

Competition aspects of new mobile payment networks: The case of mobile payments in Spain

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Introduction

This note reviews the Spanish experience with regulating the competition aspects of new mobile payment networks in the absence of formal technical standards. The saga is in two parts, as the strategy of the early movers, dominant telco Telefonica and leading bank BBVA, changed radically in mid-course. At first, they sought to create an industry platform where they tightly controlled the technical standards and delivery platform. Then they moved to a scheme where there was common industry ownership of the technical platform. As a result, they found themselves having to go to the competition authority twice: once to justify how their *private* agreement wasn't going to shut out other players, and the second time to justify why their *joint* agreement with all other major industry players wasn't going to have an anti-competitive impact.

The MovilPago case: Industry interoperability on the basis of a private technical platform

The Telefonica-BBVA deal

On 11 February 2000, the incumbent telecoms operator in Spain, Telefonica de España, and a leading Spanish commercial bank, Banco Bilbao Vizcaya Argentaria (BBVA), signed a Framework Agreement in which they undertook to collaborate in a wide range of areas. Among other things, each agreed to increase their stake in the others' shareholding, to swap stakes in some of their subsidiaries (Telefonica taking a stake in BBVA's internet bank Uno-e, and BBVA taking a stake in Telefonica's Business-to-Business [B2B] ecommerce subsidiary), to collaborate in their Business-to-Consumer [B2C] activities, and to coordinate their joint investment in satellite provider Hispasat. Another specific element of the Framework Agreement was to jointly promote the development of new and diverse payment mechanisms, including a new system based on mobile phones to be called MovilPago ("MobilePayments," in Spanish).

Under the process kicked off by the Framework Agreement, on 4 July 2000 Telefonica Moviles SA (TMSA), the wholly-owned mobile communications arm of Telefonica, and BBVA signed an "MOU for the Development of the MovilPago System." The MOU stated the intention to create a joint enterprise, MovilPago Holding, owned by the two partners with equal stakes, in order to develop and commercialise an electronic means of payment through mobile telephones. In turn, MovilPago Holding would own a number of companies that would structure the MovilPago system, including:

- MovilPago Gestora, to oversee the management of the system

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- MovilPago Banco, which would become an issuer of payment services to customers and offer payments acquisition services to merchants
- MovilPago Internacional, which would develop the system in other countries on a joint venture basis with local partners.

The proposed MovilPago mobile payments system

The MovilPago system was conceived to operate in very similar fashion to traditional card payments systems, but using the mobile phone rather than a plastic card as the customer's payment instrument. Payment requests could be initiated either by the customer or the merchant.

The system would support payments on both a prepaid and postpaid basis. Under the prepaid modality, customers' purchases would be charged to a bank-issued, network-based electronic wallet, subject to availability of funds at the wallet. Customers could top up their wallet as required from their bank accounts, either at ATMs or through bank transfers. Under the postpaid modality, customers' purchases would be charged to a credit account at a bank, subject to a credit limit imposed by the issuing bank. Customers would need to settle credit outstanding under the terms agreed with their issuing bank. In either case, payments would be entirely bank-based: prepaid value could not be purchased against cash (no prepaid cards for sale at stores), and there would be no mechanism to charge purchases to the mobile operator's prepaid airtime or postpay bill.

The system was supposed to work through the interplay of two sets of providers: financial institutions who offer payment services to customers and merchants (referred to as MovilPago financial operators), and the mobile operators who facilitate the payment instrument of customers.

An open platform (at least in theory)

Although the project sponsors had agreed to set up their own financial operator (MovilPago Banco), their stated intention was to allow other banks to participate as MovilPago financial operators. Equally, they envisioned allowing other mobile operators beyond TMSA to connect their customers to the system. The intent was to drive volume – the key to any payments systems – so the interests of the sponsors were best served by interoperating with any player who could draw customers and usage.

In order to be able to offer services, MovilPago financial operators would have to sign contracts with both customers (as issuer) and merchants (as acquirer). MovilPago financial operators would be free to set the contractual terms, including the level of fees, with both customers and merchants. MovilPago financial operators, including MovilPago Banco owned by the two project sponsors, would be expressly forbidden from contractually limiting the merchant's access to other payments services or networks.

