

Case Study - Conduit

The Spanish directory enquiry (DQ) market was liberalized in 2002. Liberalization entailed the removal of the old monopoly service provided by Telefónica via the 1003 number, by 4 April 2003, and its replacement by new competitive services to be provided over new 118XY numbers. The Spanish regulatory authority ("CMT") intervened in early 2003 to ensure that the transition to the new numbers was carried out in a fair fashion and required Telefónica to announce the new services with its own in the message included on 1003 when that service was terminated. This was carried out through a so-called "carousel" message which announced the new services each time a user called 1003 from 4 April in a random order.

To permit DQ competition, telephone operators were required to grant access to DQ service providers to their telephone subscriber data (name, telephone number, etc.). This was to be implemented in the following way: telephone operators would provide monthly downloads of their subscriber database to the CMT for onward delivery by the CMT to licensed DQ service providers. The content and structure of that data was prescribed by the CMT. Telefónica had a dominant position on the market for telephone services and controlled over 90% of the relevant subscriber data. In March 2003, Conduit complained to the CMT that the subscriber data provided by Telefónica was incomplete and deficient. The CMT upheld that complaint and found that Telefónica had provided materially incomplete and deficient data (not compliant with the prescribed rules) and further that it had provided better data to its own DQ services. From July, Telefónica proceeded gradually to remedy these problems. For the sake of this case study, we will assume that by October, the problems with the data were entirely corrected.

Telefónica launched 3 new DQ numbers in 2003. It replaced the regulated 1003 with 11818. It introduced a new Yellow Pages service through its subsidiary TPI (11888) and its own further competitive service (11822). There were 2 new services launched in April 2003, which competed with Telefónica: Conduit (11850) and Telegate (11811). Conduit is an Irish DQ company and Telegate German. Telefónica's combined market share (by revenue) reduced from 100% to 90% in 2003, and to 80% in 2004. TPI obtained a market share of 30% in 2003 and 50% in 2004. Conduit obtained a 4% market share in 2003 and had almost gone out of business by the end of 2004. Telegate obtained a market share of 9% in 2003 and 11% in 2004.

Conduit alleged that it experienced material problems with its service, in particular in the initial period April to July 2003, and with continuing problems until October. This was allegedly reflected in particularly high average call handling times (AHTs) in the early months of its service launch. It alleged that this was caused by Telefónica's illicit conduct described above. It brought a damages claim in which the court held that it had suffered harm as a result of the illicit conduct in the form of increased costs to clean and complete the faulty subscriber data, including the cost of using an international DQ data service (called E.115) which allows international on-line access to subscriber data.

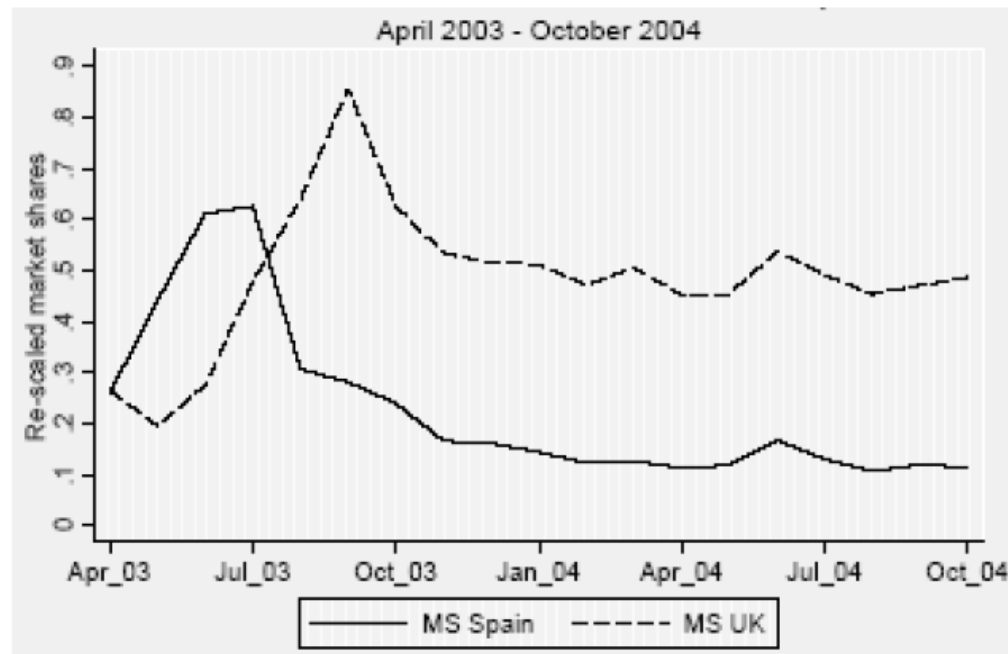
The object of this mock trial is to consider Conduit's additional claim for loss of profit, which it alleged was the result of obtaining a lower market share than it would have done in Spain if it had not been for Telefónica's illicit conduct. Conduit claimed a 45% loss of market share, which translated into a claim for 3.5M€ plus interest.

