consistency and uniformity across national borders. It might therefore be legitimate to ask whether overregulation and inconsistency of antitrust rules in different markets will in the end lead to a misallocation of resources.

I would like to suggest that global alliances are not only legitimate and consistent with a competitive telecommunications industry; they are also necessary in light of the increasing globalization of the economy. The requirements of globally active communications users, that is, the 700 to 1,000 largest transnational companies, are providing the most important impulse for alliances in the telecommunications industry. Transnational companies, or multinationals as they are often called, now have control over more than half the production capacity of the five largest continents and are the main customers of telecommunications, data processing, and software companies. It is estimated that these companies account for 60 percent of the world's long distance telecommunications traffic. What these multinational key accounts are asking for is a range of communications services that is as extensive and high-tech as possible, a free-flowing and secure exchange of information beyond borders on the basis of top standards, cost-oriented prices, and central billing. Above all, they do not want to laboriously negotiate with all the telecommunications companies or administrations in the world but instead seek one partner (alliance or consortium) offering "full service."

In order to satisfy these global users, telecommunications companies must themselves be global. The path to becoming a "global player" in telecommunications is through alliances. For even large operators would be greatly overestimating their financial, technical, and personnel capacity if they tried to go it alone on international markets. Thus, strategic alliances involve the coordination of business strategies and, in some cases, the intertwining of company institutions and finances. Presumably, only a limited number of telecommunications company alliances will achieve the size required for survival in the global competitive markets.

Financial services companies have traditionally been among the largest users of telecommunications and information technology. As the need for financing by multinational companies has grown, so too has the international capital market. Financial services companies have become the telecommunications industry's biggest customer, sending incredible amounts of data back and forth between financial centers around the world. As trend toward globalization of the capital market will continue to grow, as companies, including Deutsche Telekom, look abroad to satisfy their financing needs.

As the volume and complexity of their telecommunications needs grow, many multinational companies that had previously operated their own global networks of leased circuits have begun to outsource these activities. One survey of multinationals by the Harris research company for Britsh Telecom (BT) found that 65 percent believe outsourcing telecommunications would allow them to concentrate on their core business. In short, the global carrier alliances now being formed are a market-oriented response to the demand for a new kind of global telecommunications service.

Moreover, if the world's leading telecommunications companies had not formed alliances on their own, they would have been forced to do so by their largest customers. This has already happened in Europe, where a group of 30 large European companies including Rank Xerox, Philips Electronics, and ICI has hired a consortium including BT, AT&T, and several smaller carriers to develop a private trans-European network. Just as financial services companies grew out of the demand for international capital by multinational companies, telecommunications companies must observe the principle of "follow your customer" by offering global telecommunications solutions.

The bidding for PCS licenses in the United States demonstrates that even in national markets alliances can create rather than destroy competition. Without the recently announced coalitions among the Baby Bells and Sprint's alliance with several leading cable companies AT&T would have enjoyed a dominant position in the nationwide PCS market.

The high cost of building and operating a global telecommunications infrastructure presents a serious market entry barrier. Therefore, while antitrust authorities are understandably concerned about the concentrative affects of alliances on the economy, it should be recognized that without these alliances there would be little or no competition at all. Deutsche Telekom's alliance with France Telecom and Sprint is a case in point. Without that partnership, thcre would be less competition for AT&T WorldPartners and BT/MCI.

The debate over antitrust issues has, however, been confused with regulatory liberalization. Both Europe and the United States have regulatory barriers that restrict and protect local monopolies. Luckily, the trend throughout the world is toward further liberalization, and Deutsche Telekom has welcomed this development.

On the one hand, telecommunications companies increasingly see themselves as competitors, especially in the market for high-volume multinational business users. On the other hand, they *have* to work together, not only in order to have a global presence but also in order to optimize access to their networks (interconnectivity and interoperability, standardization, guarantee of quality).[4]

3. Competition and Coorperation between Countries and Regions

The convergence of telecommunications, computing, and entertainment industries has created a technological revolution -- a development that hasn't gone unnoticed by politicians.[5] In the new multimedia world, the PC -- which is developing independent of television as a "window to the world" -- may open new vistas of opportunity that, if promoted in the right way, could do for the telecommunications industry what Kennedy's "man on the moon" program did for the aerospace industry in the 1960s.

Countries and regions have come to recognize the significance of future-oriented industries like telecommunications for the overall economy. "Information superhighways" and "multimedia" are the new slogans that countries use to boost their image as a place to do business. In an effort to attract investment and new jobs in high-tech industries, governments have implemented a mix of market liberalization, deregulation and reregulation, and proactive trade policy (sometimes called advocacy). Some observers, however, argue that this pragmatic approach to public policy has led to a regrettable loss of "fundamental ordering principles." What is missing in this complex and evolving global telecommunications market is a principle-centered international "code of practice."