MovilPago financial operators would also need to sign individual contracts with participating mobile operators, in order to gain access to the respective network services and customers. MovilPago financial operators and mobile operators were free to negotiate terms bilaterally, or they could subscribe multilateral agreements through MovilPago Gestora.

On the technical front, there was a complete absence of industry-wide standards, and no industry body was recognized internationally as taking the lead in the development of such standards. Thus, MovilPago's sponsors developed their own technical protocols. The intellectual property

on the technical protocols were owned by MovilPago, and was protected by patents in more than 60 countries.

MovilPago financial operators as well as mobile operators who had to adopt the MovilPago protocols would pay royalties to the platform owner, MovilPago. While the exact terms under which MovilPago would license the platform to financial and mobile operators had not yet been defined, MovilPago undertook not to offer any commercial advantages to its own shareholders relative to other operators of the system.

The significance of the project sponsors within their markets

Telefonica is the largest operator of telecommunications services in Spain, with a leading market share in fixed and mobile telephony, data networks and internet access. In recent years it had also acquired free-to-air and PayTV broadcasting operations as well as a sizable content business (including Endemol, the creators and owners of the Big Brother TV franchise). Telefonica is a publicly listed company listed in several major international stockmarkets, and enjoys a broad shareholding base. Its largest shareholder at the time was BBVA itself, with a 9.1% stake.

TMSA is a wholly-owned subsidiary of Telefonica, which holds all the mobile telephony asset of Telefonica. It offers service in Spain as well as in certain countries in Latin America. In Spain, TMSA enjoys a market share of 56% (as of September 2003); the two other mobile operators, Airtel (which had recently been acquired by Vodafone) and Amena, had much inferior market shares of 32% and 12% respectively.

The Spanish banking system had undergone several waves of consolidation, and BBVA is the product of several mergers. The latest one, combining the powerful Banco Bilbao Vizcaya and the previously state-owned Argentaria, was approved in March 2000, during the thick of the Telefonica-BBVA talks. BBVA is one of the largest banking institutions in Spain, with 22% market share by volume of assets. It has a very broadly distributed shareholding, with no shareholder holding more than 3% of its stock.

BBVA engages in a broad range of retail and merchant banking activities. At the time of the proposed project, BBVA was engaged in a number of retail payments activities: (i) it offered internet and mobile- (through WAP) based transactional capabilities for its own customers; (ii) it issued a range of own- and co-branded payment cards, accounting for 14% of cards in the market (as of December 1999); and (iii) it developed a credit card-based internet payment mechanism as part of an ecommerce solution. BBVA is a member of VISA Spain.

The market context: the top of the Internet bubble

The mobile market was booming, registering annual revenue growth rates of 39% in the fiscal year 1997-98 and 53% in 1998-99, with no prospect of market saturation in sight. The Internet also generated very high expectations, though in this case the dazzling revenue growth rates were more a matter of expectation than of reality. Yet the Internet's momentum seemed unstoppable. The Telefonica-BBVA Framework Agreement was signed just one month before the peak of the Internet bubble.

These two exciting new industries, mobile telephony and the Internet, were expected to come together in a broad range of mobile data services. These sustained the high valuations that investors in many countries paid for the new 3rd generation (or UMTS) cellular spectrum. The

Spanish government was the first off the mark, and granted the UMTS licenses in March 2000, the month after the Framework Agreement was signed. There was only incipient experience with mobile data services (mostly through WAP browsing-based service), and yet much was expected of their growth. Spanish analysts agreed that mobile data services would grow from zero to account for 17% of mobile operators' revenue in just five years, and that 80% of e-commerce payments would be done by mobile.

Much change was also sweeping the payments system. Spaniards have traditionally had a low reliance on checks, preferring cash instead. The banks obliged by setting up a very dense network of ATMs, which helped spread payment cards across the population. Over time, payment cards became a payments instrument of its own right. Spain became the country with the highest number of POS terminals per capita (89 per 10,000 population, versus 18 in Italy or 35 in neighboring Portugal). Thus, in only a few years Spain was able to move from a predominantly cash-based payments system modernize its payments system to one with a high penetration of electronic instruments.

