

End-user protection in electronic communications and digital world

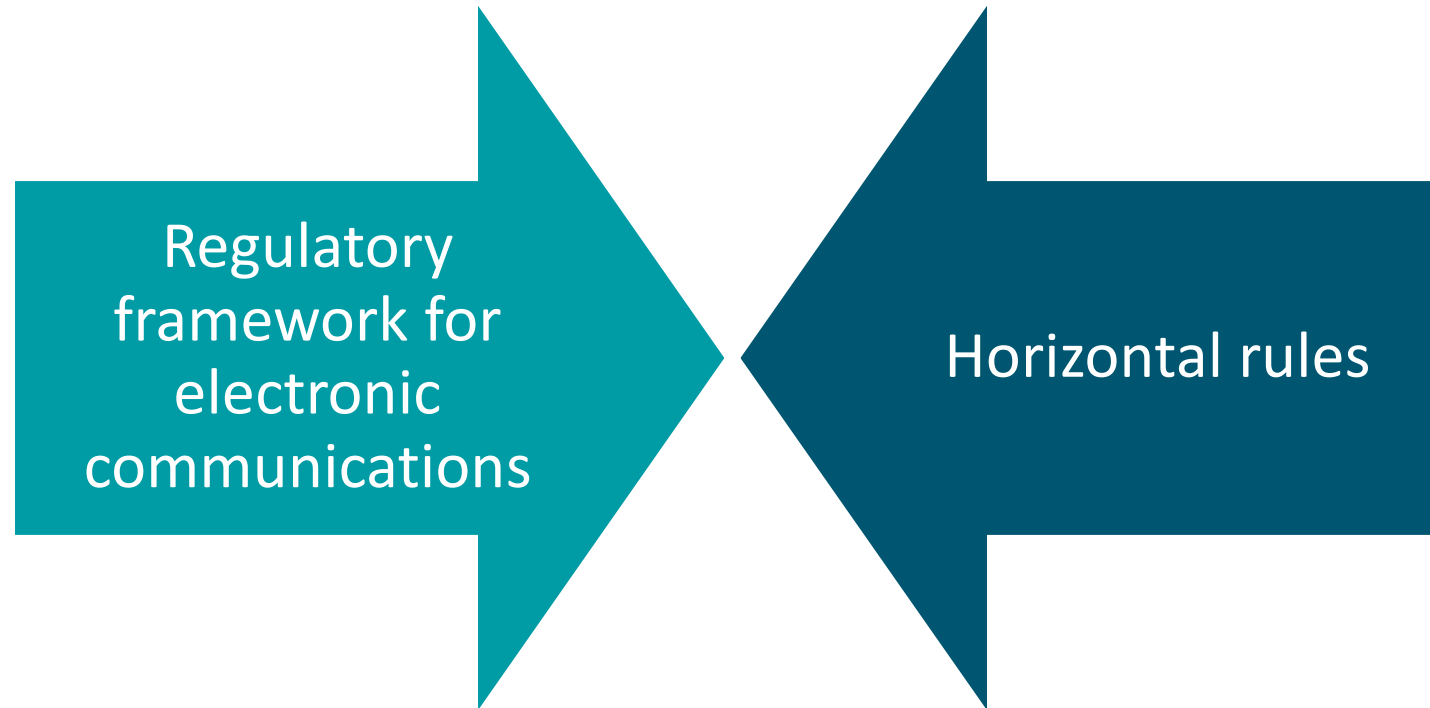
10 November 2022

Veronica Bocarova

Electronic
communications:
from competition
to end-user
empowerment

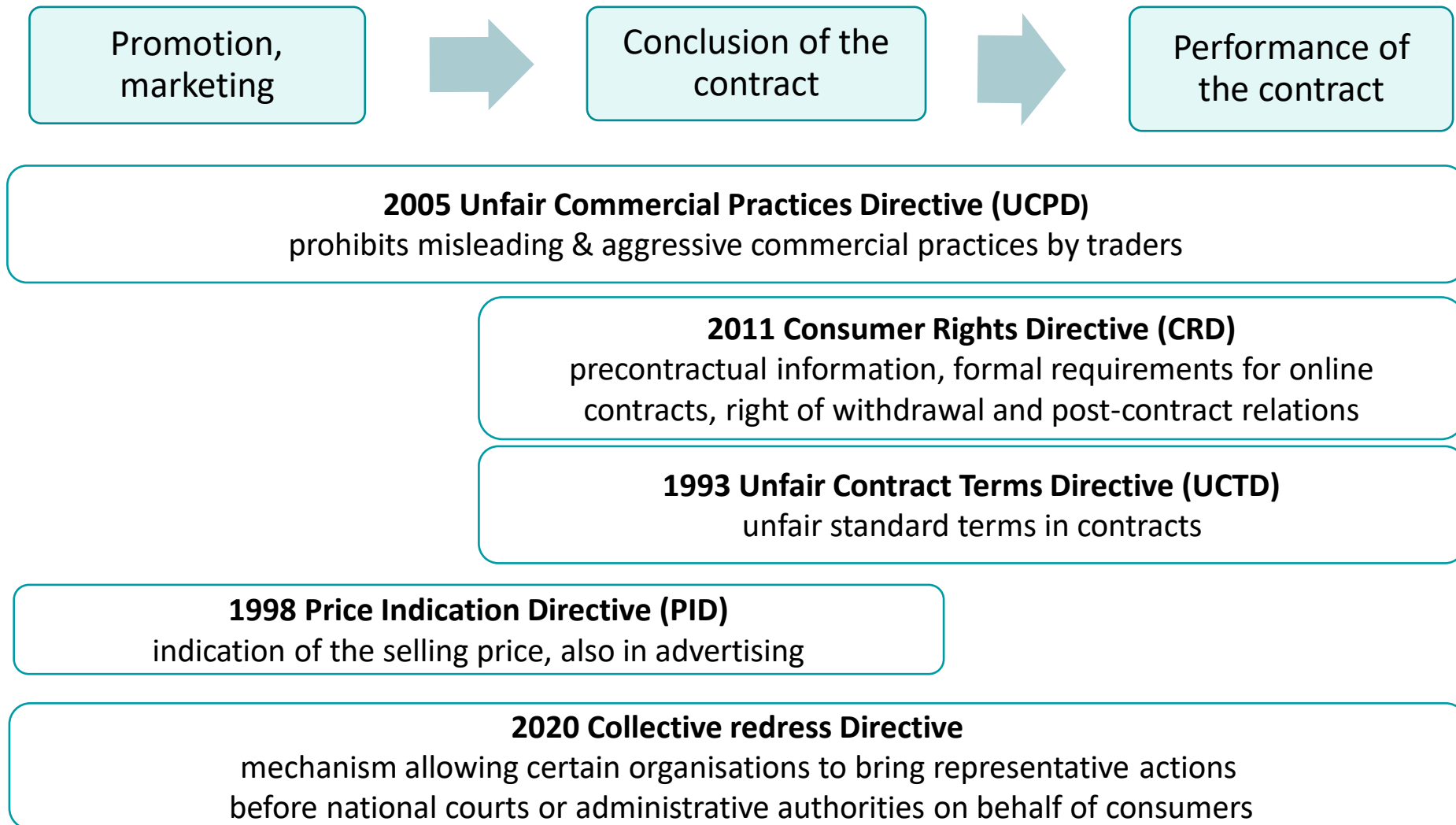


Horizontal vs sector-specific regulation



In case of conflict or overlap the sector-specific rules prevail

