TASKS AND STATUS OF NATIONAL REGULATORY AUTHORITIES IN THE EU

Structural and Organisational Models

"20 YEARS OF EUROPEAN REGULATION IN TELECOMMUNICATIONS", BRUSSELS

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OVERVIEW OF PRESENTATION (1)

- **FROM MONOPOLY TO SERVICE & NETWORK COMPETITION IN <u>TWO BASIC PHASES,</u> MANDATED IN <u>ALL</u> EU MEMBER STATES !**

  1. **OPEN NETWORK PROVISION (ONP, UNTIL MID-2003) =>**

     <u>ASYMMETRIC BURDENS</u> IMPOSED ON *ALL* OPERATOR(S) WITH MARKET SHARE > 25%

  2. **NEW REGULATORY FRAMEWORK (NRF) 2003-2008/9(?) =>**

     COMPETITION ANALYSIS OF 18 MARKETS PRESCRIBED BY EU COMMISSION: NRA REMEDIES AGAINST ANY DOMINANCE FOUND SHALL BE <u>PROPORTIONATE</u>.

OVERVIEW OF PRESENTATION (2)

- **ADDITIONAL TASKS FOR *SOME* REGULATORS:**
  - **ALLOCATION OF SCARCE RESOURCES** (NUMBERS; FREQUENCIES)
  - **POST** (UNIVERSAL SERVICE; COMPETITION)
  - **CONTENT ISSUES** (e.g. "TASTE & DECENCY")
  - **OTHER NETWORKS** (ENERGY; RAILWAYS, AIRPORTS, WATER, etc.)
  - **APPLY COMPETITION LAW** (CONCURRENT POWERS FOR NETWORK REGULATION)
  - **SPECIAL ISSUES** (DIGITAL SIGNATURES; FIGHTING SPAM)

  => **EXTRA TASKS INFLUENCE STAFF COUNT AND STRUCTURAL ORGANISATION OF NRA!**

EUROPEAN REGULATORS GROUP (ERG)

- **Set up by Commission in 2002 to "advise and assist.. in consolidating the internal market...."**
  - **=> No decisions in a legal sense are taken in ERG**
  - **=> ERG is platform for practical co-operation** *)