Timeline

Dates	2003										
	Jan	Feb	Mar	April	May	June	July	August	Sept	Oct	Nov
Data problems			Complaint			Interim measure declaring abuse					Final CMT decision confirming abuse.
Telefónica	1003										
		11818									
						11822					
		11888									
Telegate				11811							
Conduit				11850							
1003 Carousel		11818	11818	11818/11888 11811/11850	11818/11888 11811/11850	+ 5 new numbers	+ 3 new numbers	No carousel			

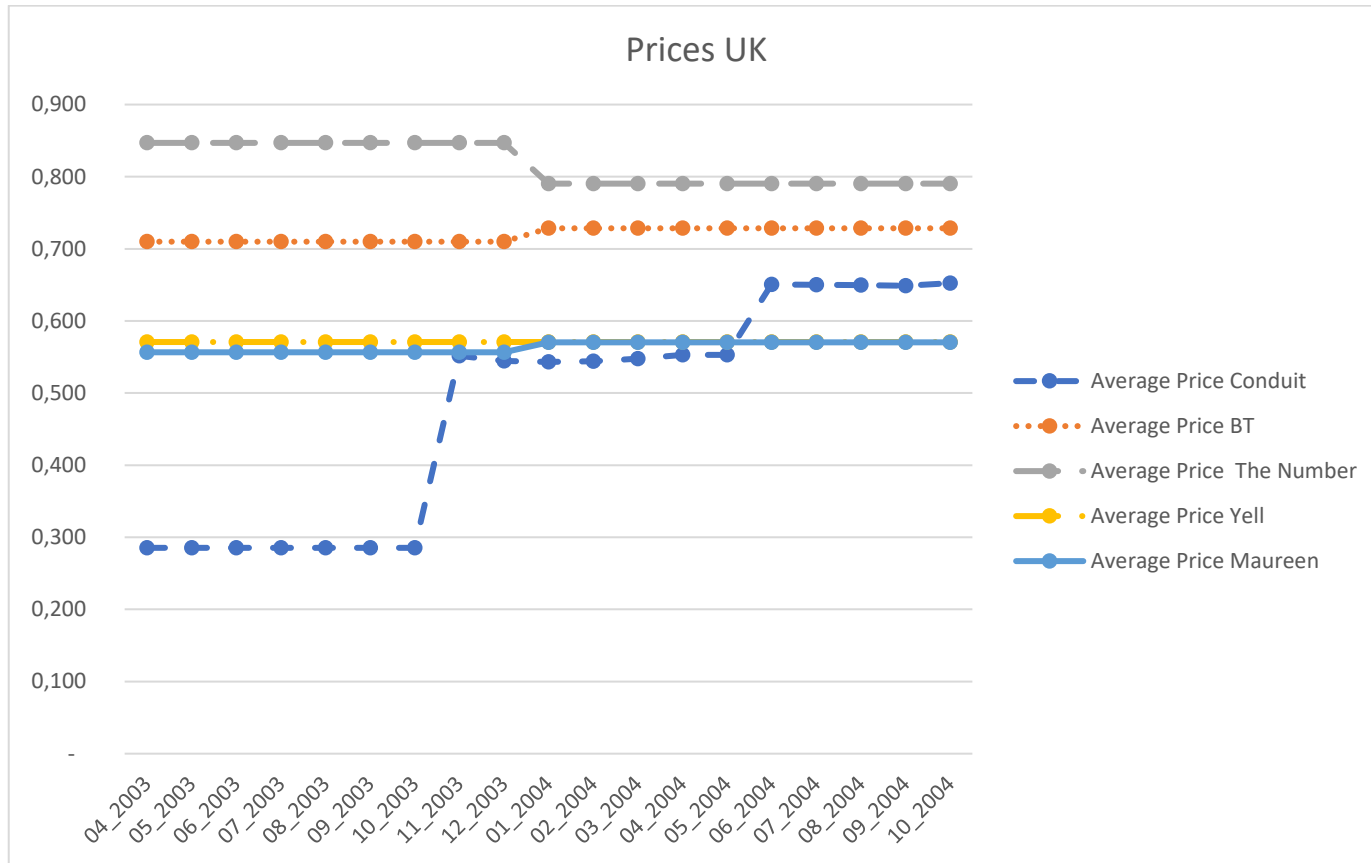
Market shares
(re-scaled for reasons of confidentiality).