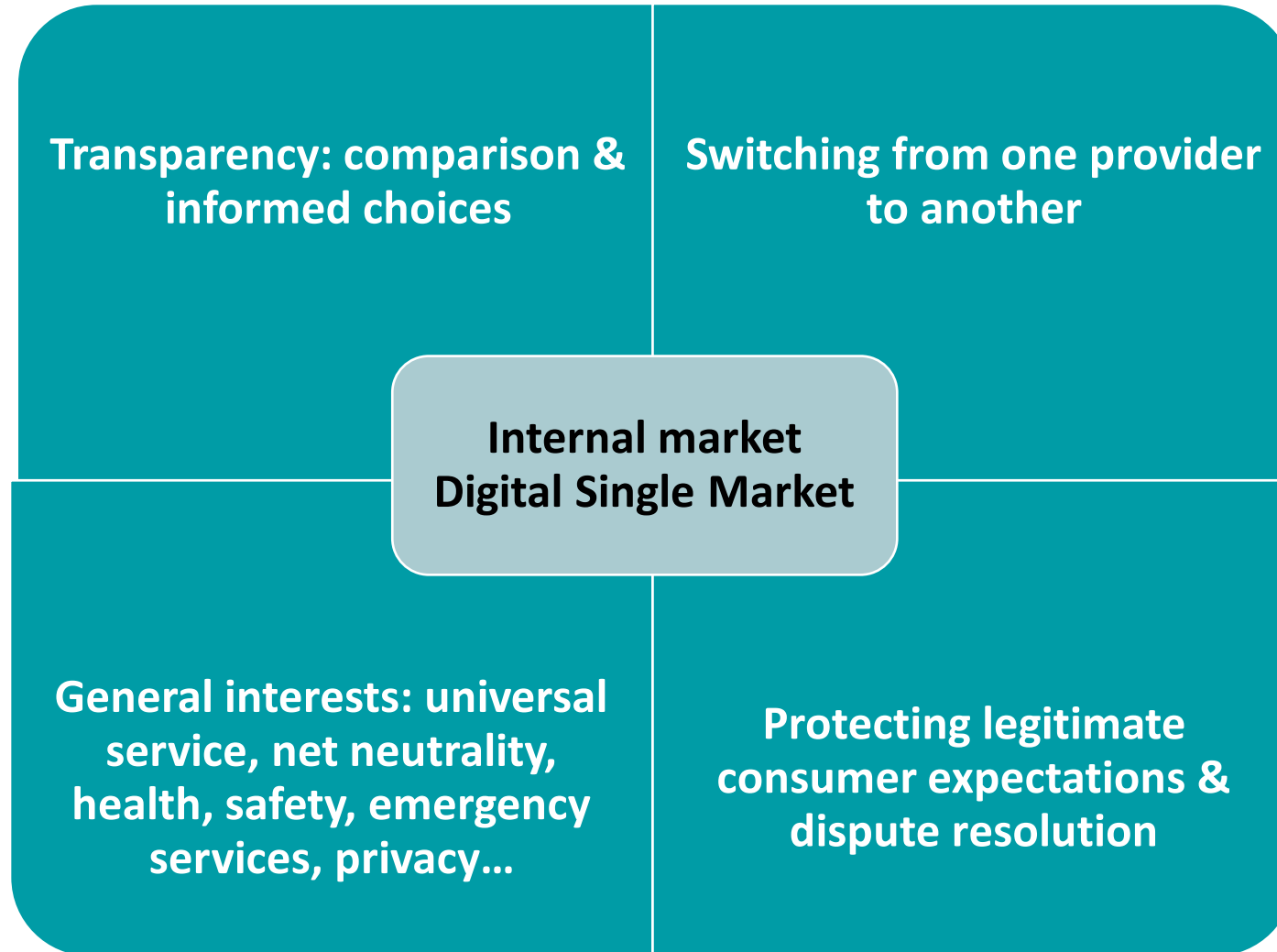
Horizontal rules on consumer protection



2019 Omnibus Directive:
enforcement & modernisation

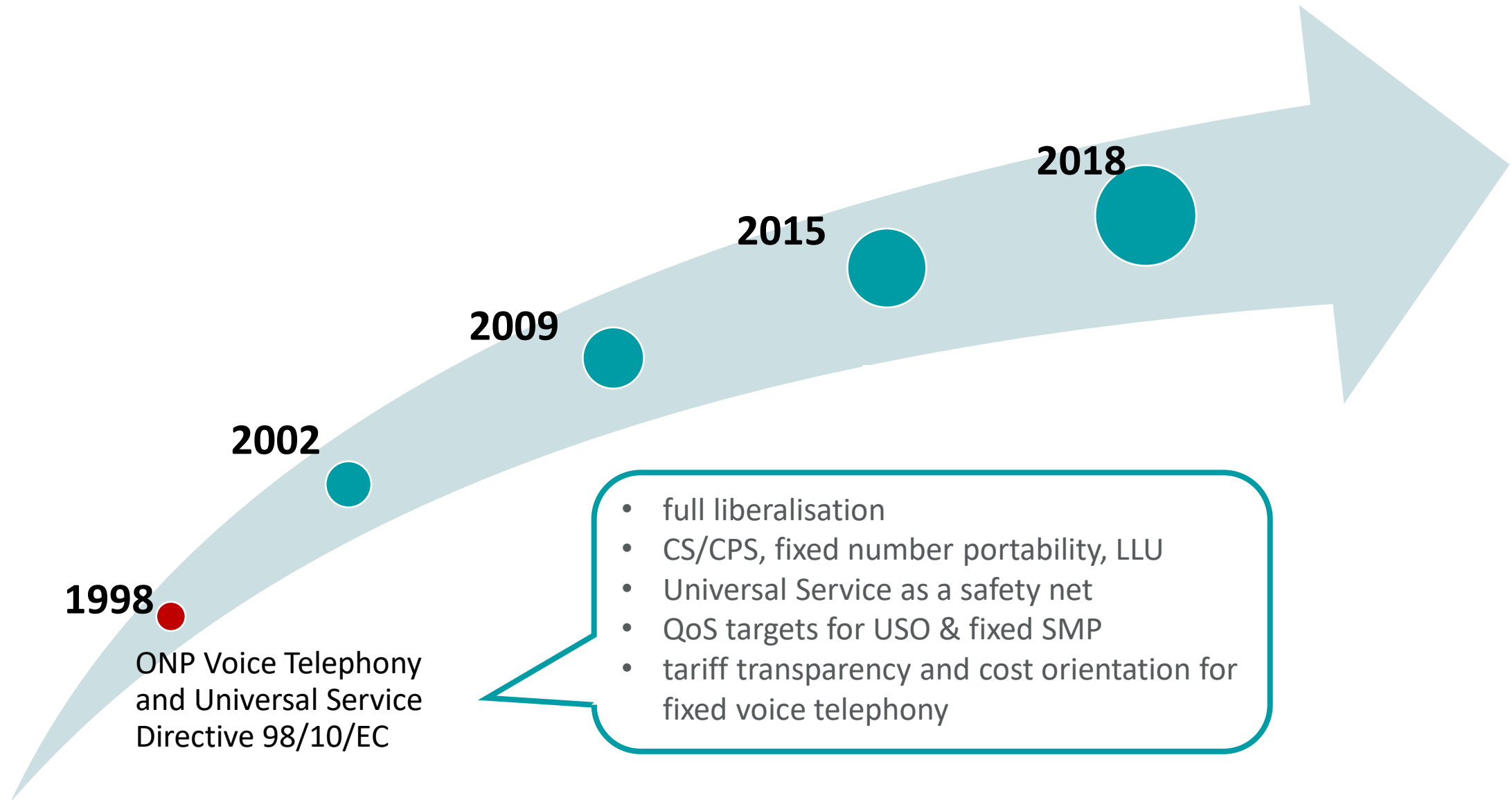


End-user protection in electronic communications



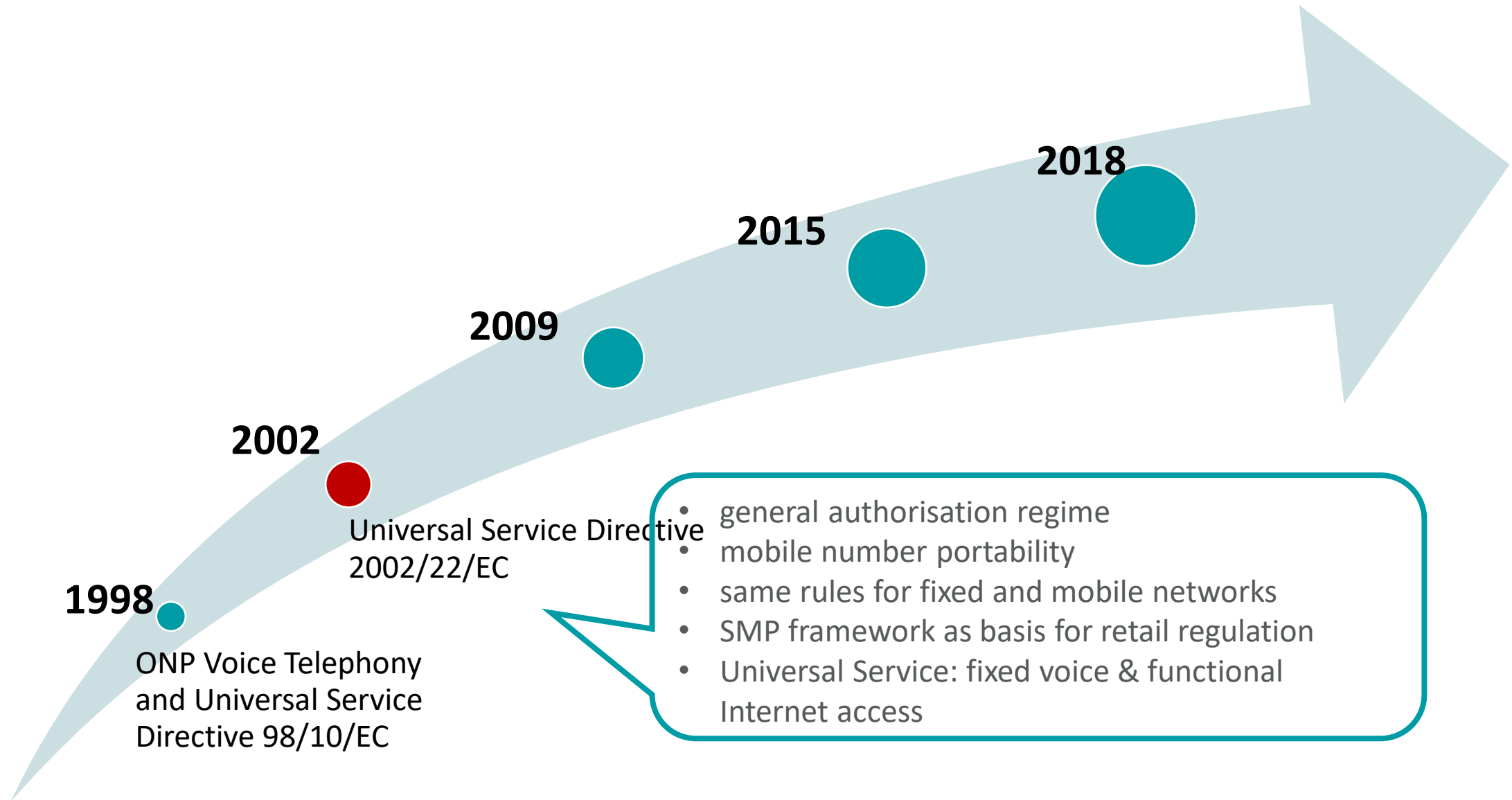


Key milestones: competition