Troubles at the top

Telefonica was led by Juan Villalonga, an investment banker who epitomized all the successes and excesses of the Internet era. His appointment in 1996 raised many eyebrows: Villalonga was a high school mate of the new Spanish Prime Minister, José María Aznar. He rode the Internet bubble hard: he charged into Latin America, putting Telefonica in direct challenge with Telecom Italia over several properties; he oversaw a high-profile IPO of Terra, a new portal, and then bought Lycos, a leading Internet portal at the time; he expanded into content buying content production company Endemol and Antena3, a leading free-to-air TV channel.

His intense, autocratic, high profile style created much animosity. He is said to have restructured the company 14 times during his four years at the helm of Telefonica. His executive compensation schemes, rich with stock options, created outcries. Then, in June 2000, the securities regulation commission opened an investigation on Villalonga for possible insider trading in connection with Telefonica stock purchases he made in 2000 at the time when he was negotiating an alliance with MCI-WorldCom. Under pressure from many fronts, he was forced to resign in July 2000 – just as the MovilPago case was getting underway.

Competition in the new mobile payments space

The card payment system in Spain is controlled by four card networks, each with participations by various domestic banks. These networks are fully interoperable, and banks share POS terminals and ATMs. One of the four card networks, Sistema 4B, had developed a mobile-enabled platform intended for transport applications and itinerant merchants and professionals, but that was based on specialized POS devices connected through the cellular network. Thus, at the time of the MovilPago deal, there was no market for phone-based payments solutions.

Internationally, there was an increasing number of banks, mobile operators and mobile equipment manufacturers announcing collaborations to establish such services, but very few had been launched and none had attained significant volumes.

Back in Spain, there were unconfirmed reports that leading bank BSCH and the two smaller mobile operators Airtel and Amena were developing and trialing a separate mobile phone-based payments solution. Like MovilPago, this was expected to be open to all banks and mobile

operators; but unlike MovilPago the consortium operating the platform were not planning on setting up their own financial payments operator (à la MovilPago Banco).

The competition review process

Given the economic significance of the partners to the deal, the transaction fell under the definition of a “project of economic concentration” under Article 15.1 of the Law for the Defense of Competition (LDC) of 1989. Accordingly, the partners TMSA and BBVA notified the proposed transaction to the Service for the Defense of Competition (SDC), a part of the Economy Ministry, on July 26, 2000. The SDC noted a potential risk that this deal might “hinder the maintenance of effective competition in the marketplace” and referred the case to the Tribunal for the Defense of Competition (TDC) on 25 August 2000. By law, the TDC had to present its ruling to the Minister of the Economy within two months.

Following its normal operating procedures, the TDC circulated a “Succinct Note” summarizing the main elements of the proposed deal for comment among relevant competitors, clients, major retail chains and industry associations. In broad-brush terms, financial institutions, payment card operators and mobile operators expressed concerns on the competitive impact of the system, while consumer organizations and large merchants were supportive. One of the respondents, card payment operator Sistema 4B, had particularly strong concerns and claimed to be an “interested party;” the TDC accepted their status as such.

The TDC’s market context considerations

The TDC confirmed that the project entails “economic concentration” under the definition of the LDC in so far as: (i) the MovilPago group of companies are expected to have their own budgets and human resources to constitute economically independent companies with an expectation of permanence, and hence the creation of MovilPago group could be construed to be a vehicle for concentrating the interests of the two parent companies; and (ii) the combined profits of the two parent companies exceeded the legal threshold of economic significance. On the other hand, the deal did not meet the minimum size requirements to have a European Union competition dimension, so it was not necessary to refer the case to EU authorities.