- **ERG members:**
  - **25 independent NRAs from EU Countries**

- **ERG observers:**
  - **independent NRAs from EFTA and Accession Countries**

- **Commission represented at "appropriate level" (DG INFOSOC)**

*) *www.erg.eu.int/activities/workprog/index_en.htm*

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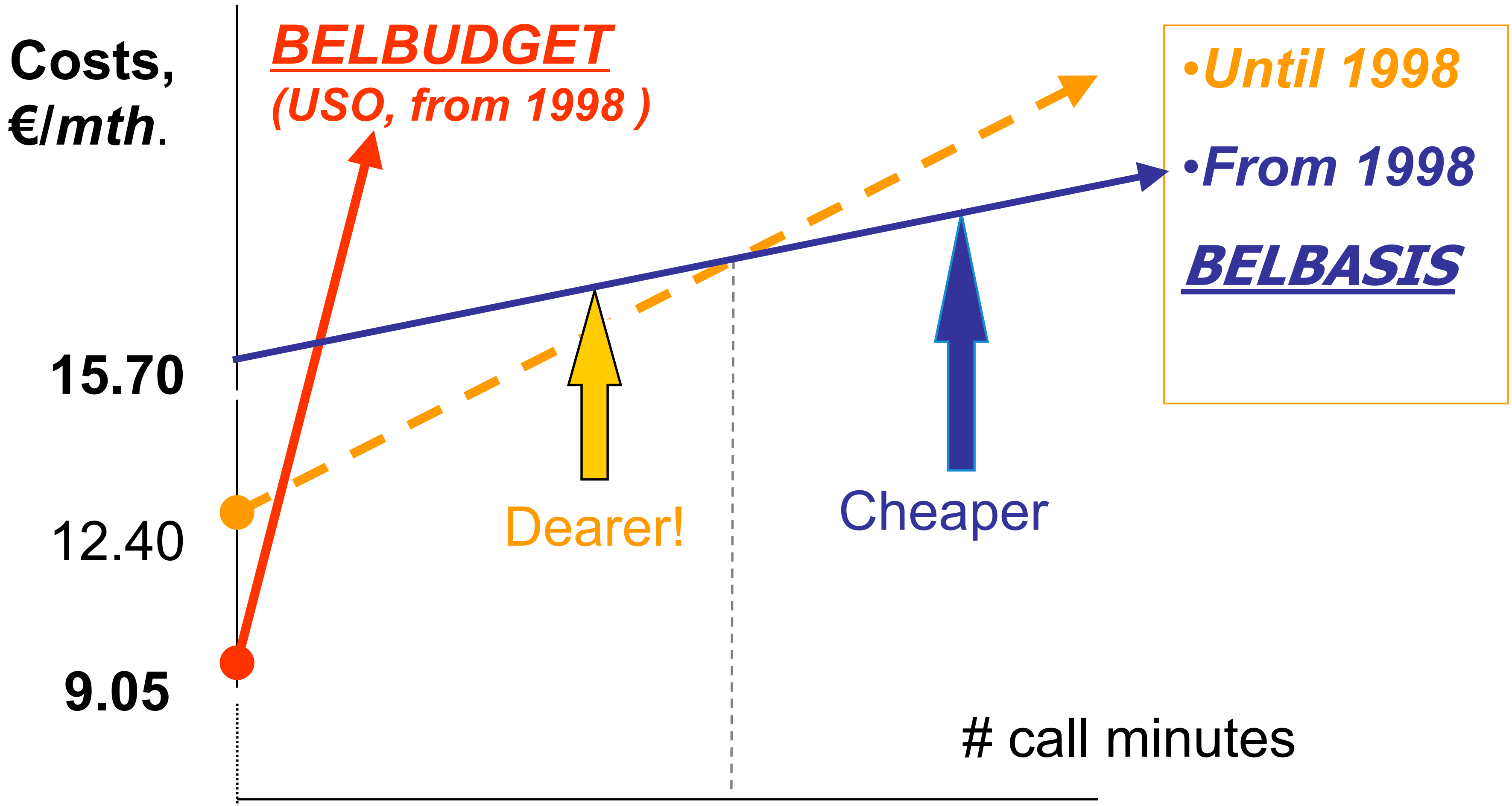
MAKING PHONE TARIFFS OF INCUMBENT COST-ORIENTED (KPN TARIFF RE-BALANCING, 1998)