Instead, we are confronted with various national initiatives and responses to new economic challenges. One of the political "visions" of the Clinton Administration is the creation of a "National Information Infrastructure" (NII). Vice President Al Gore has carried the idea of information superhighways one step further in calling for a "Global Information Infrastructure" (GII).[6] By making it possible for Americans to access a wide range of multimedia applications, including easy-to-use computer links to libraries, databases, museums, and electronic mailboxes, as well as educational and health applications, the NII and GII initiatives seek to create a new culture of communication with direct benefits for U.S. industry.

One estimate is that 300,000 new jobs per year can be created in a growing telecommunications sector.

Europe, too, has seized on the benefits of cultivating an "information society." The EU's white paper of December 1993, and the Bangemann report released in 1994 both supported the creation of trans-European tclecommunications networks.[7] As in the United States, the EU believes that it is primarily the private sector's responsibility to make the necessary investments. Government's role is to provide the right policy framework in which innovation can be rewarded.

The American and the European consumer electronics industry views multimedia as an opportunity to regain ground that was lost to the Japanese microelectronics industry during the 1980s. But Japan has not been an idle bystander either. In May 1994, the Japanese Ministry of Post and Telecommunications released a report entitled *Reforms toward the Intellectually Creative Society of the 21st Century.*[8] This informative study calls for the creation of a high-tech cable network by the year 2010 and predicts 2.5 million new jobs in the telecommunications industry. NIT seems determined to build this Japanese Superhighway, while at the same time -- as regulation allows -- it prepares for partnerships and alliances for providing seamless services to global customers.

All of these visions of the future information society are marked by a certain sense of imminence and inevitability. Hegel might have said that this transformation of society belongs to the *List der Vernunft*[9] (catalog of reason) and can no longer be avoided.

Given the global nature of the communications industry, it is not sufficient for competing models of the information society to remain within the confines of national or regional borders. A wider reaching global approach is called for. The world economy now needs answers to two central political questions: First, will the industrialized countries intensify their cooperation with one another so that an open, free-market system of world trade and finance is maintained and can be expanded to include rapidly changing industries like telecommunications? Second, will all actors manage to become integrated into this liberal, global economic structre?

There have been attempts in the past to coordinate technology policy between countries. As early as 1983 the OECD promoted what it called "Positive Adjustment Policies"[10] to manage the structural transformation of the economy. This allowed for a strategy of "picking the winners," that is, the promotion of future-oriented critical technologies as locomotives of economic growth. At the same time, support for those winners, as well as for industries that fail to live up to expectations, would be gradually eliminated. In this way, the OECD sought to encourage a more efficient international distribution of labor.

The establishment of the World Trade Organization (WTO) opened up new opportunities to develop a framework for economic transition. It is worth noting that when the General Agreement on Trade in Services (GATS) was negotiated, no one really understood the potential of multimedia and the growth of the telecommunications industry for the global economy. This awareness is changing, however, as demonstrated by the G7's February 1995 summit on telecommunications issues. Until now, the focus of international institutions in communications policy has largely been limited to standardization, intellectual property, and data protection issues. There has been less focus on trade-distorting subsidies. In an era of empty public coffers, most funding for the information superhighways envisioned by America's Al Gore, Europe's Bangemann, and Japan's "intellectually creative society" will have to come

from the private sector. There has been some talk about giving organizations like the ITU a larger role in coordinating regulatory issues. In an era of competitive liberalization between countries this would be a good idea. Only the international harmonization of trade policy with positive adjustment policy, regulation, and, finally, competition policy, can create the much touted "level playing field" that companies need in order to make sound business decisions. The gap between existing regulation and reality may have grown so large that it interferes with effective management of global commerce. Moreover, international coordination will be necessary to ensure the appropriate allocation of economic resources.

As I have already suggested, the emergence of global alliances in the telecommunications industry has strained the limits of existing nationally oriented antitrust policies. In the case of Deutsche Telekom's partnership with France Telecom and Sprint, we are required to obtain clearances from the U.S. Department of Justice, the European Commission, and the German antitrust agency. All three authorities have their own set of rules and procedures, resulting in a costly duplication of effort by the companies involved.

And because each agency's time frame for clearance differs, there is no guarantee that they will agree to permit the joint venture. Moreover, the decision of one agency may influence the decision of the other. In the United Staes, the process is further complicated by the involvement of other agencies with authority over foreign ownership requirements related to national security and provisions of the Communication Act of 1934.

Given the hurdles that international ventures like Deutsche Telekom/France Telecom/Sprint or BT/MCI have to face, it would be surprising if they succeeded at all. In any case, the expense of clearing those hurdles only adds to the cost of the investment. Smaller ventures may be discouraged altogether by the high costs of antitrust compliance, and, if so, the vanguards of competition may wind up defeating their own purpose.