The TDC determined that the relevant market for the MovilPago service –the one it contested— was that for electronic payment methods. This includes payment systems that permit electronic requests for payment, such as payment cards and internet-based payments. The TDC justified this on the basis that: (i) MovilPago enabled all the modalities of payment that are also present for payment cards (credit, debit, prepay); (ii) the mode of use of payment cards and MovilPago was very similar (excepting the fact that the instrument is the phone rather than a card); and (iii) customers are likely to use their mobile phone and payment cards in combination, in the same way as customers often carry both a debit and a credit card, or indeed multiple credit cards.

The TDC named the market for mobile telephony as an “affected market” given that it provides an essential element in the delivery of MovilPago’s mobile payments solution and further that it is dominated by one of MovilPago’s partners, Telefonica. The TDC felt it had to analyze not only the impact of the proposed deal within its relevant market (electronic payments) but also the possibility of TMSA further locking in or transferring market power from its own mobile telephony market.

The TDC further determined that the geographic scope of the market was the national Spanish market, since it was envisioned that the system would be interoperable only among the Spanish mobile operators, and hence customers in other countries would not have access to the system.

Competitive impacts: the TDC's view

The TDC established that there were in principle no barriers to entry in the electronic payments market from an administrative or technical point of view. However, the TDC raised strong concerns that the relative importance of BBVA and Telefonica in their own markets would provide them with a very significant market advantage in operating and commercializing MovilPago. Although other financial institutions could act as issuers and other mobile operators could present MovilPago payment services to their customers, in practice they may find it hard to do so.

TMSA's dominance in the mobile telephony market –with a market share in excess of 50%-- was a cause of special concern for the TDC, given that MovilPago is likely to be marketed by the mobile operators within their customer base. TMSA's potential volume of business from MovilPago could not be matched by its competitors. Moreover, TMSA might bundle the MovilPago service with other telephony services on which they are dominant, thereby extending their dominance from the mobile telephony business into the electronic payments business. Telefonica and BBVA combined would have the capacity to fund massive advertising to market the service, which no other competitor would be in a position to match.

There was a further temporal advantage that Telefonica and BBVA could derive in positioning themselves as the dominant operator of MovilPago through MovilPago Banco. As joint developers of the MovilPago technical standards and shareholders in the company owning the intellectual property behind the platform, they already knew the technical requirements of the system and in fact had already implemented and tested connections between MovilPago's platform and their own systems. Therefore, they were in a position to launch services much sooner than other financial or mobile operators, who would first need to familiarize themselves with the technical characteristics of the MovilPago platform, and then plan and execute the integration into their own systems. Telefonica had already announced the imminent launch of the service for its own customers.

MovilPago had not announced the royalties that operators of the system would have to pay for use of the platform. The TDC hypothesized that, if the royalties were different across operators, that might further be used to TMSA's advantage as it would be able to offer the service at a lower cost. As 50% shareholder of MovilPago, TMSA and BBVA would in any case get back 50% of the royalties it paid for use of the system through its shareholding – in effect paying half what others would.

In summary, the TDC felt that the sponsors could draw multiple advantages from their dual condition as private owners of the new standard and leading market players in their own markets: (i) the massive marketing advantages conferred on Telefonica and BBVA by virtue of their size and specifically TMSA's dominance in the mobile market; (ii) a first-to-market advantage conferred by their prior knowledge of the technical interfaces and already functioning platform; (iii) the fact that other operators may have to pay proportionally higher royalties for use of the platform. Given these advantages, other financial institutions or mobile operators would find it hard to compete with them under the MovilPago framework. And once MovilPago was established in the marketplace it would be even harder for others to contest the market by developing an alternative platform or scheme.

The TDC also expressed concern that one of the project sponsors, BBVA, was already a participant in another venture within the “relevant” electronic payments scheme: it belonged to the VISA association, which issued payment cards. While the TDC acknowledged that the diverse shareholding of the VISA association would make it unlikely for BBVA to have a strong influence in its direction, in principle BBVA could use its position in VISA to blunt the competition between it and the new mobile payments platform it is sponsoring.

