1. INTRODUCTION

- Communications technology and market developments
- Brief introduction to EU electronic communications regulatory framework (sector specific regulatory framework)
- Regulatory principles
- Liberalisation and harmonisation
- Relationship between competition law and E-Com law
- Regulatory bodies (NRAs and EU).
- Universal Service, End User rights, consumer protection and quality of service, numbering and licensing
- Scope of the lecture: Main focus is on market regulation (sector specific competition law) and certain consumer protection issues.

2. TECHNOLOGY AND MARKETS

2.1 Facts about the European market

- Information and communications technologies account for
  - Annual turnover of €670 billion (telecom 45%/€290 billion)
  - Accounts for 8% of EU’s Gross Domestic Product
  - 6% of EU jobs (Telecom 4%)
  - 25% of EU productivity growth comes from ICT
- 27 markets have been liberalised since 1980s resulting in
  - More choice for consumers and lower prices
    - Since 1996: 30% reduction on average (average price increase >20%)
    - Since 2000: Average charge for telephony reduced w 75%
- Competition bottlenecks still exist and partly inconsistent national regulatory frameworks in all member states.
- Radio spectrum is under-utilised. Very few pan-European services and companies with European footprint.
- Incumbents (former state owned monopolies with 100% market share) still dominate, but market shares have been reduced due to regulation

2.2 Technological issues

- Content, Network and Services
- Common technologies
  - Transmissions systems
  - Switching or routing equipment
  - Terminal equipment

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3. WHAT IS E-COM LAW?

- E-Com law is the regulation of specific issues in the area of electronic communications

- Transmission regulation
  - technical issues relating to use and provisioning of telecommunications equipment (i.e. technical issues (type approvals etc)
  - frequency administration (radio spectrum is a scarce resource and must be used efficiently)
  - sector specific competition law
    - neutralising dominant firms and preventing distortion of competition
    - Creating a level playing field for the old monopolies and the new entrants
  - Public policy (ensuring basic services, consumer protection)
  - Network infrastructure (i.e. frequency administration (scarce resource distribution) and minimum requirement)
- Services (i.e. minimum requirements, consumer issues etc.)
- Content regulation (audiovisual regulation)
  - Television content
- Specific contract types in the E-communications sector
  - Interconnection & interoperability
  - Purchase of equipment (procurement)
  - Service agreements
  - Access agreements (use of others networks)
- Content regulation fall outside the E-communications law and is generally covered by Media Law, Electronic Commerce, Internet Governance
- Public Regulation of E-Communications distinguish between
  1. Competition issues = establishing and ensuring sustainability of competitive markets. This can be divided into two sub-categories.
     * Market behaviour regulation (neutralising dominant firms)
     * Licensing issues (objective authorisation of use of frequencies)
  2. Public policy issues / Consumer protection issues = provisioning of telecommunications services to the public (i.e. public service approach and consumer protection)
- Scope of these lectures: focus on competition issues but will touch upon other non-competition public policy issues.

4. OVERVIEW OF EU INFORMATION SOCIETY POLICY ISSUES
- Transmission:
  - E-Com competition policy
  - Radio spectrum policy
  - Phone numbers (112)
  - Radio and telecommunications equipment
  - Mobile roaming charges
  - Electromagnetic safety
  - Digital infrastructure policy
- Content
  - Audiovisual regulation (television and protection of minors)
  - Cross border transmission of audiovisual services (satellite and cable)
  - Spam, privacy and data protection
  - Web accessibility guidelines
  - Digital content (digital rights management)

