

M&A Lab

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SECOND MISSED CALL: BHARTI AIRTEL FAILS TO RECONNECT WITH MTN

In our M&A Lab titled '**BHARTI-MTN: Ringing The Bell From Asia To Africa**' dated June 5, 2009 ("**M&A Lab – Part I**"), we had analyzed the proposed strategic merger of MTN Group Limited ("**MTN**") and Bharti Airtel Limited ("**Bharti Airtel**") (the "**Proposed Transaction**") from a commercial, legal, regulatory and tax perspective.

We had then referred to MTN as the "Runaway Bride" and concluded the Lab with an interesting question - "*Will the African lady say 'I do', to her Indian suitor?*" About four months hence, MTN reaffirms its tag of 'Runaway Bride' as the proposed merger has been called off by both global telecom players for the second time in two years. This time, however, the break-off saga is slightly different from the last instance as the collapse this time is an upshot of the dissent that came from the 'Father of the Bride', Government of South Africa, even though MTN and its shareholders had consented to the union.

The USD 24 billion deal to build a transcontinental telecom behemoth was publicly called off by Mr. Phuthuma Nhleko, CEO of MTN and Mr. Sunil Bharti Mittal, Chairman and MD of Bharti Airtel on September 30, 2009, the last day of the twice extended exclusivity period.

Failure of the deal is not just a disappointment for Bharti Airtel which was ambitiously looking to create the third largest telecom operator of the world, but also for South Africa which would have received its single largest inward investment. The South African Government, however, let go of that opportunity to "keep the family silver at home". Clearly, unless that protectionist attitude changes and shareholders realize the value of the Bharti MTN combine, the corporate marriage between the two organizations is likely remain a chimera. But the question is - "**Having made two missed calls, will Bharti Airtel call MTN again?**"

For a detailed analysis of the commercial, legal, regulatory & political considerations and to access the **M&A Lab – Part II.**

Nishith Desai Associates is pleased to present a detailed analysis of the latest legal developments and trends. The M&A Lab is our initiative to provide you in-depth, incisive and a detailed research based analysis of the latest M&A deals with a view to sharing and inviting views and counter-views. We will be happy to have your views / comments on our initiative. Please read the disclaimer carefully.

– Arun Scaria, Sambhav Ranka, **Ruchir Sinha**, **Nishchal Joshipura** & Siddharth Shah
You can direct your queries or comments to Team M&A

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