Competitive Effects of Bundling in Telecommunications

By

Kristina Barrett-Harrison
FAIR TRADING COMMISSION

July 2020

FAIR TRADING COMMISSION

Unit 42A, New Kingston Business Centre

30 Dominica Drive, Kingston 5

Jamaica

Telephone: 876.960.0122-4

Fax: 876.960.0763

http://www.jftc.gov.jm

ftc@cwjamaica.com

This is the third and final installment in the Fair Trading Commission's series on bundling services in the telecommunications sector.

We live in a global village where individuals are constantly faced with various challenges associated with, among other things, communicating with each other. Up until recently, the challenges arose because communicating face-to-face was not feasible because parties were far removed from each other. As the world transitions to a new norm, however, challenges arise because face-to-face meeting is simply not desirable. The telecommunications ('telecoms') sector is presently evolving to resolve these and other challenges spanning education, recreation, information, commerce, etc.

The telecoms sector is important in Jamaica's economic activities as it plays an important role in, among other things, linking producers of goods and services with consumers. Telecoms services also facilitate communication, entertainment, distance education and online business transactions, among other things. The telecoms sector is included in a category (with transport and storage) that contributes just under one-tenth of Jamaica's Gross Domestic Product (GDP).

The telecoms sector provides subscribers with access to a myriad of products including phone, Internet and subscriber television (cable TV) services. There are two telecoms operators providing mobile services in Jamaica and fifty cable TV operators across Jamaica, with St. Catherine having the most operators in any one parish.

Types of Bundling

As mentioned in a previous article in this series, providers in the telecoms sector may offer services on a stand-alone basis or in bundled packages. Bundling may occur in any of three ways: pure bundling, mixed bundling, and tying. Pure bundling is where telecoms operators offer subscribers only packaged services and subscribers are unable to purchase the individual services separately. Mixed bundling is where telecoms providers offer a packaged service, but consumers may alternatively purchase any individual services included in the package. Tying occurs when a telecoms operator makes the supply of one service (the tying good) conditional on subscribers agreeing to also purchase another service (the tied good). Of the three types of bundling, mixed-bundling poses the least concern for competition.

The Effect of Bundling on Consumers

Bundling in telecoms has implications for consumers, competitors and, by extension, competition in the sector. Bundling reduces transparency and increases switching costs for consumers. Reduced transparency and high switching costs have implications for competition in the telecoms sector. Transparency is necessary for a well-functioning market as it facilitates comparison shopping and therefore provides adequate incentives for telecoms operators to offer attractive services at competitive prices. The reason behind this premise is that with transparency, subscribers can compare service offerings and make informed choices based on the features of the services they care most about. Telecoms operators, therefore, are disciplined by transparency in the market.

The Effect of Bundling on Rival Telecoms Operators

In telecoms markets where subscribers can switch providers without great difficulty and cost, operators have adequate incentives to offer high-quality products at competitive prices; otherwise, their customers may switch to competing offers. Bundling may make it difficult for subscribers to switch providers as they are forced to expend more resources to seek out and compare products. Difficulty in switching will stifle competition between current providers and could serve as a barrier to entry for smaller providers seeking to enter the telecoms market since they would be less able to gain customers. Barriers to entry are factors that prevent or deter the entry of new suppliers into an industry even when incumbent suppliers are earning excess profits.

In addition to the detrimental effect of the lack of transparency and increased switching cost of bundling on competition, bundling may raise further competition concerns when an operator has market power in at least one bundled service.

The Effect of Bundling on Competition

An operator with market power in one telecoms service may be able to leverage this dominance into another telecoms service. For instance, a supplier who is dominant in the market for broadband Internet but faces competition in the market for cable TV services may engage in tying, whereby consumers wishing to subscribe to its Internet service must purchase a bundle which includes cable TV service. This will have implications for competition in the market for cable TV services as the bundling conduct may lead to barriers to entry in that market.

In its 2005 Policy Roundtable, which discussed barriers to entry, the OECD argued that tying may make entry more difficult in a market in some situations. In the example above, an operator wishing to enter the cable TV market may have to enter the Internet market and tie the products if it is to have any chance of success. However, entering the market for the Internet may not be easy due to the structural requirements and also because the provider of the bundled products is dominant in that market.

Given the impact of bundling on competition, competition authorities have examined bundling in telecoms with respect to the possible consequences on competition and have documented their approach in addressing this conduct. In Australia, the competition authority released an Information Paper on bundling where it indicated that in handling bundling cases, there were two main considerations: (i) whether the non-price effects of the conduct are anti-competitive, such as involving the leveraging of market power from non-competitive to competitive markets, or whether the conduct increases barriers to entry; and (ii) whether the price(s) for the bundled services involves any element of predatory pricing or a vertical price squeeze in the relevant market(s). The agency further indicated that in both cases, bundling conduct is only likely to raise anti-competitive conduct concerns when the provider has market power in the supply of at least one of the bundled products. In the Netherlands, the competition authority analyzed the possible consequences of bundling on competition and concluded that: (i) consumers switched less quickly with bundling, and as such, it was difficult for small providers to grow; and (ii) bundling may lead to departures from the market. The authority indicated that consumers should have options and not be coerced to purchase enhanced packages. When bundling results in harm to competition, it is usually when consumers are denied the option to purchase products separately.

Bundling in Jamaica

Bundling has become a norm in the telecoms sector, with both providers and consumers reaping benefits from the practice. Concerning complaints about the telecoms sector, the Fair Trading Commission investigated fifteen complaints in 2017, nine complaints in 2018 and twenty-one complaints in 2019. Of note is that none of the complaints concerned bundling.

Notwithstanding the aforementioned, bundling may also harm consumers, competitors and therefore competition in the sector. To sustain the benefits of bundling for consumers, and prevent harm to consumers and competitors, the Fair Trading Commission (FTC) remains vigilant in monitoring the telecoms sector. The FTC stands prepared to intervene in the telecoms sector where consumers and rival operators are likely to be harmed.