5. KEY ISSUES IN THE SECTOR SPECIFIC COMPETITION LAW
- Market access
  - Ensuring equal terms for accessing the market. There is no need for a specific license to offer e-com services, unless the e-com service uses frequencies.
• Significant Market Power (SMP)
  o The telecoms sector is still largely dominated by incumbent operators, in most cases former monopolies. In markets recently opened to competition, they inevitably dominate the sector, and so regulators need to ensure that they do not use their position unfairly to squeeze out new competitors. Granted access, many new entrants have demonstrated that they can compete strongly in recent years, raising standards in the sector to the benefit of consumers
  o Three step procedure similar to the general competition rules. First the relevant markets are defined (see EU Commission Recommendation on relevant markets). Then, the characteristics of each market is analysed leading to an assessment if the market is “competitive” or not.
  o If markets are not “competitive” because one (or more) market players have a dominant position, the NRA will conclude that one (or more) players (normally the incumbent) have “significant market power” (SMP).
• Remedies where SMP exist (i.e. only for SMP operators)
  o In the event the NRA finds that SMP exist, the NRA must choose between one or more obligations on the SMP operator. These include
    • Duty to deal, Non-discrimination, Transparency, Separation issues, Price control
  o Other obligations may be imposed on non-SMP operators (i.e. duty to interconnect and technical standard)
• Access and Interconnection
  o Why is access regulated?
  o Different types of Access that are regulated includes :
    • Interconnection
    • Termination
    • Roaming
• Consumer protection issues
  o Tariff transparency
  o Universal service
  o Number portability
  o Emergency number
• Radio spectrum management

6. BACKGROUND
6.1 Development
• From 1987 to 1998: KEYWORD: Liberalisation
  o I early 1980’s state owned monopolies controlled all forms of telecommunications
  o Open up former monopoly-markets to competition.
• From 1998 to 2003 KEYWORD: Harmonisation (Review and revise liberalisation)
  o Political and economic reasons; distinguish between infrastructure and services. 1998 package was far too complex –
need for simplification and resulted in 1999 review. Led to specific proposals for changes.

- The 2003 regulatory package implemented: KEYWORD: revise and simplify
  - Overview; Key Aspects; Scope; Main Changes; The Framework Directive
- 2004–2005 Market Analyses and new regulations in force
- 2009: Amendment directives adopted in November: Keywords: Better regulation + Citizens rights + BEREC
- 2010: Implementation of amendment directives by May 2011

6.2 2003 Regulatory Package

- European Council and Parliament adopted a package of five directives + one regulation
- Date of application: 25 July 2003
- Overview of Legislation in Force:

6.3 From 2003 to 2010

- The 2006 Review: Communication on market review (08.02.06).
  - 2006 Review Communication: 28.06.2006
  - Draft Commission Recommendation relevant markets
  - Public consultation (report to be published in 2007).
- The “2009 Package”
  - Revised version of the Recommendation on relevant markets (from 18 to 7 markets)
  - The revised framework is expected to be implemented in Member States before May 2010.

6.4 Policy aims

- Better Regulation:
  - React to technological and market developments;
  - to regulate less, but more effectively.
  - Reducing regulation where competition has already delivered results: focusing regulation on the main bottlenecks where competition problems exist
- Strengthen the internal market through BEREC – EU regulator
  - to create the right conditions, move to a single market, by fostering pan-European markets and ensuring that EU rules are applied consistently

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BEREC support the Commission and national regulators in regulating better, more speedily and more consistently across the EU.

- to strengthen the independence of national telecoms watchdogs from operators and governments (often still partly the owners of telecoms incumbents) alike.

- Protect consumers
  - to preserve and enhance consumer protection and user rights in such rapidly changing markets.
  - to enhance the security and reliability of Europe's communications networks by stepping up the fight against spam, viruses and other cyber attacks.

7. LAST REFORM

7.1 Why revise framework?

- eEuropa aim: create better Information Society framework
- Strengthening trade within Europe and competitive advantages against USA/Asia
- Regulatory frameworks focus shifts from:
  - Deregulation (abolish monopolies) to
  - Regulation of a competitive playing field create and stimulate competition = "creating a level playing field".
- Expansion of the EU – accession of new member states
- Results of Convergence: arbitrary and complex regulation

7.2 Four focus areas

- Spectrum management
  - effective market-oriented strategy for spectrum management in Europe’s internal market,
- Less is more:
  - regulating less, but more effectively, by phasing out ex-ante regulation on at least 6 of the 18 sectoral markets regulated today,
- Faster market review procedure
  - streamlining the market review procedure, to make it faster, less burdensome and better focused on real bottlenecks, and
- Single market: harmonisation
  - consolidating the single market, by ensuring that EU rules and remedies are applied consistently across all EU Member States.