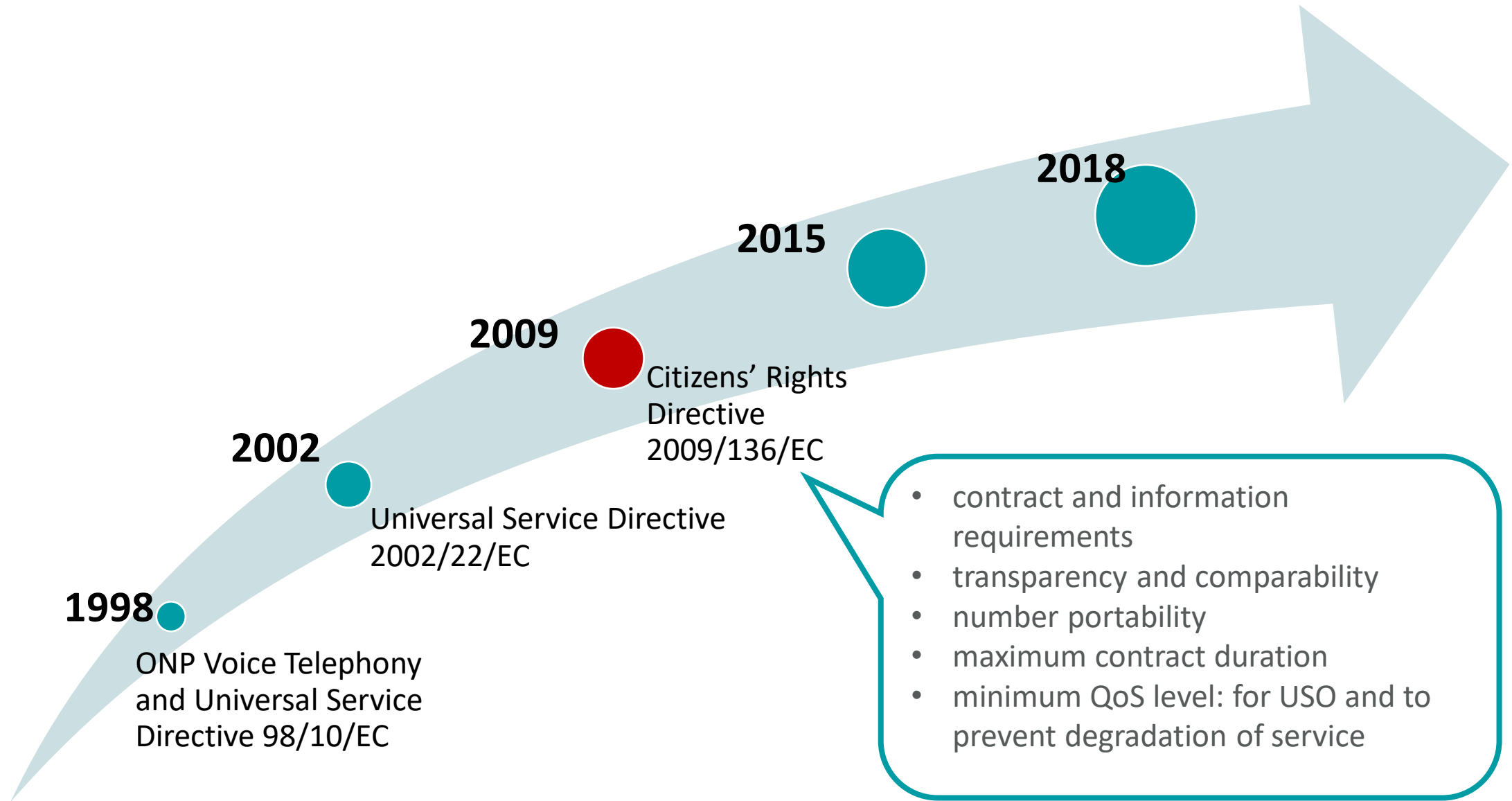


Key milestones: competition



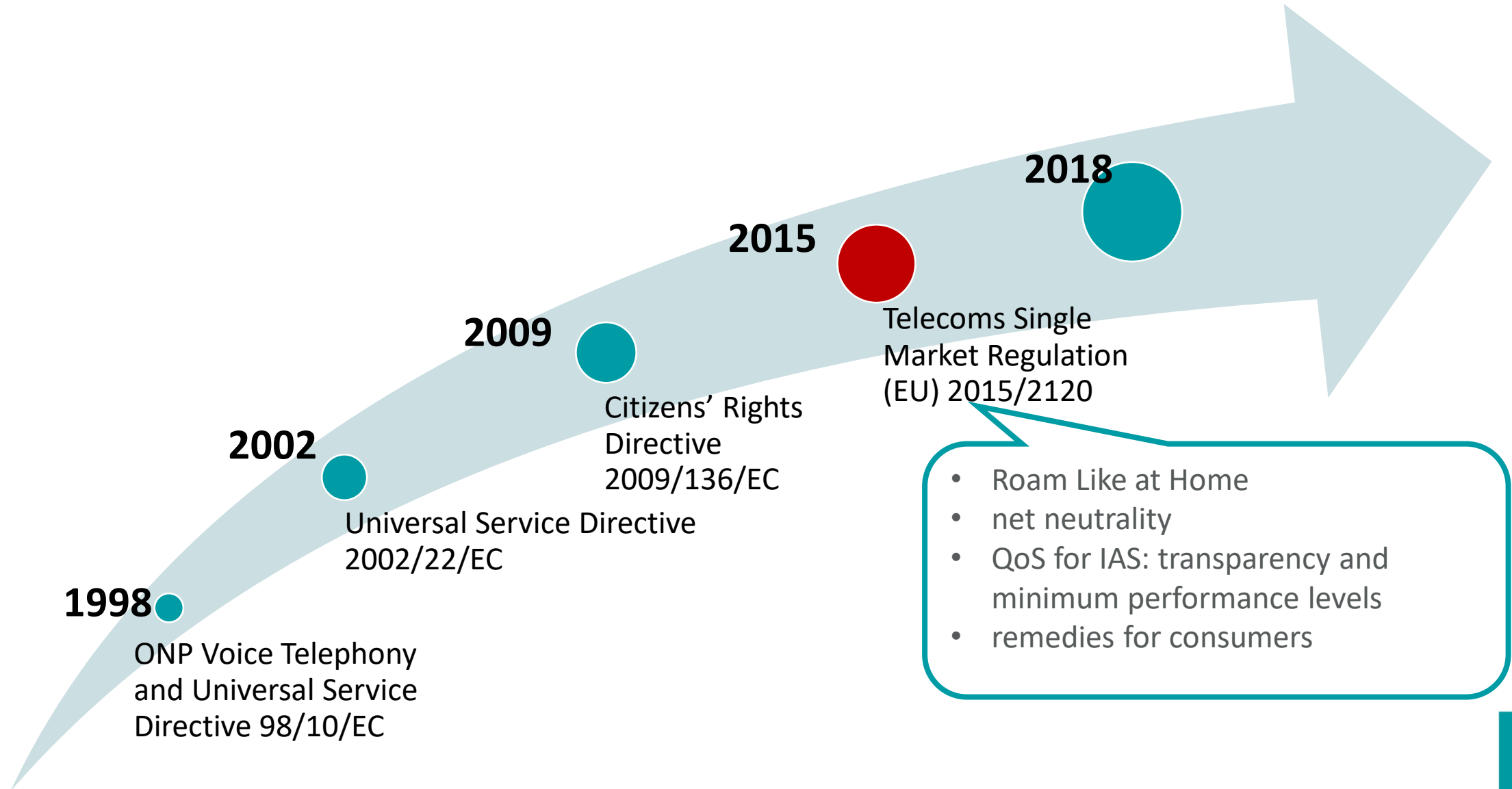


Key milestones: transparency & switching





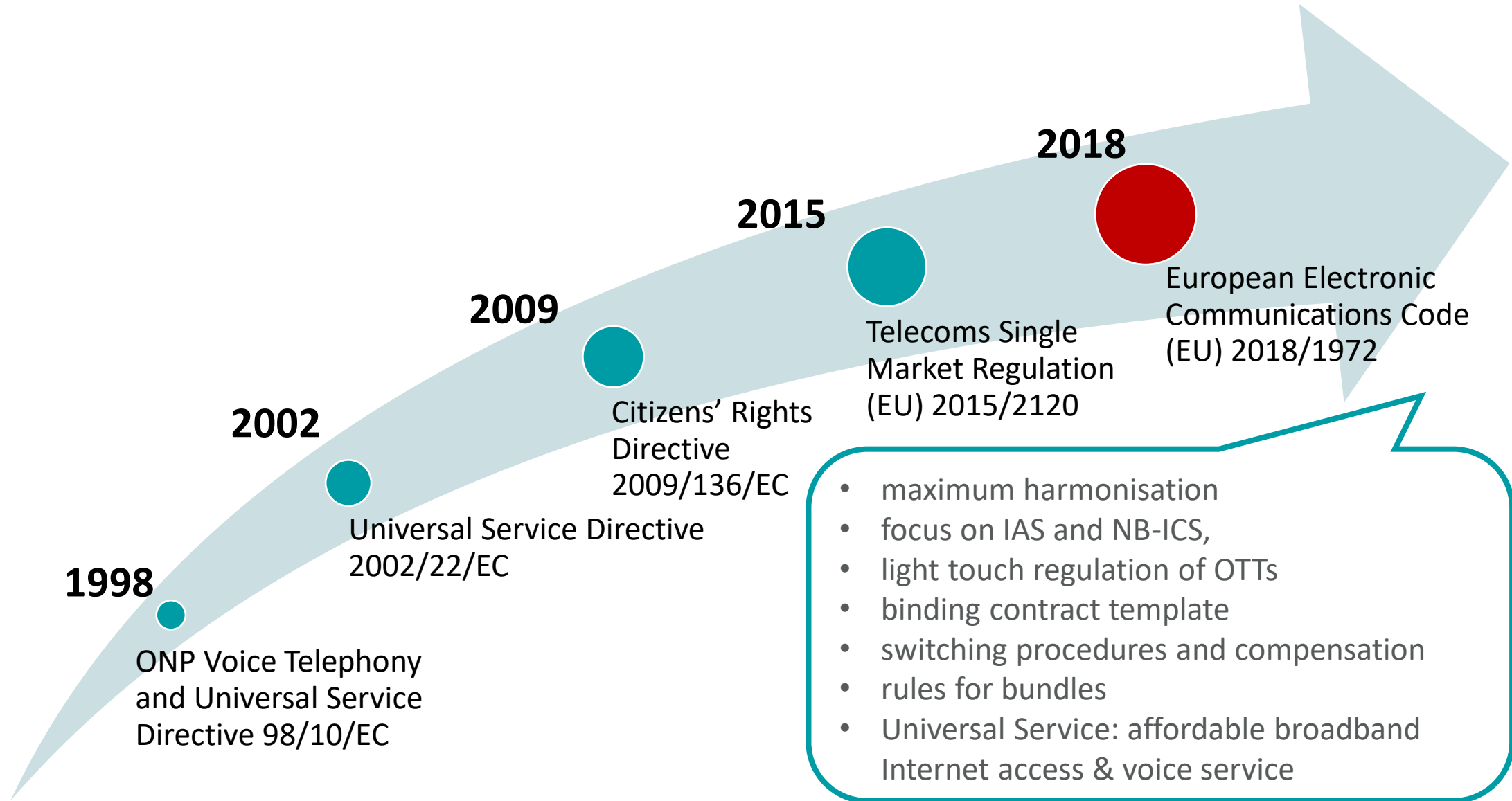
Key milestones: end-user empowerment



- Roam Like at Home
- net neutrality
- QoS for IAS: transparency and minimum performance levels
- remedies for consumers