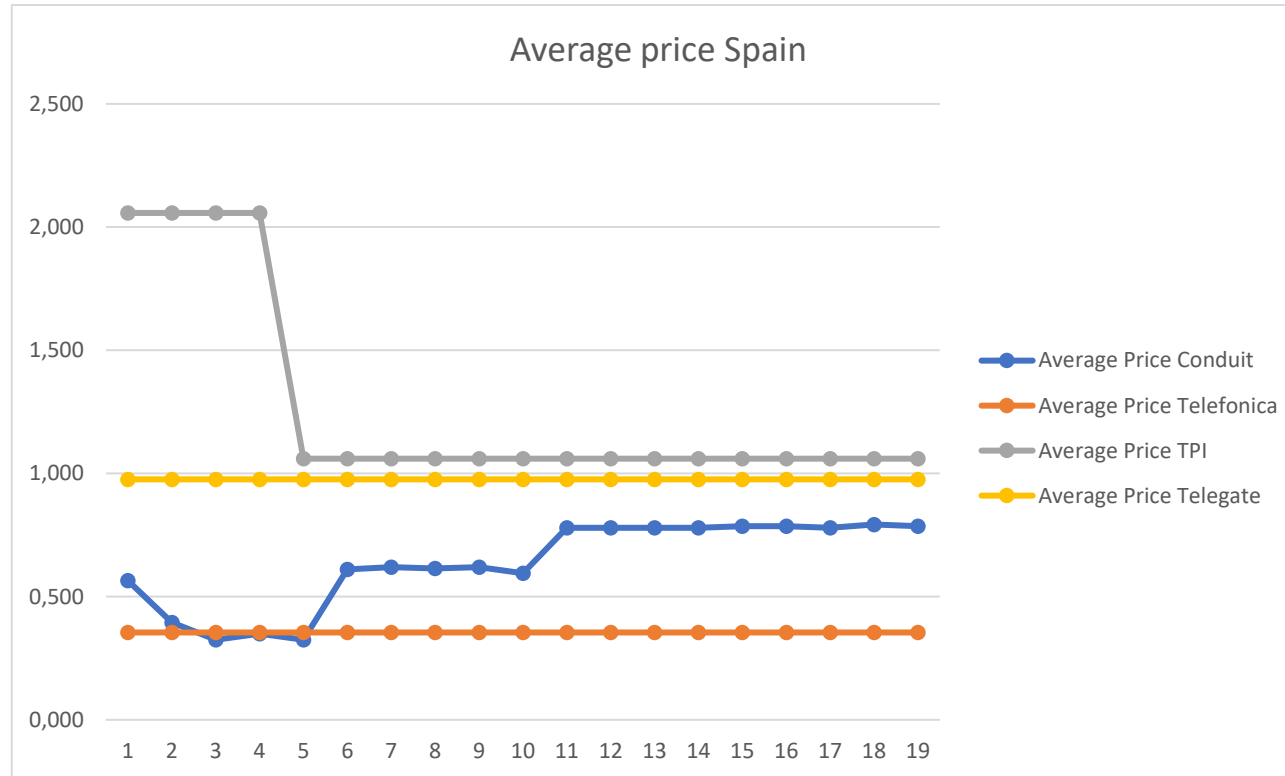
Graph 1: Conduit's Market Share in the UK and Spain