7.3 5 main goals

- More competition
- Better regulation
  - From 18 to 7 markets
  - Focus on markets where incumbents still dominate
  - Better use of radio spectrum (digital dividend)
- Strengthening the internal market
  - More harmonisation
  - ERG lacks enforceability
7.4 Reform process

- Commission proposal 13.11.2007
  - Revise framework directive, access directive, authorisation directive, uso directive and data privacy directive
  - Summary from Commission
- Revised proposal November 2008
- European Council Common Position
  - Common Position (9.2.2009): substantial deviation from Commission's proposal
  - Commissions comments on Councils common position (to European Parliament) (17.2.2009)
  - Commission: opinion on the EP position at second reading (29.7.2009)
- Adopted 25th November 2009
- Transposition date May 2010
- Status: See Procedure File


7.5 Key Changes in 2009 reform

- Number portability – right to change in one day and retain your old number
- Better consumer information
- New internet freedom provision
- Net neutrality
- Privacy: Spam and abuse of personal data
- Emergency services (112)
- Accelerate broadband access
- National regulators become more independent to eliminate political interference
- Commission can overrule national regulators
- Functional separation may be used to overcome competition problems

8. THE REGULATORY FRAMEWORK (EU)

- Legal texts + associated measures apply in 27 EU Member States.
- The goals are to:
- encourage competition in the e-communications markets,
- improve the functioning of the internal market; and
- guarantee basic user interests that would not be guaranteed by market forces.

- The framework provides a set of rules that are simple, aimed at deregulation, technology neutral; and sufficiently flexible to deal with fast changing markets in the electronic communications sector.

- **Overview of 2003 Package as amended in 2009**

<table>
<thead>
<tr>
<th>Directive/Regulation</th>
<th>Reference</th>
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<tbody>
<tr>
<td><strong>Framework</strong></td>
<td>Directive 2002/21/EC on a common regulatory framework</td>
</tr>
<tr>
<td><strong>Access and interconnection</strong></td>
<td>Directive on Access and Interconnection (2002/19/EC)</td>
</tr>
<tr>
<td><strong>Authorisation</strong></td>
<td>Directive on Authorisation of electronic communications networks and services (2002/20/EC)</td>
</tr>
<tr>
<td><strong>Universal service</strong></td>
<td>Directive on Universal Service and Users’ Rights (2002/22/EC)</td>
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<td><strong>Competition</strong></td>
<td>Directive on Competition in the markets for electronic communication services (2002/77/EC)</td>
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<tr>
<td><strong>LLU Regulation</strong></td>
<td>Regulation (2000/2887/EC) on unbundled access to the local loop</td>
</tr>
<tr>
<td><strong>Radio spectrum decision</strong></td>
<td>Decision on a Regulatory Framework for radio spectrum policy in the European Community (OJ L 108/1) establishes principles and procedures for the development and implementation of an internal and external EU radio spectrum policy.</td>
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</table>
of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (Text with EEA relevance)


9. THE FRAMEWORK DIRECTIVE (1)

• Aims & objectives: promote an open and competitive market for communications networks, services and associated facilities; to contribute to the development of the internal market; ensuring in particular that there is no undue variation in the treatment of undertakings within the EU; benefit the European citizen; regulatory obligations should be the minimum necessary to achieve the objectives; and regulation should be technology neutral

• Describes formal procedures and main principles for applying asymmetric regulation

• Ex-ante regulation shall only be applied in certain circumstances: i.e. on operators with SMP (art. 8). Ex-ante regulation means that prohibitions for future action are determined for specific operators (i.e. those with SMP) as opposed to ex-post which is retrospective determination if for instance an operator did abuse its dominant position

• Transition to competition law: principles from competition law used to define Significant Market Power (SMP) (FD Art. 14)

• Private regulation: The receiving party must ensure the same level of confidentiality

• In practical terms: Ex ante regulation will be applied to former monopolists and/or those who control essential facilities (recital 20)

• Art 14 in the FD defines the methodology for defining SMP and the Guidelines clarify this further
  o “New emerging markets where the market leader de facto is likely to have a substantial market share should not be subject to inappropriate obligations” (FD recital 21)

• Increased use of soft law – guidelines and recommendations (review once a year)

• Aim to harmonise the national regulators (NRA) practise to achieve a pan-European common regulatory framework
  o The Commission has proposed to form a European Telecommunications Authority

• Independent NRAs (Art. 3) The NRA’s tasks are stipulated in (Art. 7 – 12)