Key milestones: end-user empowerment





EECC provisions on end-user rights

EECC provisions on end-user rights at a glance

Maximum harmonisation (article 101)

- Member states may not apply more or less stringent provisions
- More strict rules allowed until 21 December 2021

Contract information (article 102)

- A contract summary template from December 2019
- Specific QoS requirements for IAS (same as TSM)
- Usage monitoring facilities

Transparency & comparison of offers (article 103)

- Information to be published by service providers or responsible authorities
- Independent service comparison tool for tariffs and QoS – certified by relevant authorities

QoS (article 104)

- Information about QoS and relevant external factors
- BEREC guidelines on relevant QoS parameters

exemptions for pre-contract information, expenditure control and newly emerging issues

EECC provisions on end-user rights at a glance

Contract duration & termination (article 105)

- Maximum 24 months commitment period
- Longer duration allowed for instalment contracts
- Termination: change of terms, poor performance, compensation for terminal equipment
- Best tariff advice

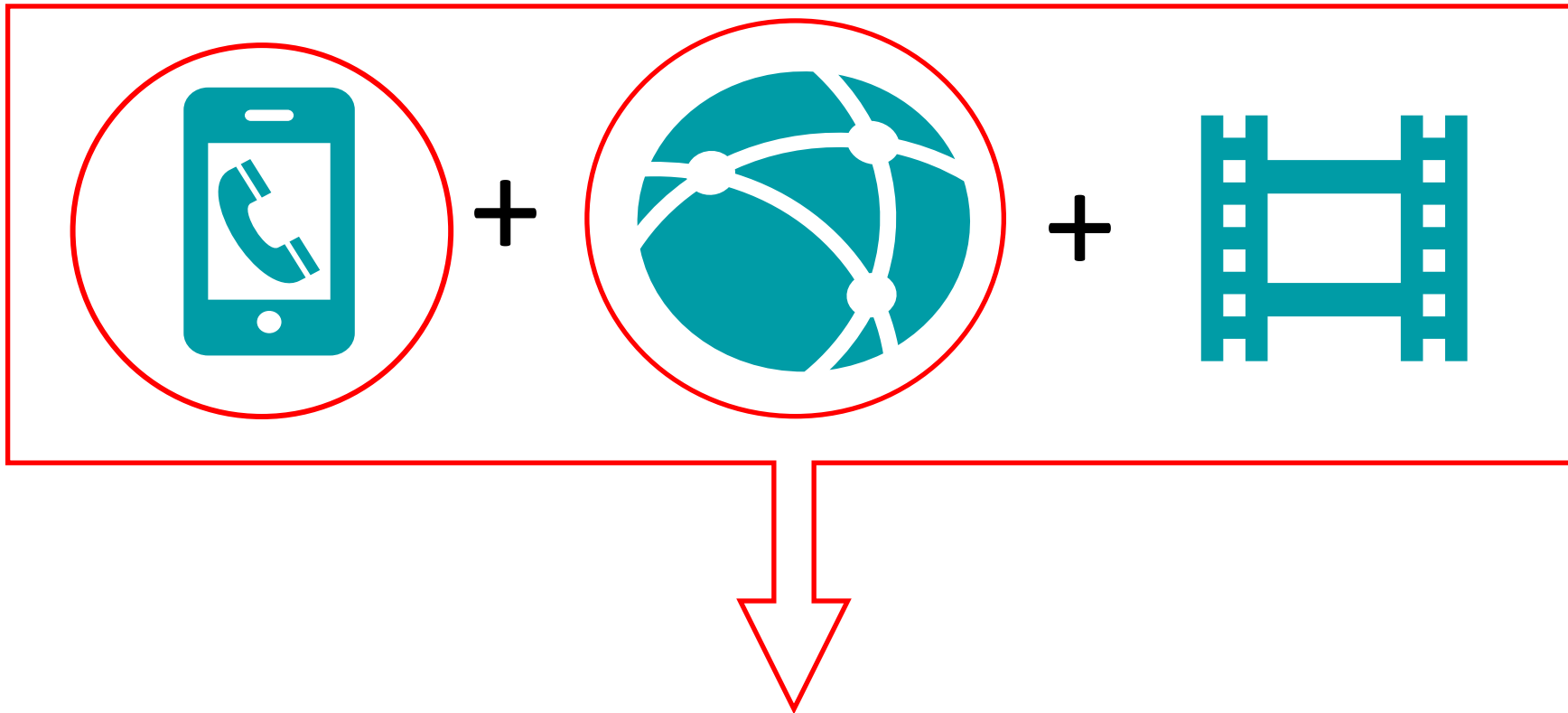
Member states may apply shorter maximum commitment periods

Provider switching (article 106)

- Process led by receiving provider
- No direct charges to end-users
- Number activation within one working day
- Right to keep a number one month after termination
- No more than one working day service loss
- Refund for prepaid credit
- Compensation for delays, loss of service, abuse of switching process

Number portability and IAS

End-user rights apply to a whole bundle – article 107



Bundles comprising at least an IAS or NB-ICS

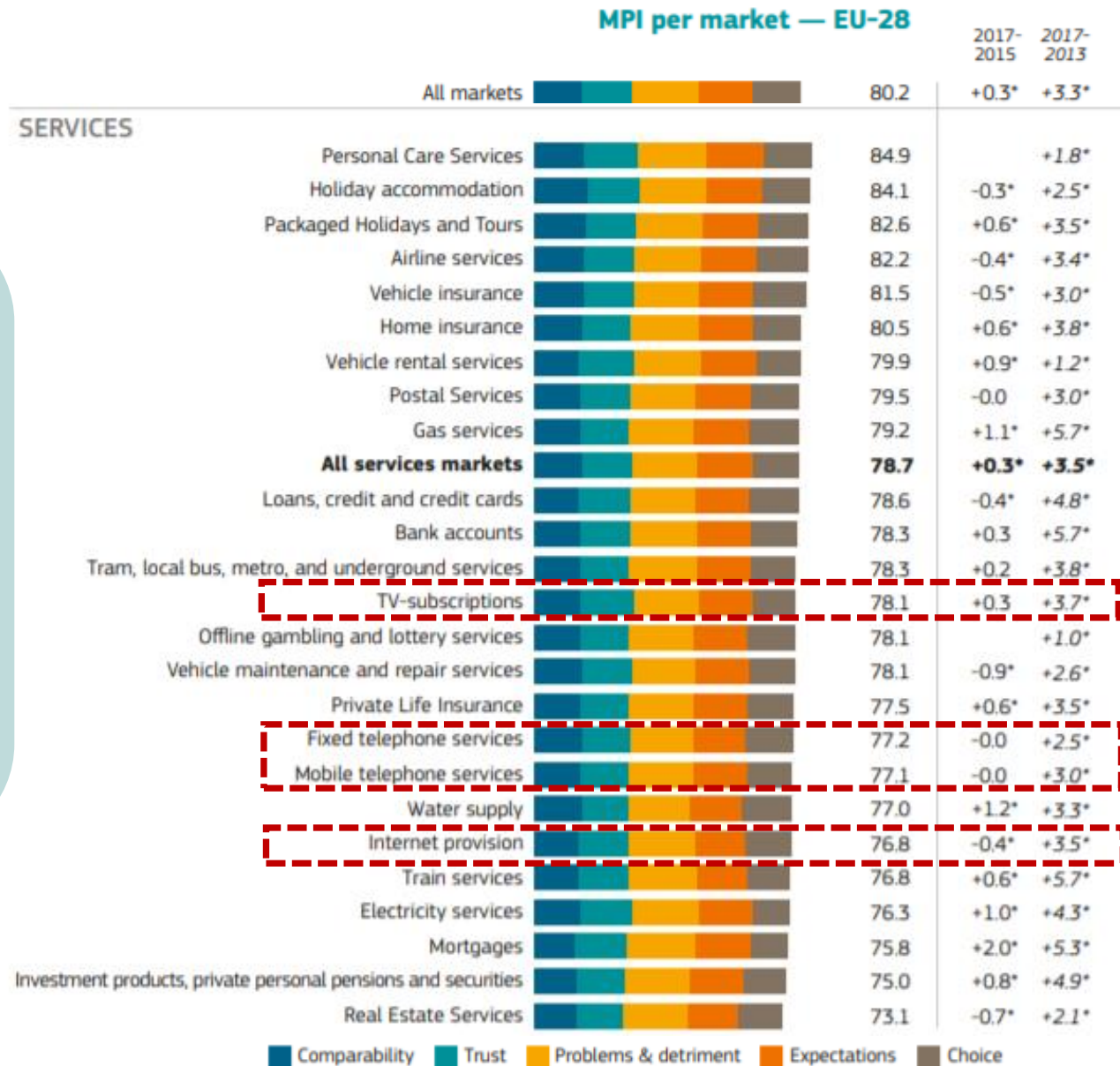
- Contract summary, contract information, contract duration and termination, switching

Why sector-specific end-user protection in electronic communications?