The TDC’s decision

The TDC issued its opinion to the Minister of the Economy in October 2000, and its final report was published on December 26, 2000. The TDC recommended the government to approve the transaction subject to the following conditions:

1. Forbid any MovilPago group company or its sponsors to commercialise the MovilPago system until other mobile operators who express a desire to participate in the system have had a chance to become technically prepared to launch their own services. The fulfillment of this condition is to be monitored by the SDC and the telecoms regulator.
2. Any publicity surrounding MovilPago should make clear to customers that it can be used by customers of any participating financial institution or mobile operator. Moreover, for the first year after launch such advertising should not include the names of any single mobile operator.
3. Forbid MovilPago to establish exclusivity relationships, precluding their merchants from using competing payment services
4. MovilPago cannot preclude their customers from engaging an alternative MovilPago financial operator.
5. Volume discounts cannot be offered to participating operators during its first year of operation.
6. The interchange fees that will be charged between participating financial institutions shall be subjected for review and approval by the TDC.

The government has the final word

The TDC’s judgement was issued as a recommendation to the Ministry of Economy, who in turn elevated it to the Council of Ministers for decision on November 17, 2000. The Council of Ministers approved the transaction, incorporating the TDC’s conditions with two modifications:

- The Council of Ministers added specificity to condition 1. Instead of the TDC’s condition 1, it instructed MovilPago and its shareholders to: (i) share the technical specifications of MovilPago with interested mobile operators within one month; and (ii) not market the MovilPago service for a period of three months.
- The Council of Ministers broadened condition 6, by requiring that MovilPago abide by the principles of neutrality and non-discrimination in giving access to various financial and mobile telephony operators to its platform, and instructing MovilPago to file with the SDC the technical and commercial terms of access it presents to the operators of the system.

The Mobipay case: Interoperability on the basis of a shared technical standard

The market consolidates around a single technical platform

While MovilPago's case dragged through the competition review process during the year 2000, another leading bank, BSCH, and the two smaller mobile networks (Airtel and Amena) were indeed pursuing their plans to develop and launch a parallel mobile payments platform called, confusingly, PagoMóvil. Spurred by the Government's backing for a fully interoperable system where all would operate on a level playing field, the sponsors of these two projects decided to work together towards development of joint technical standards for what would be a single technical platform.

On 30 May 2001 – just five months after the Council of Ministers had closed the MovilPago case, the two leading banks BBVA and BSCH and the three mobile operators signed a Letter of Intent (LoI) which envisioned the creation of a shared technical standard to enable mobile payments, as well as the creation of a company to oversee its implementation. On that day they also signed a Side Letter which contained reference (maximum) prices that the mobile operators would charge the new company for use of their networks in delivering mobile payment services to customers during the first year of operation of the system.

Mobipay España S.A. was duly formed in July 2001 as the merger of the two competing projects. It was co-owned by the three major mobile operators in Spain (jointly owning 40%), as well as by over 30 financial institutions (jointly owning 48%) and the three national card payment processing companies (jointly owning 12%). The objectives of Mobipay were to develop and own the technical standards, deploy and own the networking infrastructure enabling the routing of payment requests, and monitor the development and functioning the system as a whole.

The Mobipay standard was developed from scratch. Though bits were re-used from both the MovilPago and PagoMóvil systems, no intellectual property was bought from either project. The Mobipay model ended up being closer to PagoMóvil than to MovilPago in that Mobipay itself was not to be an issuer of financial services.

What is the Mobipay system

Mobipay is a mobile payment mechanism that allows customers to pay for goods through their mobile using a range of payment instruments: credit cards, debit cards, or on the operator's billing platform. Each Mobipay customer gets a virtual wallet, which can contain up to nine different payment instruments. At points of sale, customers are presented with the Mobipay logo to inform them of the availability of this payment method. Each time the customer wants to make a payment, the system asks which of the available payment instruments the user wishes to pay with. The mobile phone acts merely as a payment initiator, as transaction processing is the responsibility of the selected payment issuer.

The platform is open to any mobile operator or payment instrument issuer in Spain. Two key differences with MovilPago are that Mobipay supports a broader range of payments options to customers (including the mobile operators' own billing platform), and Mobipay itself does not commercialize any of the services.