• Objectives and Regulatory Principles (Art. 7)

• Management of radio frequencies (Art. 8)

• Numbering, naming and addressing (Art. 9)

• Rights of Way (Art. 10)

• Co-location and facility sharing (Art. 11)
• Accounting separation and financial reports (Art. 12)
• Right to Appeal (Art. 4)
• Information (Art. 5)
• Consultancy and transparency (Art. 6 and 7)
• General provisions (Art. 13 – 23)

9.1 Access- and Interconnection Directive
• Regulates the procedures and criteria for interconnection and access to electronic communications networks
• Defines methodology for NRA when defining access obligations
• Limitations on the obligations applicable to SMP operators
• Regulatory intervention shall be “Specific, appropriate and temporary”
• More in session 3 and 4

9.2 Authorisation Directive (1)

9.2.1 General authorisation
• All electronic communications services and networks would be provided under general authorisation.
• Licences would no longer be required
• Specific rights of use would be granted, separately from authorisations, for the assignment of radio frequencies and numbers.
• An undertaking could start to operate a network and provide services upon notification

9.2.2 Provision regarding the granting of rights to use radio frequencies and numbers
• Rights to use radio frequencies (six weeks to six months for competitive bids)
• Rights to use numbers (two weeks).
• SMP and USO obligations

9.2.3 Rights of way and rights of interconnection
• Issue Document for undertakings authorised to apply for rights of way and/or negotiate interconnection
• within one week of being requested by the undertaking
• or where appropriate as an automatic reply to a notification.

9.2.4 Conditions attached to general authorisations cover (i.a.)
• administrative charges covering costs, proportionate to turnover, published and adjusted yearly if excessive;
• protection of personal data and privacy;
• enabling legal interception by competent authorities for data protection purposes;
• mandatory transmission of services within the public broadcasting remit, in conformity with the proposed Directive on Universal Service;
• protection of minors in accordance with the Television Without Frontiers Directive
• usage fees to be non-discriminatory, transparent, objectively justified and proportionate;
• transfer of rights and conditions to conform with the proposed Framework Directive;
• (for use of radio frequencies) avoidance of harmful interference;
• number portability requirements in conformity with the proposed directive on universal service.

9.2.5 Authorisation fees proportionate to the turnover
• administrative charges must be proportionate to the turnover of the undertakings in the national market where the service is provided.
• Administrative costs and the total sum of charges collected should be published every year.
• If charges exceed costs, they should be adjusted the following year.

9.2.6 Usage fees
• Fees for the use of radio frequencies and numbers shall be non-discriminatory, transparent, objectively justified and proportionate.

9.2.7 Safeguards right to operate networks and services
• procedure to be followed in the event of alleged breaches of the conditions of general authorisations and/or rights of use.

9.2.8 Obligation to grant the right to use radio spectrum
• continuing role for CEPT in the harmonisation of frequency assignment.
• Member States required to implement agreements reached in CEPT on the harmonised assignment of spectrum. Restrictions for MS to impose conditions, additional criteria or procedures restricting, altering or delaying the implementation CEPT assignment.

9.3 Combination of Legal instruments

9.3.1 Overview
• Regulation
  o Local Loop Unbundling
  o powerful legislative tool made available by the EC Treaty Art. 251 (ex-189) (need for speed)
• Directives
  o Principal regulation
  o transposed into national legislation (25.07.2003)
• Soft law
  o Commission recommendations (See 9.3.2)
  o Commission guidelines (See 9.3.3)
  o ERG policy documents (See 10.1.2)
• Decisions
• EU-Committees and national regulators

9.3.2 Recommendation on relevant markets
• Framework directive art. 15 (1)
• Commission recommendation on relevant product and service markets OJ 2007L344/65 28.12.07

• Commission Recommendation from 2007 replaces the former Commission Recommendation from 2003 (OJ 2003 L114/44 08.05.03)

• Markets for ex-ante regulation in annex I of framework directive have been revised. The former 18 markets were reduced to 7.

• Methodology for including markets

• Broad public consultation process

• Markets now comprise:

**Retail level**

1. Access to the public telephone network at a fixed location for residential and non-residential customers.

**Wholesale level**

2. Call origination on the public telephone network provided at a fixed location.

   For the purposes of this Recommendation, call origination is taken to include call conveyance, delineated in such a way as to be consistent, in a national context, with the delineated boundaries for the market for call transit and for call termination on the public telephone network provided at a fixed location.