Consumer market scoreboards 2018

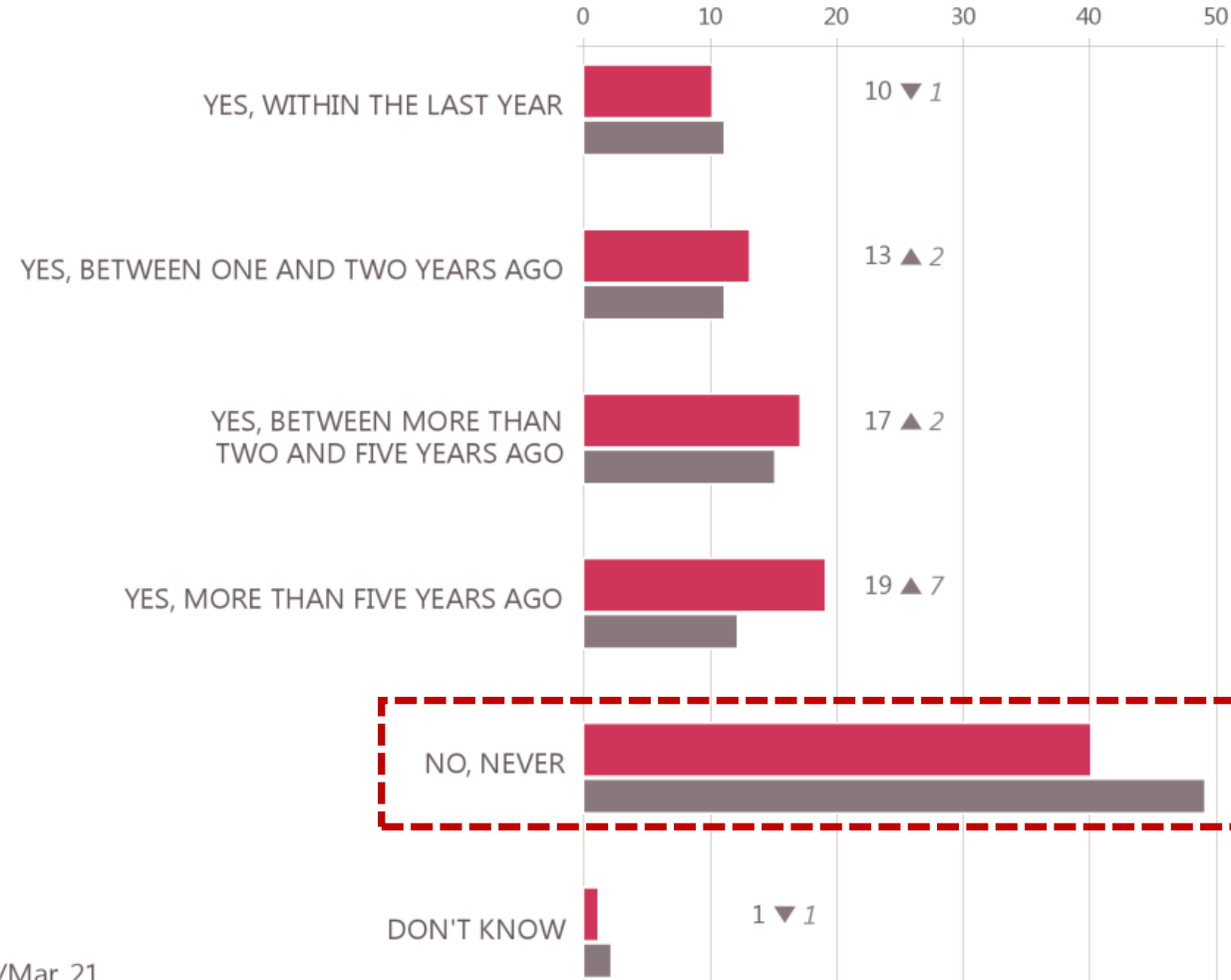
“...Out of all market clusters, ‘telecoms’ continues to have the highest proportion of consumers **experiencing problems** (16.9%). It also has the highest proportion of consumers **complaining** about these problems (85.3% of consumers complain when they experience problems). The four services markets that form this cluster are the four **worst-performing** for the ‘problems’ sub-component of the MPI.”



Source: DG Justice and Consumers [Hyperlink](#) (see p. 17)

Are consumers able to make optimal decisions?

QC2 Have you or someone in your household changed bundle service provider?
(% - EU27)



Warning signs:

- complex products
- infrequent purchases
- high switching costs
- high level of complaints
- low or inappropriate switching

Feb./Mar. 21



Apr. 17

Source: EC Special Eurobarometer 510 – June 2021

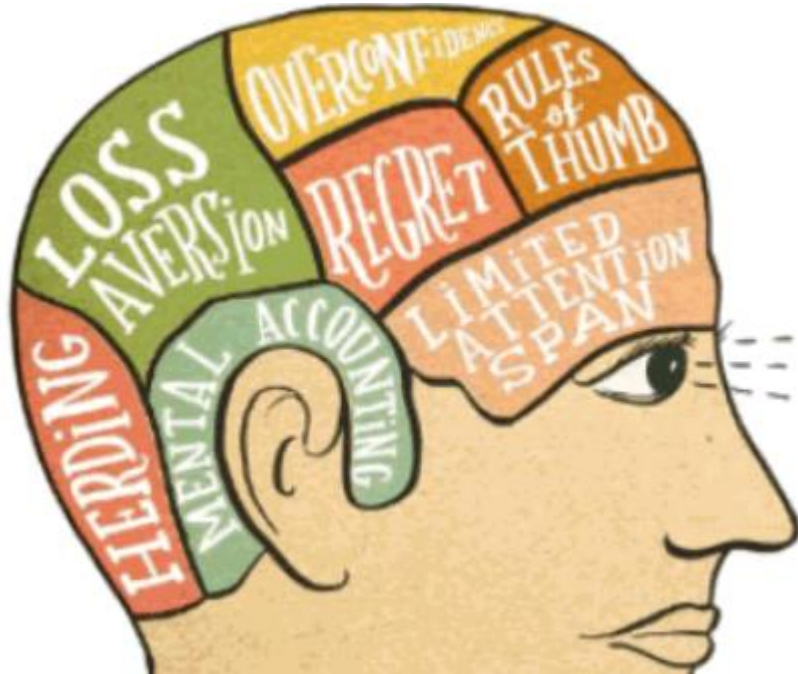
Demand-side failure: information asymmetry

- Lack of information
- Misleading information
- Difficult to find
- Too much information
- Difficult to compare

- Transparency: prices, QoS, coverage
- Standard contract templates, tariff presentation and structure
- Comparison guides and tools



“Bounded rationality” and behavioural biases



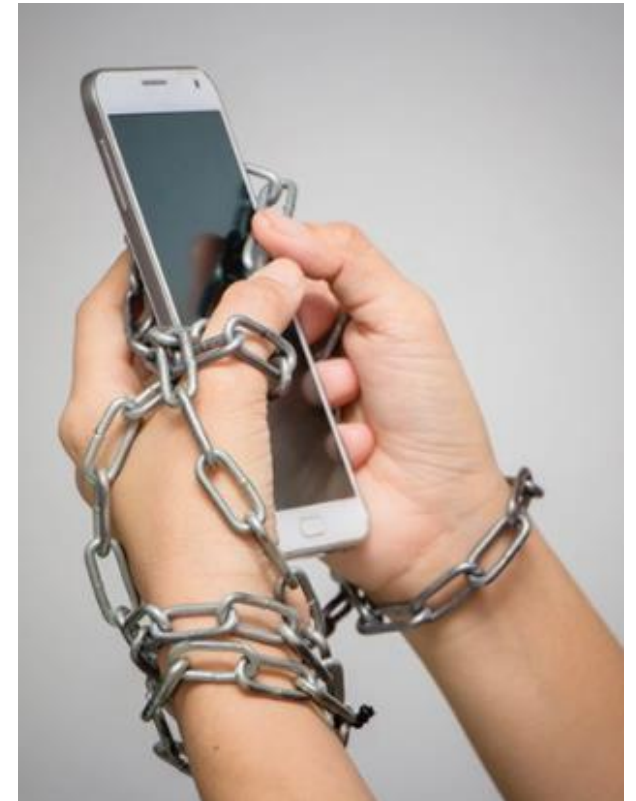
- Choice or information overload (“analysis paralysis”)
- Endowment
- Inertia and defaults (“standard” options)
- Hyperbolic discounting
- Framing biases
- Heuristics (“rules of thumb”)
- Procrastination...

