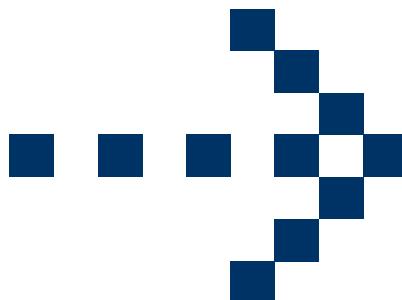


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## Real Competition and Real Regulation Lessons from Europe

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# The European performance with telecommunications

- Monopoly public operators until 1980s/1990s  
(still substantial Government stakes in e.g.  
France)
- Competition started in 1980s in some countries  
(UK, Sweden)
- Liberalisation became mandatory in 1998
- New regulatory approach from 2003

# Benchmarking European performance

- High fixed penetration - relatively high prices and low usage (no unmeasured service)
- High level of mobile take-up (90-100+ per 100 population), based on calling party pays
- Varied take-up of broadband- straddling US rates

# The state of competition

- Depends on scale of national market
- In fixed, the historic monopolist continues to dominate especially in access (90+% market share), less in calls, especially international calls.
- Mobile market-place typically contains 2-6 operators; level of competition varies; possibility of collusive behaviour in some countries.
- Cable modem competition in some countries otherwise historic operator dominates broadband market (80+%)

# How to build on existing competition?

- Regulatory regime from 1998 relied on heavy restrictions on historic telecom operator to limit prices and open up networks for interconnection
- Interconnection rates fell rapidly from 1998 to 2001, encouraging service competition. Other networks-mobile, satellite, cables-were treated differently from fixed telecommunications

# The new European Regulatory Regime

- Developed 1999-2002
- Legislation passed April 2002
- Came into effect formally July 2003
- Regime designed to operate like competition law (but applied ex ante) but gradually to disappear as competition takes over.

# The objectives of the new regime

- Competition
- Investment and innovation
- Consumer protection
- Consistent regulation across Europe

# The modus operandi of the new regime

- Market definition: ‘relevant’ markets identified, using anti-trust principles, as candidates for ex ante regulation; otherwise, reliance on competition law
- Market analysis: is there (single, joint or vertically leveraged) dominance in the relevant markets - or others nominated by regulators?
- Remedies, if yes, remedy selected from list in Directives (mostly relating to access).

# Which markets are ‘relevant’/liable to ex ante regulation?

- Three (cumulative) conditions established
  - barriers to entry and development of competition
  - dynamic aspects
  - relative efficiency of competition law and complementary ex ante regulation

# Meaning of greater efficiency?

- Competition law would not adequately address the market failures because of (e.g.) extensive compliance requirement or need for frequent and/or timely intervention
- May be related to type of barrier to entry or competition

# What markets are found to need ex ante regulation?

- Mostly wholesale, except for retail voice
- Operator by operator markets for fixed and mobile termination
- A market for wholesale mobile access and call orientation (had not retail mobile)
- Unbundled loops included
- Wholesale broadband access but not retail broadband
- Markets may be extended to adjacent technical areas.

# Remedies

- May only be applied in absence of effective competition
- Must be proportionate and justified by objectives of regime as a whole
- Largely relate to access and interconnection
- Also include retail price caps

# Implementation

- Slow process (takes 2 years +)
- Tendency to maintain existing remedies rather than deregulate (i.e. little forbearance )

# What needs to be done?

- The key is broadband competition . This :
  - Gives customers a choice in current generation broadband
  - Presents more voice competition via VoIP
  - Introduces ‘race’ for fibre deployment

# Policy Approach

- Allow competitors to resell incumbent's broadband product
- Encourage them progressively to build their own infrastructure (IP Networks, backhaul etc)
- Outcome – competition everywhere except in local loop

# What are the prospects?

- Incumbents resistant to opening up networks – engaged in ‘land grabs’ for new broadband customers
- Competitors wary of making investments

# Mobile Prospects

- 3G licenses (costing \$60 bn) soon to be put to use
- Doubt about commercial prospects – competition from 2½G and Wi Fi
- Likely to be consolidation in mobile industry