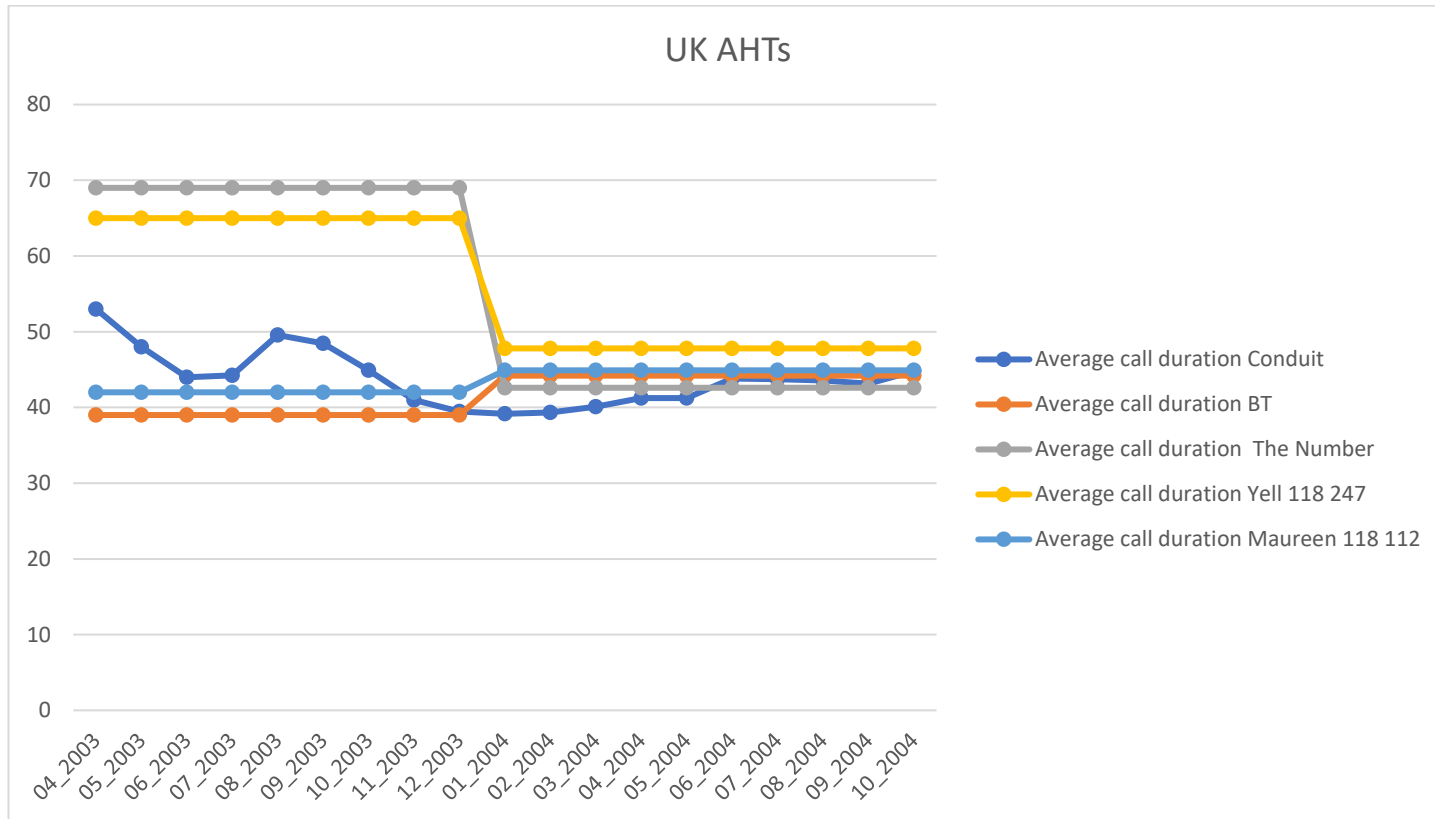
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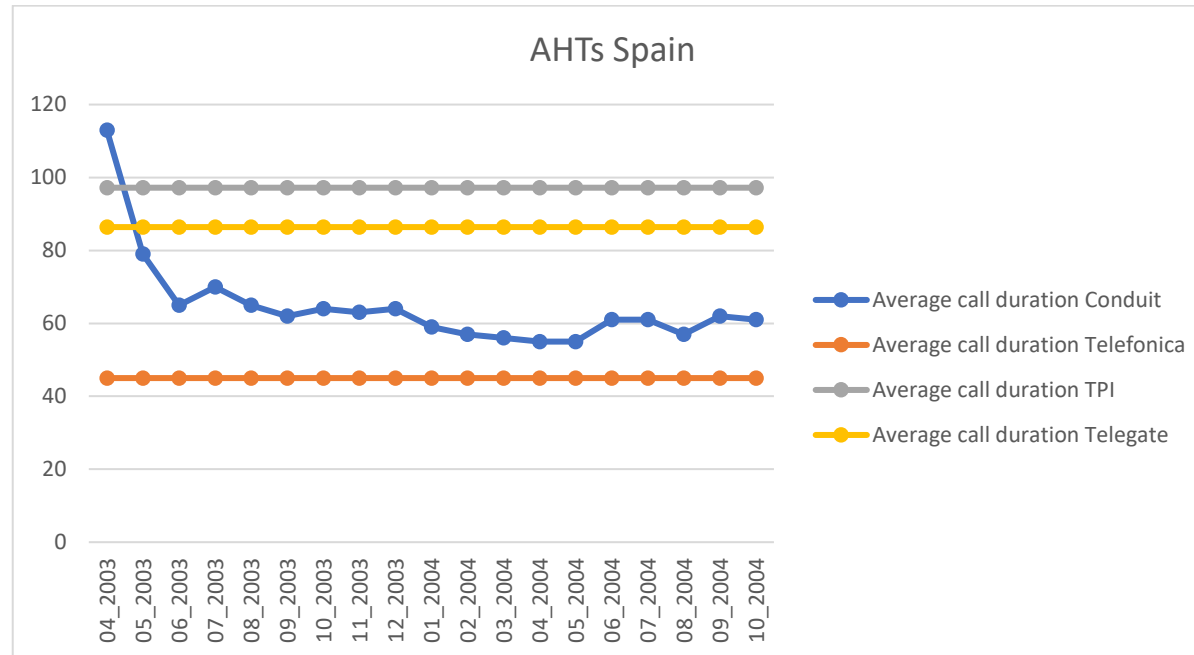
Prices