- Provider rankings
- Best tariff advice
- Cooling-off periods, “try & buy”
- Minimum QoS levels
- End-user compensation

Demand-side failure: lock-in and switching costs

- Contract duration and early termination charges
- SIM locks
- NP charges
- Switching procedures and/or loss of service
- Bundling

- Rules on contract duration and termination
- Rules on switching fees and procedures
- Compensation for delays and loss of service
- Refund of prepaid fees
- Right to retain a number and email forwarding



Key messages

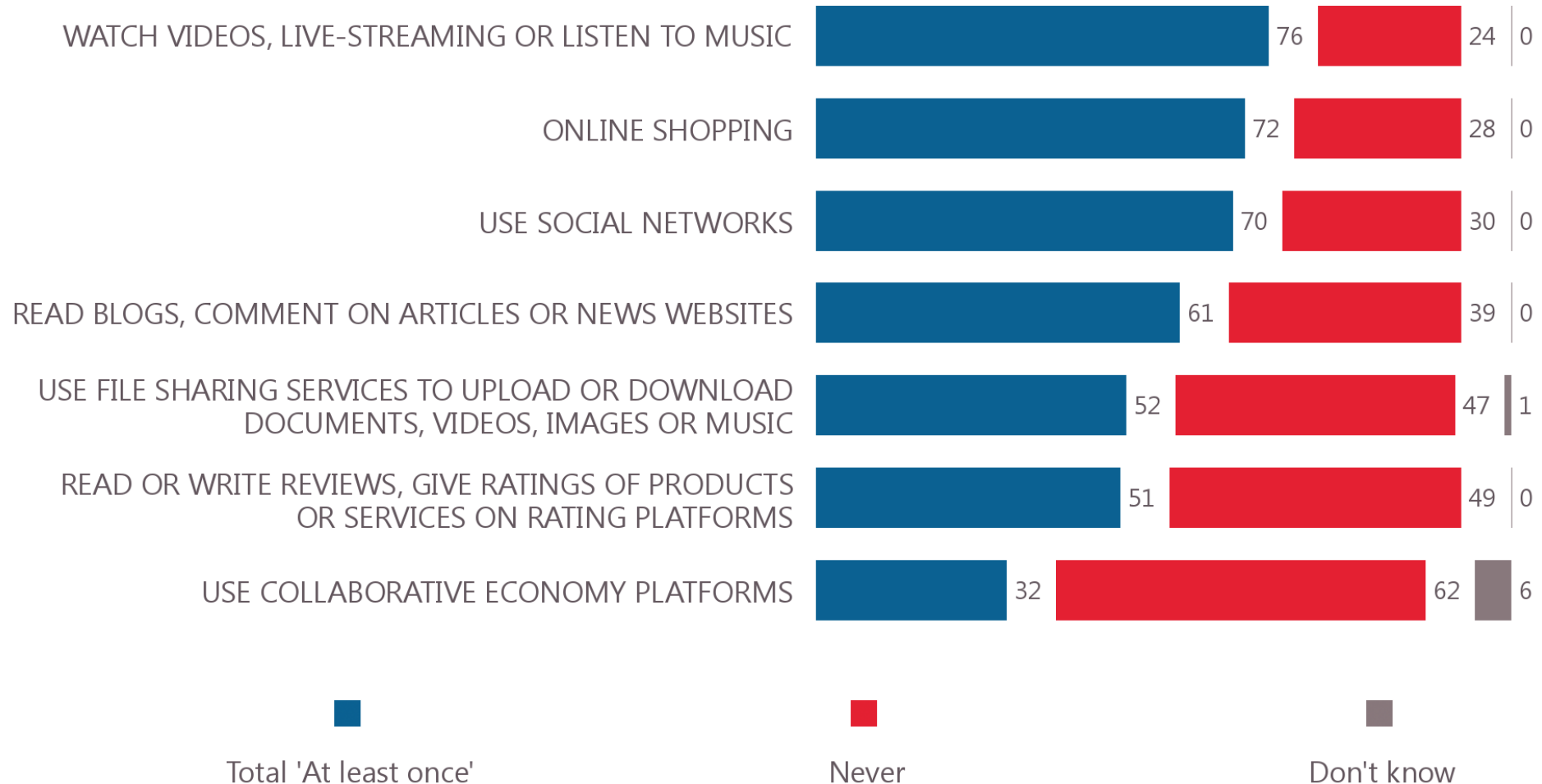
- End-user protection in electronic communications is defined by a set of overlapping horizontal and sector specific rules
- Sector specific rules evolved over the past 20 years from supply-side and competition policies towards more demand-side measures: transparency, switching and ultimately, quality of experience and end-user empowerment
- Demand-side measures aim to remedy market failures resulting from information asymmetry, behavioural biases and barriers to switching that prevent end-users from making optimal choices
- The scope of end-user protection rules has gradually expanded from voice telephony to internet access, and most recently to bundled service offers and light-touch regulation of comparable OTT services

End-user empowerment in digital world



Growing impact of online platforms and...

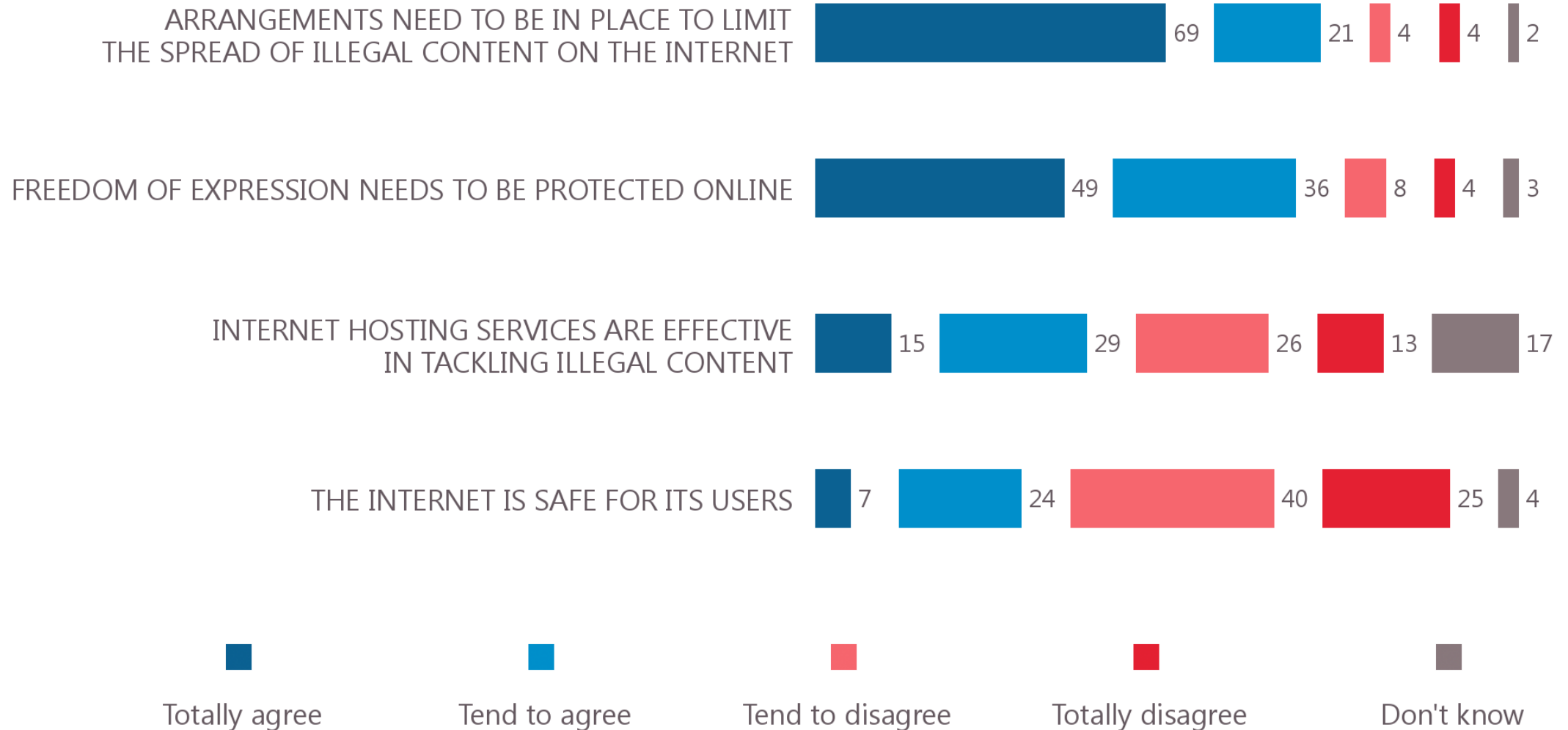
How often do you do the following?
(% - EU)



Source: Flash Eurobarometer 469 – June 2018

...growing safety concerns

Do you agree or disagree with each of the following?
(% - EU)



Source: Flash Eurobarometer 469 – June 2018

Towards EU regulation of online platforms



2000 E-Commerce Directive

internal market framework for online services: information requirements, online advertising rules, liability regime for intermediary services ('mere conduits', 'caching services', and 'hosting services')

2004 Directive on the enforcement of intellectual property rights
addressing IPR infringements online

2010 Audiovisual Media Services Directive, revised in 2018
new advertising rules for video-sharing platforms

2018 European Electronic Communications Code Directive
light touch regulatory regime for communications apps

2019 Copyright Digital Single Market Directive
extending EU copyright law to content-sharing services

2019 Platform to Business Regulation
fairness and transparency for business users of online intermediation services covering B2C platforms and search engines

2022 Digital Services Act
all intermediary services

2022 Digital Markets Act
largest digital platforms



Digital Services Act: layered due diligence obligations

INAPPROPRIATE PRACTICES



Transparency of content moderation



Protect users against misleading practices and inappropriate profiling of their data for advertising and recommendation purposes



Additional obligations on advertising and recommender systems

ILLEGAL CONTENT



Deal with illegal items and safeguards for users against unjustified actions



Strengthened notice and counter-notice procedure



Additional obligations to fight the dissemination of illegal products



Additional measures to deal with societal harms



Digital Services Act: end-user empowerment

Notice & action regime for illegal content

- Hosting providers: electronic reporting mechanism, statement of reasons
- Online platforms: trusted flaggers

User appeals & out-of-court dispute settlement

- Online platforms: effective electronic internal complaints mechanism
- Independent out-of-court dispute settlement bodies

