Interpretations of 'Open Network':
MVNOs are not the whole solution

1. Policy statements

The policy 'objective' is stated as being: 'introducing more competition at the content and service application level. In particular, such an arrangement will greatly benefit the development of innovative, small and medium sized application houses and service providers in Hong Kong.'

OFTA sees this as being realised through an 'open network'. However, the further interpretation of this is, almost exclusively, using the MVNO system. There are other references Service Providers but they are not well defined.

2. Two businesses

I think that there are some points that still need clarification and here is a way of doing it:

There are, essentially, two businesses in 3G - each with subsiduary businesses:

Business A: Providing people with an infrastructure and terminals to communicate whilst mobile. This is the 'traditional' business of 1G and 2G.

Business B: Providing the 'recruits' of business A with services beyond one-to-one traditional communication. These services fall into two groups: those which can only be provided by the network operator and those which need not. (I suspect that the former may be very small - but I do not want to argue it here).

Separation of the two businesses

The emphasis in all documents and the workshop (such as last week) has been that we will finish up with a number of vertically integrated operators doing both businesses. The only difference is that the MVNOs outsource the technology - to some degree or other.

What has not been discussed is the possibility of a business devoted to only one of the two. Of these possibilities, the most important one is that someone may wish to be in Business B only. Indeed, I would have thought that this was the meaning of the policy statement: 'In particular, such an arrangement will greatly benefit the development of innovative, small and medium sized application houses and service providers in Hong Kong.' Such organisation should not have to become MVNOs to provide content.

This possibility can be achieved also by an 'open network' - not in the sense of the MVNO (which relates to the technical network) but in the sense that access to the licenced system should be open to all content providers. Put another way, if the policy objective is to be honoured, the licencee, inter alia, should:

a) not be able to erect a gateway which excludes service/content providers.

b) not be able to create a 'walled garden' of which excludes service/content providers not contracted to him.
c) not limit access to the internet.

Whilst the present discussions imply that the licensee provides services/content, there has been no discussion about whether or not the above restrictions will be mandated. A licensee (and MVNO)would argue that it is his decision as to what services/content to provide and what providers to reach agreements with. If this is totally accepted, it means that the policy of the 'open network' is not satisfied unless there is a fall-back system for mediation by OFTA.

The solutions include:

- the licence should only be for Business A so providing an open network for anyone to compete on Business B.

- A licensee and an MVNO may do anything he likes regarding service/content provision but must also allow anyone else to start in business B using his network.

The fist solution seems to be unacceptable to everyone. It is difficult to understand why this should be because income would be derived from commercial arrangements with Business B companies. Also the licensee could have an affiliated company as in the Telco/IMS model.

However, the second solution means that an licencee, having offered a particular service, would have to allow, on his network, a competitor to ithe servicces he may provide himself - and this wol dnot be welcomed.

<u>The present environment in other areas</u>

Three situations presently exist in the present telecoms. environment:

- Wide band licensees were told that they had to carry all access (I am not sure if that requirement was implemented).

- Internet provides open connection to networks for any service/content provider. There are no gateways.

- In the present fixed network environment, the network business has to be kept separate from the service/content business - as with IMS/Telco.

It seems that all of these established policies are to be abandoned in the 3G environment.

<u>Consultation limitations</u>

Consideration of the 'open network' has been almost exclusively devoted to the question of the MVNOs. With hindsight, this could have been predicted because those invited to the 'industry workshop' were largely would-be licensees who, it turned out, spent all their effort discrediting the MVNO idea.

If more people from the present 'internet' and related industries had been invited, the issues I raise here may have surfaced. It is quite apparent that members of that industrial sector have not woken up to what is happening largely because they regard it as being 'telecommunications' and OFTA, also being 'telecommunications' has not seen the necessity for calling them into the discussion.

Conclusion

The stated policy underlying the need for an 'open network' is in line with a trend regarding content in all telecommunications worldwide.

However, the implication of achieving this have not been properly considered - as indicated by the consultation documents and the discussions at the industrial workshop in which most attention was side-tracked into the MVNO concept.

Unless the questions raised in this paper - and probably many others - are addressed, the subsequent 3G business will not continue along the trends of previously set policies and will not achieve the stated policy of 'introducing more competition at the content and service application level'.

Furthermore, the corollary of the above statement: 'In particular, such an arrangement will greatly benefit the development of innovative, small and medium sized application houses and service providers in **Hong Kong**.' is in danger of failure - particularly if the mode of licensee selection is by auction. This is because those who are likely to be most successful in bidding the highest prices will be those who have global service/content provision with which local service providers may not be able to compete.

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