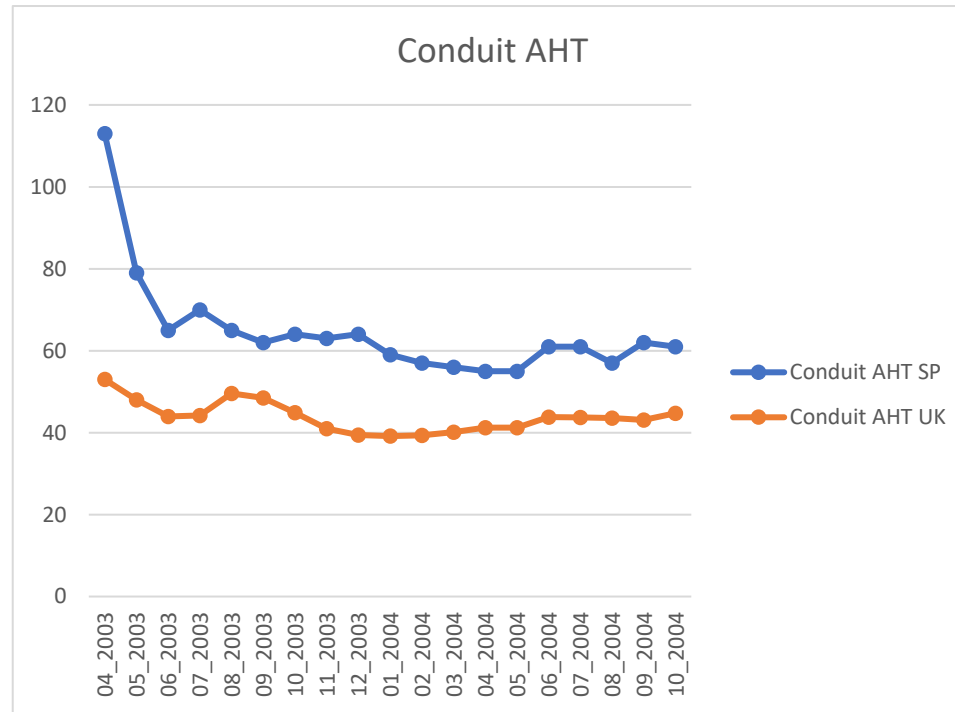




Average call Handling Times (AHTs)







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