FRESHFIELDS BRUCKHAUS DERINGER

Mobile Matters.

Insights on telecoms, media and technology

Issue 1 August 2010

A NETWORK SHARED

‘The key to making any active sharing agreement work is that the parent companies need to be aligned in terms of what they want. You need to spend a lot of time making sure that there is a common objective.’

Graham Payne

Managing director, MBNL (a 50:50 joint venture between T-Mobile and 3)

The rewards of network sharing are too big for mobile operators and regulators to ignore, both in developing and in mature markets.

Mobile operators in developed markets are finding it harder to tell a convincing growth story. Almost everyone has a mobile phone and, on average, they are lowering their monthly bills. Worryingly for operators, the decline in spending is not just down to a passing phase of tougher economic conditions. Regulatory and competitive pressures have squeezed prices for voice and data services, particularly in Europe, and these twin forces are unlikely to ease any time soon.

In emerging markets, the number of high-growth opportunities is also diminishing fast as mobile penetration levels rise. Adding to the competitive pressure, some emerging-market governments have been over-zealous in awarding mobile licences. In Ghana, for example, there are six licensed mobile network operators.

To protect margins in such difficult times, mobile operators desperately need to reduce their costs. For many in mature markets – and a growing number in developing markets – this has led to some form of network sharing, which offers a clear way to reduce expenditure. Mobile operators that share their sites and tower masts for base station and antenna equipment, for example, should have fewer operating expenses than if they were not sharing.

No. 1

measure for improving cost efficiency, according to survey respondents, is network sharing

44%

of respondents see high capital outlays for new networks as the greatest risk facing mobile operators in developing markets over the next three years

In association with

Economist Intelligence Unit The Economist

Freshfields' perspective

'Tower sharing is an area rarely in the regulatory spotlight, but as it increases, so will concern around scrutiny of the impact on competition and terms of access. Merger regulation will also need to be cleared as tower companies grow bigger and bigger.'

Natasha Good

Partner, Freshfields

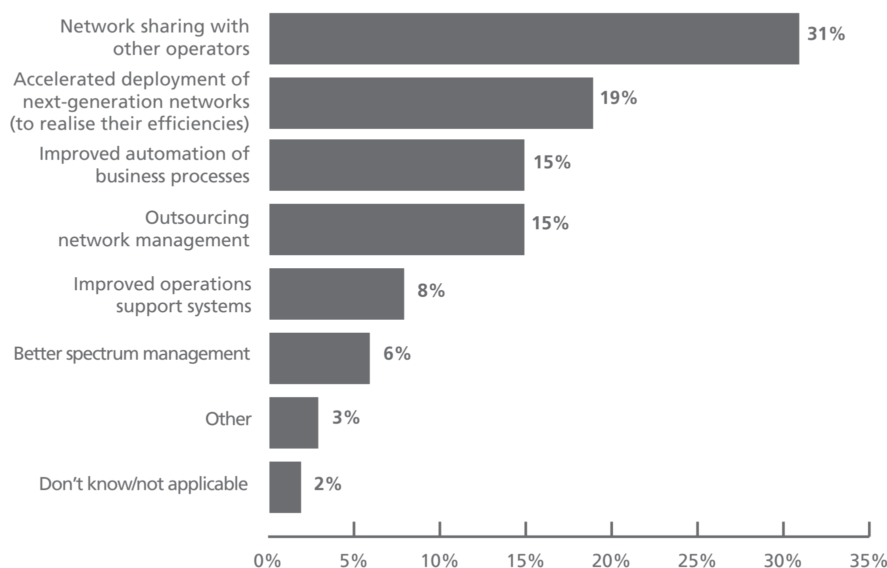
When asked the most effective measure operators can consider to improve their cost-efficiency, mobile industry executives recently surveyed by the Economist Intelligence Unit pointed to network sharing as the most important by some distance, ahead of such steps as accelerating next-generation network deployment and outsourcing network management (see chart below)[1].

Moreover, if mobile operators can reduce their costs of extending coverage to more rural areas by sharing sites, then regulators and governments will have a better chance of meeting any policy objectives they have for nationwide access to IT and telecoms services. Then throw in the environmental benefit of reducing the overall number of tower masts and what is there not to like about network sharing?

Very little, believes Ricky Watts, chief technical officer at Aircom, a network planning consultancy, if it refers solely to the sharing of sites, otherwise known as passive network sharing. And, he adds, it is not necessarily developing markets that need to learn lessons from mature markets on how best to implement these types of agreements. 'In developing markets you are definitely seeing a lot of passive sharing already, even to the extent where one generator is used to power base stations from different networks,' says Mr Watts. 'In some ways, they are ahead of the game on passive sharing.'

One country ahead of the game is India. Indus Towers, which claims to be the world's largest independent 'towerco' with over 100,000 towers, rents out tower capacity to Indian operators. The towerco model adds another dimension to passive sharing and should help new entrants enter the market quicker.

Which of the following do you think is the single most effective measure operators should consider for improving their cost-efficiency?



Source: Economist Intelligence Unit survey, June 2010.