3. Call termination on individual public telephone networks provided at a fixed location.

   For the purposes of this Recommendation, call termination is taken to include call conveyance, delineated in such a way as to be consistent, in a national context, with the delineated boundaries for the market for call origination and the market for call transit on the public telephone network provided at a fixed location.

4. Wholesale (physical) network infrastructure access (including shared or fully unbundled access) at a fixed location.

5. Wholesale broadband access.

   This market comprises non-physical or virtual network access including ‘bit-stream’ access at a fixed location. This market is situated downstream from the physical access covered by market 4 listed above, in that wholesale broadband access can be constructed using this input combined with other elements.

6. Wholesale terminating segments of leased lines, irrespective of the technology used to provide leased or dedicated capacity.


9.3.3 Guidelines on market analysis and the assessment of SMP

• Framework directive art. 15 (2)

• OJ 2002 C 165/6 11.7.02.

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• Approach for NRAs market analysis
• Ensure consistency in application
• Especially for SMP designation

9.3.4 Recommendation on notifications, time-limits and consultation
• The Commission then has the opportunity to comment on the draft measures, and to require their withdrawal where they are not compatible with EU law.
• The procedural rules are set out in the Commission's Recommendation on notifications, time-limits and consultations.

9.3.5 Recommendations to promote harmonisation (i.e. Numbering)
• Technical implementation measures in accordance with consultation procedures to achieve harmonisation of numbering for pan-European services (FD art. 19)
• Member States must inform the Commission if such recommendations are not followed

9.3.6 Other recommendations and guidelines

10. INSTITUTIONAL ARRANGEMENTS

10.1 EU-level

10.1.1 The Communications Committee (CoCom)
• advisory and regulatory committee
• established to assist the Commission in carrying out its executive powers under the regulatory framework governing telecoms in the EU.
• The Communications Committee replaced the ONP Committee and the Licensing Committee
• Made up of senior officials from the Member State authorities responsible for telecoms, the Cocom assists the Commission in carrying out its executive powers under the regulatory framework and also with regard to the .eu top level Internet domain. It exercises its functions through ‘advisory’ and ‘regulatory’ procedures in accordance with the Council’s Comitology Decision.
• In addition, the Cocom provides a platform through which to exchange information on market developments and regulatory activities.
• In principle, members of the Committee meet five times a year in Brussels. Observers from candidate and EEA countries also participate in the meetings. In addition, experts from European telecommunications associations may be invited to the Committee meetings, while the Commission organises debriefing sessions for the interested parties to inform them about the results of Cocom meetings.
• Some of the issues dealt with by Cocom recently include the Roaming Regulation, mobile television, the 116 numbering range,

selection and authorisation of systems providing mobile satellite services, mobile communications on board aircraft, measures in the framework of market reviews and the implementation of the single European emergency number, 112.

10.1.2 European Regulators Group

- Heads of the independent national regulatory authorities;
- contribute to a consistent application of the new regulatory framework.
- The European Regulators Group (ERG) for electronic communications networks and services was created to provide a suitable mechanism to encourage co-operation and coordination between national regulatory authorities and the Commission.
- By bringing together national regulators and the Commission, the ERG aims to promote the development of the EU’s internal market for electronic communications networks and services, and to achieve consistent application in all Member States of the provisions set out under the regulatory framework. It focuses particularly on areas where the Directives give national regulatory authorities considerable discretionary powers in application of the relevant rules, once transposed into national law.
- The ERG is an independent body for reflection, debate and advice in the electronic communications regulatory field. Composed of the heads of the relevant national authorities, it acts as an interface between them and the Commission in order to advise and assist the Commission in consolidating the internal market for electronic communications networks and services.
- New Telecom Market Authority
  - The new Telecom Market Authority, proposed in the current reform, will work closely with national regulators and with the Commission to ensure that the regulatory environment is conducive to the delivery of high quality telecom services and can produce a coherent response to the new challenges of a larger Europe.
  - This will contribute to the coordination and harmonisation of telecoms regulation and ensure that it is consistently applied across all EU Member States. This will strengthen national regulators and allow the Commission to benefit from an extensive pool of expertise, while reinforcing their mutual cooperation.