The new competitive landscape in mobile payment services

Mobipay amalgamated the interests of all the key players in the mobile payment market. Yet three major banks remained outside: La Caixa, Banco Popular and Caja Madrid. In fact, on the day that the Mobipay agreements were signed, La Caixa announced that it was joining VISA International's mobile payments project.

So despite the rhetoric of a single, nationally interoperable platform, is Mobipay going to be “it”?

Back to the TDC

Being an agreement between competitors, the five principal backers of the Mobipay project notified the SDC about the proposed transaction on 9 July 2001. The SDC opined that the LoI did not fall under Article 1 of the Law for the Defense of Competition which restricts agreements between competitors, since the absence of commercial terms made it unlikely that the joint company could create restrictive practices. On the other hand, the SDC was of the opinion that the Side Letter, which referred to reference pricing, did contravene Article 1, but that there may be grounds for granting express authorization for the deal. The SDC therefore referred the case to the TDC for a decision.

The TDC requested an opinion from the users association, and requested additional information and met with the parties to the agreements during March 2002. The parties argued that the new company Mobipay was primarily a vehicle for technical cooperation, playing no role in the marketing of the services. They argued that, in line with the views expressed by the TDC in the MovilPago case, the shareholding was and would continue to be open to any operator who wanted to participate in the system; and that with an open and broadly and fairly distributed shareholding among all the operators of the system, Mobipay could not be used to restrict competition among those same operators or to shut others out. Regarding the reference pricing in the Side Letter, the parties argued that those were maximum prices and hence allowed for competitive forces to play out, and were only necessary temporarily at the inception of the system to facilitate its development.

The TDC’s decision

The TDC issued its opinion on 23 July 2002. It ruled that not only the Side Letter but also the LoI fell under the definition of restricted practices under Article 1 of the LDC, arguing that Mobipay would be in a position to block new entrants into the Mobipay service in the future, and that Mobipay’s dominance in the market for mobile payments would make it very difficult for any excluded new entrant to contest the market.

At the same time, the TDC expressly authorized the two agreements, in the case of the LoI for a period of five years which would be renewable (hence, giving itself an opportunity to review the case in five years), and in the case of the Side Letter for one year on a non-renewable basis. The authorizations were subject to the following conditions:

1. Mobipay will limit its role to that stated by the parties, namely development of technical standards and operation of a payments messaging platform. It will not itself process transactions or maintain customer databases.
2. Any financial institution, payments network or mobile operator wishing to participate in the system will be allowed to join the shareholding of Mobipay, without Mobipay or the rest of shareholders being able to vet or otherwise block the entry of new shareholders.
3. Any pricing agreement involving Mobipay will require the prior approval of the SDC.

Conclusions

Interpreting the decision and the sequence of events

To what extent do you agree with the following observations:

1. In the MovilPago case, the TDC set benchmarks of what constituted fair sharing of a common technical infrastructure when (i) that technical infrastructure is controlled by a subset of the parties, and (ii) those parties have market advantages (in terms of marketing reach and budget).
2. The TDC's decision in the MovilPago case was essentially to put substance to MovilPago's own broad declared intentions of competing on fair terms with other financial institutions and mobile operators who wanted to join the system. The TDC chose not to take their stated intentions at face value. The TDC in fact thought it necessary to express as conditions what Telefonica and BBVA had explicitly undertaken to do (conditions 3 and 4).
3. The TDC took a surprisingly interventionist stance in the MovilPago case given that it determined that mobile payments were competing in the broader electronic payments market and yet mobile payments themselves had a market share of zero within the broader relevant market. This over-eagerness is probably explained by the timing of the case: at the top of the internet bubble, the possibility of a sizable share of payments shifting in a relatively short period of time to the mobile phone did not seem unreasonable to many. The TDC probably felt a hard-line decision was key to setting a sound competitive basis for a future mobile-dominated payment system.
4. And yet, how harsh was the MovilPago decision for Telefonica and BBVA? We will never know, it depends on how serious Telefonica and BBVA were when they said that they would let other operators use the MovilPago platform on an equal access basis. Would Telefonica and BBVA do better by growing the total pie (having network externalities kick in, which would be easier if all players contributed customers to the payment network) or cutting themselves a larger share of a smaller pie? If we hold their stated intentions at face value, the TDC's decision largely only affected outcomes in the very short-term –a three month delay in launch, no Telefonica-only advertising for a year, no volume-based pricing for a year—, but it is doubtful that the principals involved were out to reap such short-term advantages. They surely must have felt, even at the height of the Internet bubble, that creating a new payments system was going to be a longer-term proposition.
5. The TDC's decision in the MovilPago case may not have been the primary driver for the creation of the joint industry platform around Mobipay. The Mobipay agreement was signed only five months after the government issued its decision, which is a fairly short window of time to digest the decision, re-strategize around it and complete the delicate negotiations with your competitors. The collapse of the Internet bubble in March 2000 may have been a very significant factor in Telefonica and BBVA's change of heart between February 2000 (when they signed the Framework Agreement from which MovilPago was born) and May 2001 (when the Mobipay agreement was signed).
6. The contraposition of the Mobipay case against the MovilPago case exposes very clearly the delicate balance that regulators need to tread between the monopolizing risk where there is limited or imperfect interoperability and the cartelizing risk of shared industry platforms.