1 The survey of 391 executives was conducted in May and June 2010. Different parts of the mobile industry were represented in the sample: 43 per cent of respondents hailed from mobile operators and services providers, 23 per cent from mobile software providers and the rest from equipment suppliers, content providers and value-added services providers. The sample was also global – 6 per cent were based in Europe, 30 per cent in Asia-Pacific and 25 per cent in North America – and senior, with 40 per cent of respondents being C-level executives.

Passive resistance

For all the strong arguments in favour of passive network sharing, it is not easy or always compelling. For one thing, site decommissioning can be lengthy and expensive because of having to negotiate early exits from contracts with landlords. Another issue is whether the tower mast on the chosen site is suitable to host extra antenna equipment. Some mobile operators may well then prefer to mull over the logistics and business case of network sharing rather than take the plunge. These pockets of resistance are likely to crumble, however, as the pressure to reduce costs increases.

Aside from the cost-reduction benefits, an important reason passive sharing has become more acceptable in mature markets is a greater confidence between partnering operators that they can compete with each other in areas separate from the network, such as handsets, services and tariffs. Lack of such confidence, which is more likely to be found in underdeveloped mobile markets, could slow the growth of tower sharing deals.

Active response

A more ambitious approach to infrastructure sharing is to include equipment in the mix, such as antennas and base stations. Known as active network sharing, this approach can bring much greater cost-reduction benefits than passive network sharing. According to ABI Research, an analyst firm, operators could enjoy at least 40 per cent cost savings in addition to those available from passive site sharing.

But while the potential rewards are greater, so are the risks. Mr Watts argues, for example, that the performance of 3G services is compromised by handling traffic from two different operators. Then there are strategic issues to consider. If one operator wanted to upgrade to a faster network, which requires additional hardware on the site, that would require the acquiescence of the other operator.

Doubts about how well an active sharing agreement could work in practice may explain why few operators have been tempted to go down that route. That could change, however, if the active network sharing agreement between 3 and T-Mobile in the UK proves to be a success. Sharing 3G sites and equipment, as well as backhaul transmission capacity between the cell sites and their respective core networks, the two operators aim to have a consolidated 12,500-site network in place by autumn 2010 after decommissioning around 5,000 sites they no longer need. It is the biggest active network sharing project anywhere in the world between two mobile operators.

Freshfields'

Top tips

for active RAN sharing

1. Operational complexity

Understand the operational and technological complications and design the structure of the venture, from commercial agreement to full-function joint venture (JV), so both parties can influence the decisions most important to them. A standard JV agreement will not be adequate. Shape the legal documents around operational reality and objectives.

2. Equalisation

Put in place a framework for equal contribution to, and rights in, the shared radio access network. This will help to manage the many relationship challenges likely to emerge.

3. Regulation

Structure carefully for cost efficiency but avoid limiting the competitive independence of each mobile network operator. Regulators take a dim view of network sharing that impinges freedom to compete at a service level; in many areas full-function JVs fall within merger regulations.

4. Protect the integrity of the JV

Incentivise rather than penalise. Aim to maximise longevity and counterbalance the long-term fragility of a JV between competitors.

CONTACT US

Natasha Good

Partner
T +44 7718 358 981
E natasha.good@freshfields.com

Bertram Burtscher

Partner
T +43 1 515 15 219
E bertram.burtscher@freshfields.com

Connie Carnabuci

Partner
T +852 2846 3300
E connie.carnabuci@freshfields.com

A network shared was written in association with the Economist Intelligence Unit.

Managing the network transition is Mobile Broadband Network Ltd (MBNL), a 50-50 joint venture between 3 and T-Mobile formed in December 2007. 'The key to making any active sharing agreement work is that the parent companies need to be aligned in terms of what they want,' says Graham Payne, MBNL's managing director. 'You need to spend a lot of time making sure that there is a common objective.'

With targeted cost-savings of £2bn over 10 years, Mr Payne argues that the savings generated can be invested in more sites and backhaul capacity to give it a network performance edge over its UK rivals. This, he says, would more than compensate for any dip in antenna performance as a consequence of sharing, as well as giving a much better value-for-money 3G network than its competitors'. By May 2010 MBNL had consolidated 9,000 sites and, according to Mr Payne, is well placed to meet its consolidated 12,500-site target this year.

Meeting of minds

Network sharing agreements, then, need a meeting of minds and mutual trust between operators if they are to have any chance of success. Studying previous experience will help, but this will not originate only from the rich world; lessons learned on network sharing will most likely flow between mature and developing markets. The major western telcos invariably have mobile subsidiaries in developing markets, which opens up a useful two-way communication channel to exchange experiences. How to reduce costs is a global question and network sharing, in some form, will be a big part of the answer in both developing and mature markets.

Visit our website at www.mobile-matters.com

Freshfields Bruckhaus Deringer LLP is a limited liability partnership registered in England and Wales with registered number OC334789. It is regulated by the Solicitors Regulation Authority. For regulatory information please refer to www.freshfields.com/support/legalnotice. Any reference to a partner means a member, or a consultant or employee with equivalent standing and qualifications, of Freshfields Bruckhaus Deringer LLP or any of its affiliated firms or entities.

This material is for general information only and is not intended to provide legal advice.

© Freshfields Bruckhaus Deringer LLP and the Economist Intelligence Unit 2010

www.freshfields.com

August 2010 – 28377