10.1.3 Radio Spectrum Committee

- The Radio Spectrum Committee (RSC) has been established under the Radio Spectrum Decision 676/2002/EC
- Member States representatives chaired by Commission representative
- The RSC assists the Commission in the development and adoption of technical implementing measures aimed at ensuring harmonised conditions for the availability and efficient use of radio spectrum, as well as the availability of information related to the use of radio spectrum.

7 http://erg.eu.int/
10.1.4 Radio Spectrum Policy Group  
- High level governmental expert from Member States and high level Commission representative  
- platform for Member States, the Commission and stakeholders to coordinate the use of radio spectrum.

10.2 Institutions: National level  
- National Regulatory Authorities  
- National Competition Authorities  
- Appeal bodies (courts or public administrative bodies (i.e. Ministry)  
- Ordinary Courts

10.2.1 Cooperation is essential  
- NRAs are responsible for the market analysis  
- National Regulatory Authority (NRA) must co-operate with Competition Authorities (NCA)  
- NRA must consult NCAs in market analysis where appropriate (FD art. 16 (1))  
- NRA and NCA are required to provide necessary information (FD art. 3 (5))

10.2.2 NRAs powers  
- NRA consultation (other NRAs and Commission) on the markets they intend to regulate – one month (FD art. 7 (7))  
- Distinguish between national and trans-national markets  
- Justify the reasons for requesting information  
- Ensure public access to all information (unless confidential)  
- Commission notification: draft measures affecting third parties to allow it to check conformity with Community law, (Regulatory Transparency Directive (98/34/EC))

10.2.3 NRAs have the primary responsibility for regulation  
- Degree of discretion for NRA are increased and NRA will choose remedies from toolbox after market analysis are completed.

10.2.4 No automatic obligations for SMP operators  
- must be assessed individually  
- remedies remain the same but has to be “proportionate” and “suitable”

10.2.5 Consultation and cooperation are maintained and expanded  
- art. 6 and 7 (FD)  
- consultation with competition authorities

11. KEY ISSUES – SUMMARY

11.1 Scope is rather broad  
- All electronic communications networks and services  
  o Regulation of broadcasting content is outside the scope  
- Consistency and technology neutral.  
- Principal of asymmetric regulation is confirmed  
- Current dialogue between regulators is confirmed
• No new powers to the EU regarding assignment of frequencies
• (covers more than traditional telephony)
• Does not apply to
  o Broadcasting content
  o Financial services
  o RTTE directive (1999/5/EC) (FD art. 1)
  o “Certain information society services” – see e-commerce directive (See Framework Directive preamble recital 9-10)

11.2 Institutional arrangements
• NRAs powers are restricted
• Commissions role is strengthened

11.3 Management of scarce resources
• NRAs must harmonise use of radio spectrum
• Auctions and administrative pricing
• appropriate means to promote efficient use
• NRAs may limit secondary trading of frequencies:
  o trading supervised by NRA (consent needed to sell licenses)
• NRAs must ensure that competition is not distorted
• trading must not result in change of use (within harmonised area)
• NRAs must be able to set obligations for facility-sharing
• Terms of co-location is a matter of commercial negotiation
• NRAs have powers to resolve disputes

12. SIGNIFICANT MARKET POWER
• definition of significant market power (SMP) will align SMP and dominant position (competition law) threshold for ex ante regulation has been raised (from 25% to 40%)

12.1.1 Concept of Significant Market Power (SMP)
• SMP is based on the concept of dominant position consistent with competition law
• Prior to 2003 definition of SMP was more static and was considered if an entity had more than 25% market share of pre-defined relevant markets

12.2 3-step SMP procedure
• Defining the relevant markets
• Market analysis and SMP
  o 2 A: Analyse the markets
  o 2 B: Determining who has SMP
• Determining proportionate obligations for the SMP undertaking
• to ensure that undertakings cannot use their market power (i) to restrict, (ii) to distort competition, or (iii) to leverage such market power to adjacent markets (see Guidelines recital 16)

12.3 Market entry
• market access based on general authorisations,
specific rights of use for the assignment of spectrum and numbers, where required.