The relevant market for telecommunications services is increasingly a global one. If multinational companies and other customers of global telecommunications services would be better served by an international competition policy, then what should stand in its way? Admittedly, the incredible difficulties involved in reaching the recent Uruguay Round of the General Agreement on Tariffs and Trade (GATT)[11] do not provide a good precedent for international economic cooperation. Nation-states are more prone to competition, and each has its own vision of how the economy should function. There are indeed new interventionist responses to new economic challenges, and governments are beginning to regulate competitive markets in new ways.

But couldn't such competing models lead to a common vision for the global telecommunications market? Indeed, new global policy responses are needed. The five principles of the Clinton Administration's GII initiative -- competition, private investment, a flexible regulatory environment, open access, and universal service -- may inter alia provide some elements for such a vision. An international antitrust policy may be added to this list as well.

The problem with competing national policies is that they cannot be isolated in a global economy. National antitrust rules have unavoidable external effects and can distort trade and investment flows. There are many who view Japan, where a system of close industrial integration goes beyond what would typically be allowed in Europe and the United States, as a case in point. The United States has recognized the source of the problem in its "structural impediments" debate. But instead of fighting for an internationally accepted and enforced

antitrust policy, which would open the Japanese market to competition, the United States has chosen to use trade policy as its chief weapon. In my view, trade policy may bring some short-term bilateral gains, but in this case an international competition policy would be more effective at solving long-term structural problems, while avoiding unnecessary trade wars.

Deciding on the content of an international antitrust or competition policy is another, more difficult issue. As a practical matter, the United States, Europe, and Japan would want to have their own national or regional model become the basis of a larger, global policy.

The United Nations tried to implement an international antitrust policy in the Havana Charter[12] following World War II. But these rules were never implemented. It wasn't until 1967 that the OECD recommended closer international cooperation in competition policy. It wasn't until 1980 that the UN proposed model antitrust rules, but these were nonbinding on the member states. Since then, bilateral antitrust agreements have been negotiated by several countries, including those between the antitrust authorities in the EU and the United States and those between Australia and New Zealand.[13]

4. Conclusion

Cooperation is good, but it cannot replace the need for an international antitrust policy. It is only logical that national antitrust authorities are primarily concemed with the affects of mergers and acquisitions on competition in their own domestic market. International ventures will still be subject to the rules and procedures of the various national authorities. This does not mean that a new international agency is needed to enforce competition policy. The same can be achieved on the basis of a common set of antitrust rules and mutual recognition of antitrust clearance proceedings between countries.[14]

The WTO would be an excellent forum to develop such a framework for international antitrust policy. This should have the added benefit of explicitly acknowledging the connection between competition policy and trade policy. Perhaps the follow-up events to the G7 meeting of February 1995 will give policy makers a chance to catch up in developing international framework rules.

Above all, the entities for whom, international rules exist must not be forgotten. In the case of the global telecommunications market, customers are internationally active companies. Their competitiveness and growth depends on the telecommunications companies' ability to provide seamless global telecommunications networks. The international business community is not waiting for a response, and alliances are already being formed. And in this area of rapid technological change, global alliances are necessary to meet these customers' demands.

The relationship between the globalization or alliance-building of large private firms and the political management of the world economy is an important subject. In dealing with it effectively it is crucial that participants be aware that it will not be possible for one country, region, or economic actor to derive the benefit of the movement toward the "information society" unless it has the cooperation of others. This simple and central fact has to be kept constantly in view. The international law of the past, which tended to define areas of sovereignty of different states, was simply a law of international coexistence. It is increasingly being replaced by a more highly developed law of international cooperation.[15] This more enlightened law, which might be completed by a code of practice for global firms and alliances, asks the states to cooperate positively at the bilateral, regional, and global levels in an ever

increasing number of fields, or at least, when adopting measures that will affect third parties, to consider the latters' interest and to minimize the negative consequences as much as possible. This spirit is vital for a truly international competition in global telecommunications.

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Endnotes

1. Along with France Telecom and Sprint, Deutsche Telekom is a partner in one of these global alliances and is therefore very interested in the outcome of this debate. I cannot comment here on the terms of the partnership between Deutsche Telekom, France Telecom, and Sprint insofar as it is still being finalized and reviewed by antitrust authorities in Europe and the United States.

2. Jussawalla (1993).

3. European Union (1993).

4. Grewlich (1990).

5. Brown (1995).

6. Gore (1993).

7. COM (93) 700.

8. Telecommunications Council (1994).

9. Hegel (1840).

10. OECD (1985).

11. Stoll (1994)

12. United Nations (1948).

13. Fox and Sullivan (1987) and Mozet (1990).

14. International Antitrust Code Working Group (1993).

15. Friedmann (1964).