7. With hindsight, given the slow development of mobile payments since then, can we conclude that this was a case where the TDC “rushed to regulate?”

And how did Mobipay fare after all?

The conditions imposed by the TDC did not fundamentally alter the course of Mobipay, since they were in line with the expectations around how Mobipay would function. But in any case the market had moved on by then.

Mobipay was trialed in mid-2002 in a small town, and launched nationally in late 2002. In less than a year it acquired 17,000 customers and 4,500 merchants (2,800 online and 1,700 bricks and mortar). Usage originally focused on mobile content (e.g. ringtones), small on-the-road transactions such as taxis (in the two major cities of Madrid and Barcelona), public transport (buses in Malaga) and parking ticketing (though not very widespread), and internet purchases. Six years later, there are only 400,000 registered –not necessarily active— users, amounting to less than 1 percent of the population. Less than 2000 transactions are processed daily. While many retailers have embraced payments through Mobipay, the largest department store chain (El Corte Inglés) and the national airline (Iberia) have not.

This dismal performance can be explained by two main factors. First, Spain is highly penetrated with banking services and infrastructure, so Mobipay struggled to open up a niche in the retail payments market. Second, Mobipay did not have a marketing budget to promote its own service, having to rely instead on promotion by its shareholders (who were also its customers). These in turn did not see much benefit in promoting the Mobipay brand, as this would also benefit their competitors in equal measure. Mobipay itself was in no position to counteract the operators’ weak marketing push. As a result, Mobipay has languished in the absence of effective marketing or a ‘killer application’ that can raise public awareness of the service.

Mobipay’s marketing morass is symptomatic of a larger misalignment of interests and experiences among Mobipay’s diverse set of promoters, which has hampered its development. The telcos saw their involvement as a concession to the banks, who in fact were their major shareholders – a sort of shareholder tax. The mobile operators’ relatively tepid engagement is in part due to the new platform would cannibalize their existing, high-margin content billing services based on premium SMS (used for instance for ringtones/logos. The technical teams from banks and telcos had very different mindsets, used different terminology, and worried about different technical issues. And the fact that all major telcos and all major banks but one were part of the Mobipay consortium meant that they faced no real competition in the space – there was no sense of urgency at developing the market.

Mobipay’s international ambitions also ran aground. Mobipay international, the company that was going to franchise the operation of the system internationally, was closed in 2006. The Mobipay standard has only been adopted in Mexico and Perú, without so far limited commercial success.

Postscript: And then came Simpay

Simpay was another mobile payment initiative launched in February 2003 by a consortium of the four leading European mobile operators, including Telefonica Moviles and Vodafone (who had since acquired the second mobile operator in Spain). Its mission

was to develop and operate a pan-European payments system for mobile phones, focused on micropayments (less than 10 euros). Simpay was to be a mobile operator-centric model, based on operator billing mechanisms. This initiative never saw the light of day, but it is interesting to notice that no-one bothered to challenge it, not a peep was heard from the regulator... How the times had changed.

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