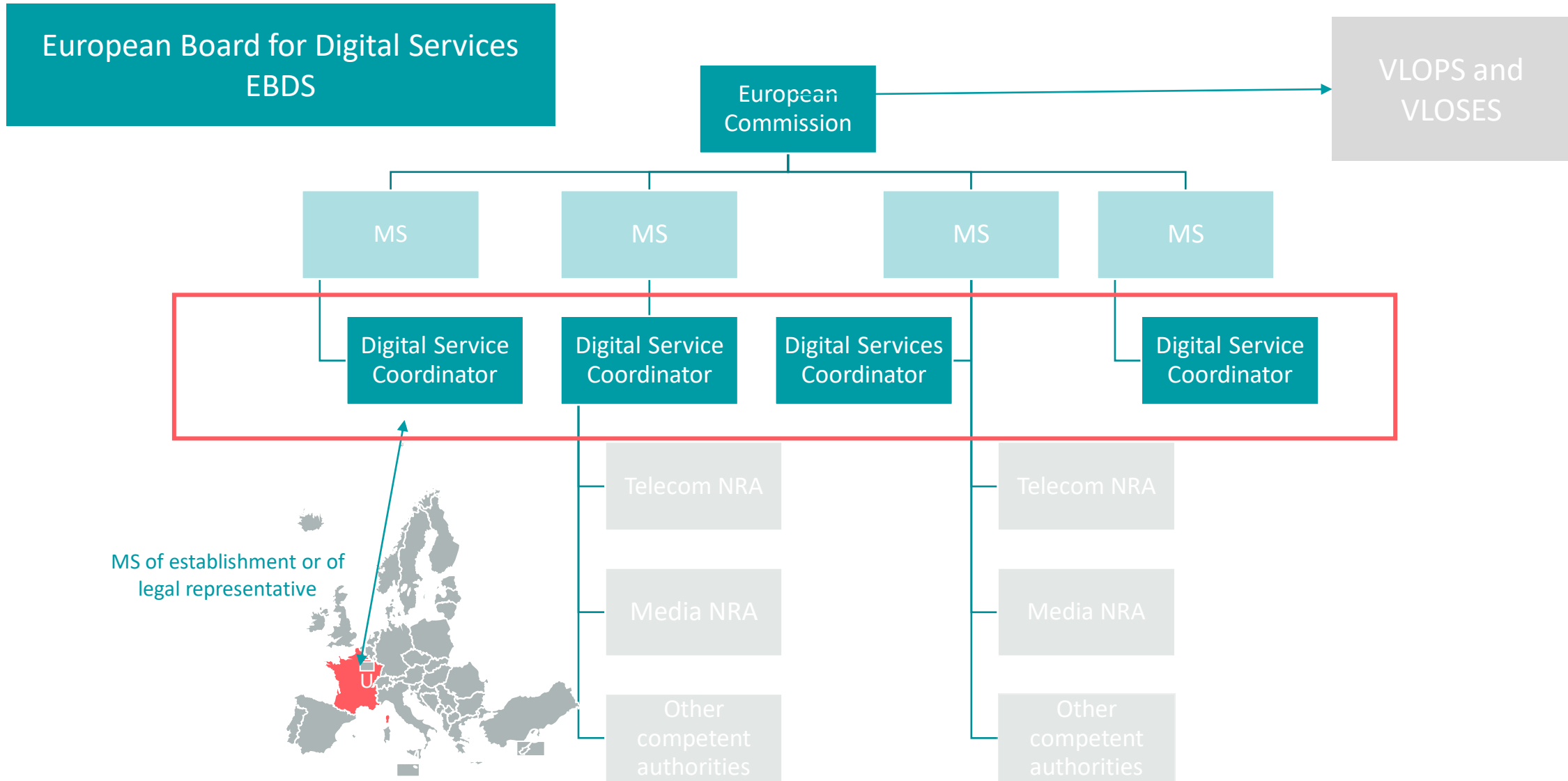
Know Your Business Customer

- Online marketplaces: information gathering and verification requirements
- Random checking and end-user notification for illegal products

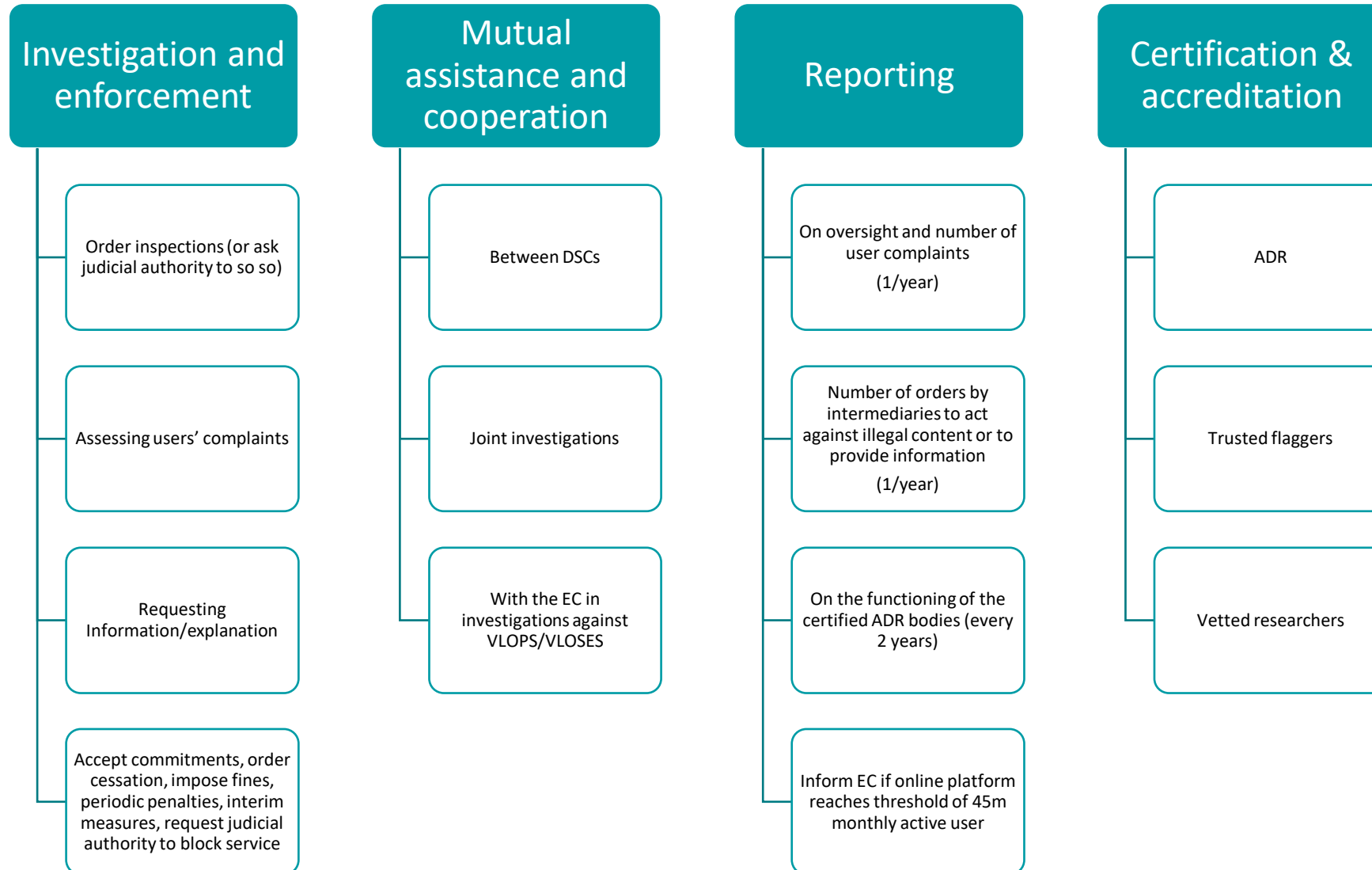
Transparency requirements

- All intermediaries: content moderation
- Online advertising and algorithms used to recommend content
- Restrictions on targeted advertising and “dark patterns”

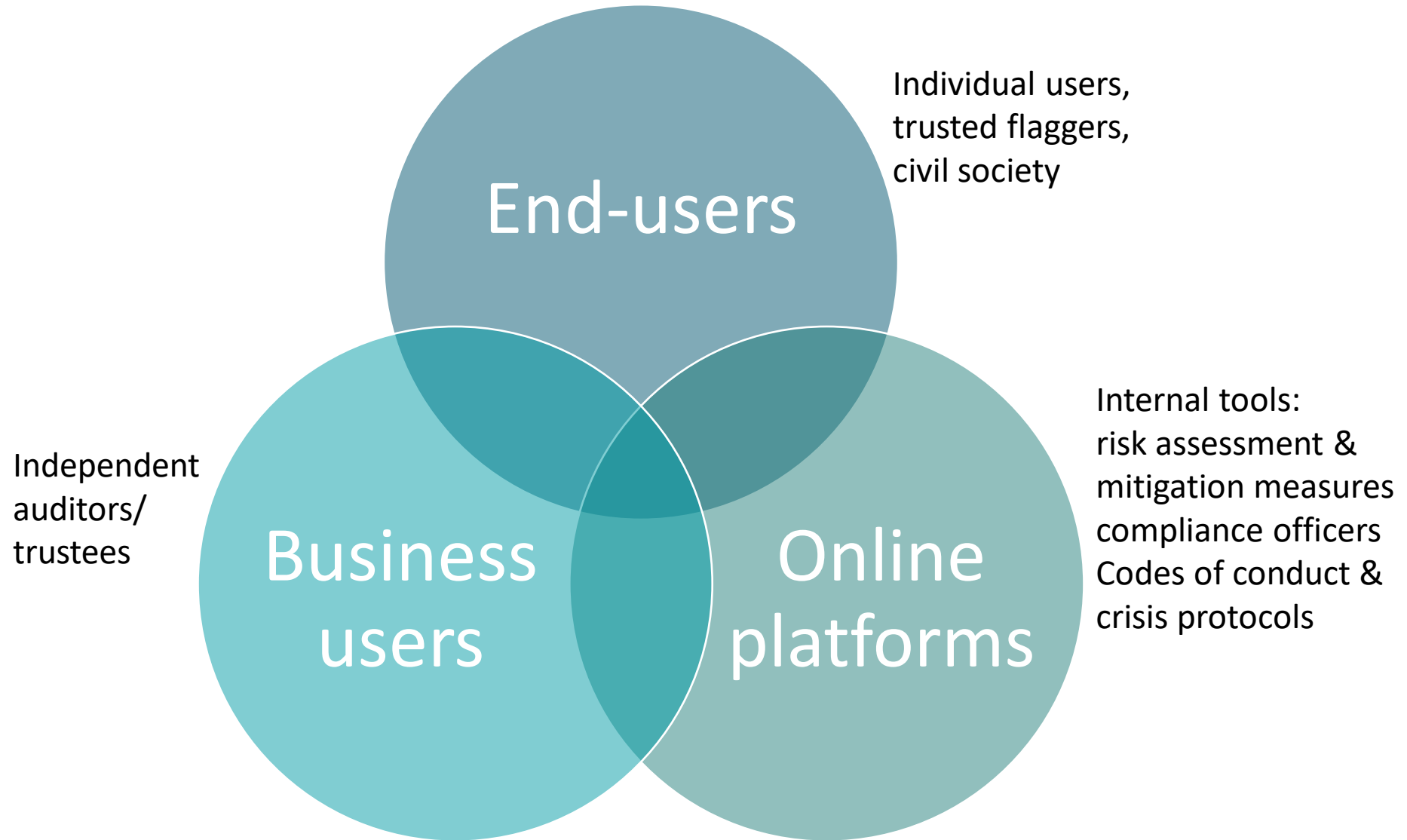
Digital Services Act: an effective enforcement regime?