13. ARTICLE 7 PROCEDURE (EU-LEVEL) (1)

- European Commission oversees the national regulatory measures
  - consultation and transparency procedures (Article 7 of the Framework Directive)
- NRA must conduct a "national" and a "Community" consultation
  - on the regulatory measures they intend to take
  - market definition and market analysis of relevant markets and
  - the proposed imposition or removal of regulation
  - prior to adoption.
- Commission may comment on the draft measures
  - in certain cases, Commission can veto decisions and requiring their withdrawal.
- Procedural rules in the Commission's Recommendation on notifications, time-limits and consultations.

14. ARTICLE 7 PROCEDURE (EU-LEVEL) (2)

- The starting point for the NRA's market analysis is
  - the Commission's Recommendation on relevant markets and
  - the Guidelines on market analysis and assessment of significant market power (SMP).
- NRAs define markets appropriate to national circumstances,
  - particularly relevant geographic markets within their territory, in accordance with the principles of competition law.
- If NRA concludes that a given market is not effectively competitive
  - identification of undertakings with SMP (equivalent to dominance)
  - NRA must impose appropriate regulatory obligations on such undertakings in accordance with the provisions of the Universal Service and Access Directives.

15. IMPLEMENTATION OVERVIEW

- Commission publishes details of implementation:
  - all the notifications received from member states
  - the Commission decisions taken for these notifications, and
  - the final adopted measures taken by the National Regulatory Authorities.
  - important decisions and measures taken by the Commission under the Article 7 procedures
  - implementation status published on
- See more information on Information Society website
16. KEY TERMS (QUICK DICTIONARY)

- **2003 package**: EU legislation adopted in 2002
- **2G**: generic term for second generation of mobile telephone networks (i.e. GSM)
- **3G**: generic term for third generation of mobile telephone networks (i.e. UMTS)
- **98 package**: EU legislation up to 1998
- **99 Review**: EU review of 98 package
- **Access network**: connection from the customer to the network
- **ADSL**: Asynchronous Digital Subscriber line
- **Competition law**: art 81 and 82 of EC Treaty + merger regulation
- **Core network**: (backbone network) connections between network elements
- **DSL**: Digital Subscriber Line – digital connection over telephone connection to the home
- **'electronic communications network'**: means transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals between defined termination points by wire, by radio, by optical or by other electromagnetic means; it covers inter alia satellite networks, fixed and mobile terrestrial networks, networks used for radio and television broadcasting, and cable TV networks, irrespective of the type of information conveyed.
- **'electronic communications service'**: means services provided for remuneration which consist wholly or mainly in the transmission and routing of signals on electronic communications networks; it covers inter alia telecommunications services and transmission services in networks used for broadcasting. It does not cover services such as the content of broadcasting transmissions, delivered using electronic communications networks and services.
- **Guidelines**: EU Commission guidelines on SMP
- **Interconnection**: linking together of networks and communication between networks (i.e. subscriber A in network X can call subscriber B in network Y)
- **Termination**: (interconnection) completion of a call from subscriber A to subscriber B, whereby Operator Y charges Operator X if Subscriber A is connected to Operator X network and Subscriber B is connected to network Y)
- **Origination**: (interconnection) the setting up of a call from subscriber A to subscriber B
- **Transit**: (interconnection) when a call from subscriber A in network X to subscriber B in network Y passes through network W
- **IP**: internet protocol
- **ISDN**: Integrated Subscriber Digital Network (narrowband digital access to the home over standard telephone line)
- **ISP**: Internet Service Provider
- **NCA**: National Competition Authority
- **NRA**: National Regulatory Authority
- **PBX**: Private branch exchange, telephone exchange on customer’s premises
- **POI**: Point of interconnection between two operators.
- **PoP**: Point of presence, point to which a user connects user equipment to the network
- **Recommendation**: EU Recommendation on relevant markets
- **SMP**: Significant market power
- **VoIP**: Voice over Internet Protocol
- **xDSL**: generic form of Digital Subscriber Line – digital connection over telephone connection to the home
- **Roaming**: when a mobile subscriber of mobile operator X is using a different mobile operators network (i.e. mobile operator Y), the SIM card is recognised by the visiting network and the visiting network operator charges the home operator a roaming charge (which is billable to the consumer).