

The Audacity of Exclusivity

Attention Telco procurement, vendor management, legal personnel and anyone involved in purchasing COTS products and system integration services. During contract negotiation, never accept any terms and conditions that dictate you, the Telco, agree that any and all configuration and customizations made to any product for your requirements must be performed by or are the Intellectual Property of the product owner – or any company for that matter. If you do, you will have monopolized the competition, lost your negotiation leverage and very likely will be burned in the long-run.

There is a stark reality brewing in some areas of the Telecom OSS space....a number of Communication Service Provider (CSPs) are currently in a position where OSS product owners – most of whom have System Integration and delivery capabilities (the quality of these services is another blog) – are simply no longer able to implement their product for their customers. Sure, they say they can, but time and time again they prove they cannot, and from what I see on a regular basis it is almost as if the mantra of some of these product companies is to sell the product license and then bleed the Telco dry in system integration services... the next thing you know, it's 2, 3, 4 years later and \$75 million spent on services and either there isn't a single delivery into production and if you're lucky to have something in production it's very likely of poor quality.

Also, beware of COTS product owners making ridiculous claims such as 'we're the only ones who have the technical abilities and expertise to implement our product.' Do your homework. Yes, M&A's in the OSS industry have changed the competitive landscape, however, healthy competition to implement these products still remains alive and well. Take for instance this example....I know of an executive at a Tier 1 CSP who was in the marker for a network inventory and service assurance solution...she did an around-the-world tour to personally meet and seek guidance, opinions, lessons learned, etc. from 4-5 other CSPs using the products they were intending to use. As a result of that trip, the Tier 1 CSP purchased a best of breed product – but rather than using the product owner for delivery,

they selected another Systems Integrator to do the implementation based on the recommendation of others.

For the record, I'm not painting all OSS product owners with the same brush. There are product companies that have good delivery capability and embrace working with delivery partners for the success of their product.

Why is this happening?

It's simple: these clauses are being added to MSA's and contracts because product owners recognize they're not the only horse in the race and the competition in the marketplace is real. The only real way to lock out the competition is to get CSPs to agree – legally – that they can only use the product owner to implement their solution. Don't do it.

You can rest assure that the deal will contain 'extras' and 'too good to be true' concessions, for example reducing the rate card or offering up 'free' products, but that's simply a method of their madness. It's a bait and switch. Take those concessions and remove the exclusivity clauses. Don't be fooled. Oh, and make sure you own the code – that is, the code is stored in your own configuration management repository and not the product owners.

Remember, these products are very important to the operation of your business. These products are responsible for managing your network – the core of everything Telco. Do you really want to place all your chips with a single vendor and lock out competition altogether? Do you want to be in a position like some CSPs where they are literally stuck with a half-baked solution – then they realize another SI can come in and improve the solution ...but legal informs you this isn't possible as a result of these exclusivity clauses?

If the answer is yes, make sure to add enough contingency to handle the eventual mess...