Detailed tasks of DSCs



Digital Services Act: complex enforcement ecosystem





Thank you!

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End user empowerment: Ranking providers



Broadband customer service¹²



Comparing customer service: mobile, home broadband and landline

	Average broadband	BT	EE	KCOM	NOW	plusnet	sky	TalkTalk For Everyone	Vodafone	vodafone
Satisfaction with service overall	83% ↑	88% ↑	85%	N/A	N/A	79%	84%	78%	78%	77%***
Satisfaction with speed of service	80%	83%	79%	N/A	N/A	78%	82%	73%	79%	81%***
Customers with a reason to complain	20% ↓	18% ↓	17% ↓	N/A	N/A	20%	16% ↓	21%	23% ↓	26%
Overall satisfaction with complaint handling*	50%	55%	49%	N/A	N/A	43%	54%	43%	45%	45%
Ofcom complaints per 100,000 subscribers**	49	42 ↓	20	N/A	N/A	56 ↓	21 ↓	75 ↓	78 ↑	64 ↓
Average call waiting time (mm:ss)**	2:16	1:46 ↓	0:53 ↓	8:53 ↑	0:31	2:07 ↓	2:17 ↓	1:02 ↓	3:45 ↓	1:18 ↓

Source: Ofcom May 2022 [Report](#) from p. 12



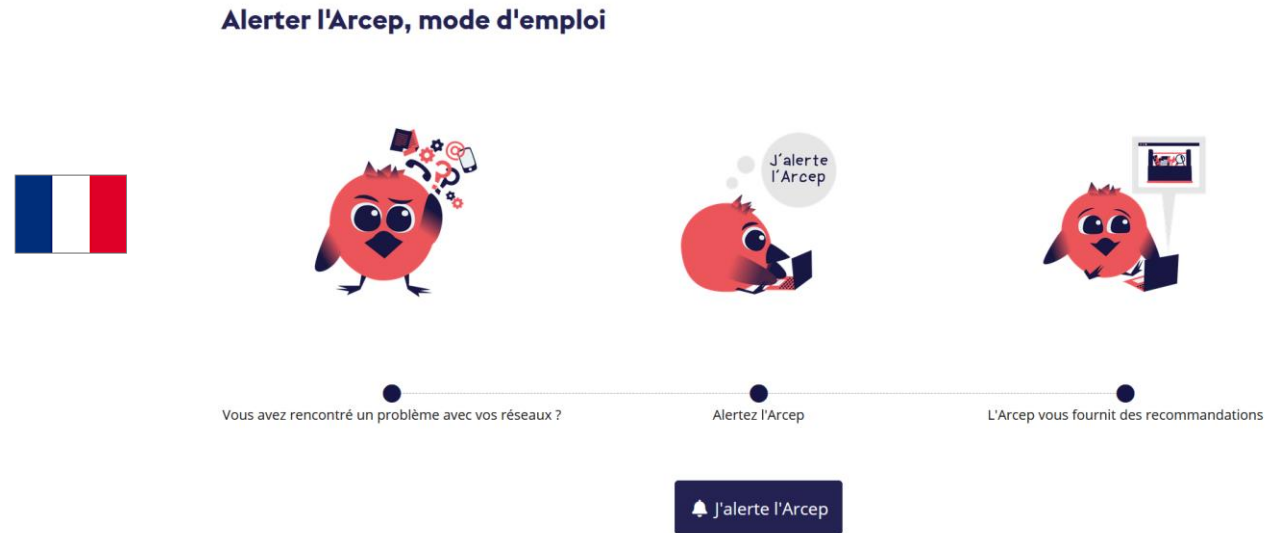
End user empowerment: “Try and buy”



- Try & buy period of minimum 5 days
- Mobile broadband services
- Free trial SIM card
- Right to terminate contract at no additional charges within the trial period
- Requirement to pay traffic charges generated during the trial period

End user empowerment: platforms for complaints

- France:
“J’alerte l’ARCEP”



 HAKOMetar



- Croatia:
complain directly via the HAKOM’s broadband speed test if result is below the contracted speed

QoS transparency and monitoring: latency

Latency



- Latency is delay: how long it takes a packet of data to travel back and forth between its source and destination.
- The lower the latency the better

Latency depends mainly on



- IP peering: interconnection of ISPs to the internet
- CDN (content delivery networks): content and app providers having a server inside the ISPs' networks



X - milliseconds

Y - milliseconds



Latency = X + Y milliseconds

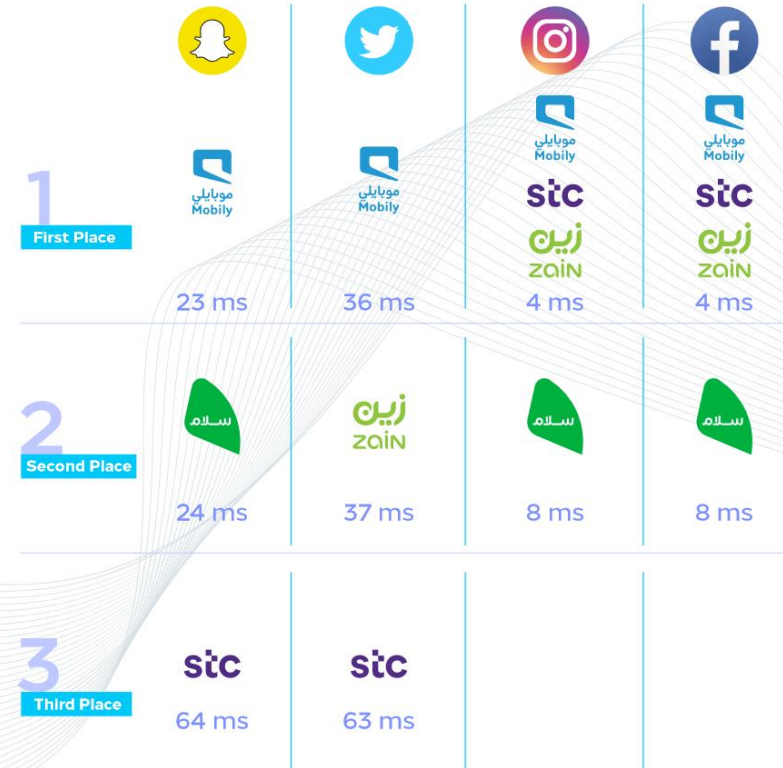
QoE: monitoring latency in Saudi Arabia



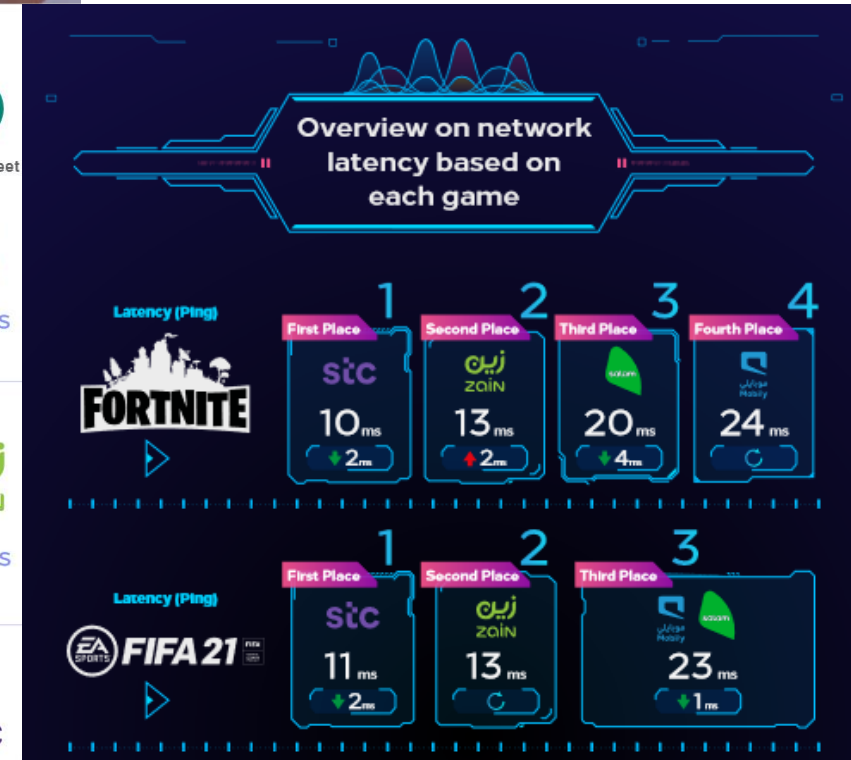
هيئة الاتصالات وتقنية المعلومات
Communications & Information
Technology Commission



Latency for Most Used Social Media Platforms in the Kingdom





Latency for Most Common Video Conferencing Platforms in the Kingdom



End user empowerment: automatic compensation

Automatic compensation of users for QoS failures:

Delayed provision of a new service	Delayed repair following loss of service	Missed technician appointment
		
 £5 (€5.65)	 £8 (€9.04)	 £25 (€28.25)
for each calendar day of delay from the agreed start of service date	for each calendar day of delay after 2 working days	per missed appointment or cancellation with less than 24 hours' notice