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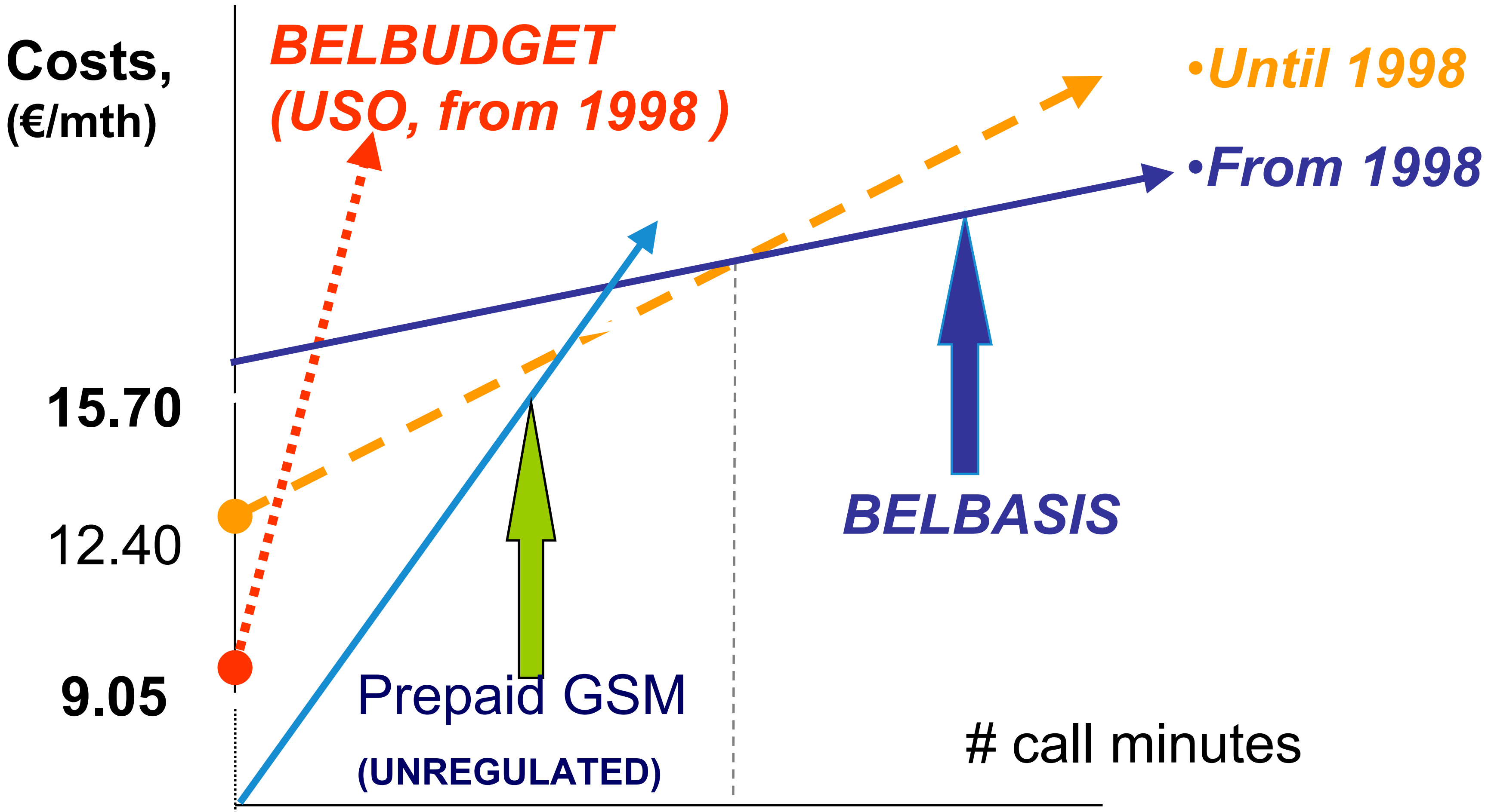
REBALANCING MITIGATED BY MOBILE PHONES (PREPAID GSM)



Effect of ONP (1998) on incumbent operators, by end 2001 (McKinsey Quarterly, 2003)

Phone operator	**NATIONAL CALLS** (LONG-DISTANCE)		**INTERNATIONAL CALLS**	
	Market share loss	**Price reduction (3 min.)**	**Market share loss**	**Price reduction (3 min.)**
Denmark ***(TDC)***	**38%**	**58%**	**51%**	**76%**
Germany ***(DT)***	**41%**	**61%**	**49%**	**83%**
Holland ***(KPN)***	**30%**	**39%**	**50%**	**90%**
Sweden ***(Telia)***	**31%**	**85%**	**57%**	**89%**
UK ***(BT)***	**47%**	**49%**	**68%**	**62%**

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REGULATORY “HARSHNESS” INDEX
ABN-AMRO Bank (City of London), July 2002

COUNTRY	INTERCONNECT	CALL Basket	MOB.TERMIN.	TOTAL
Spain	9	10	8	**27**
Portugal	7	8	10	**25**
Denmark	8	7	7	**22**
Italy	4	9	9	**22**
Germany	10	6	3	**19**
UK	5	5	6	**16**
Netherl.	3	4	5	**12**
Sweden	2	2	1	**5**
Finland	1	1	2	**4**

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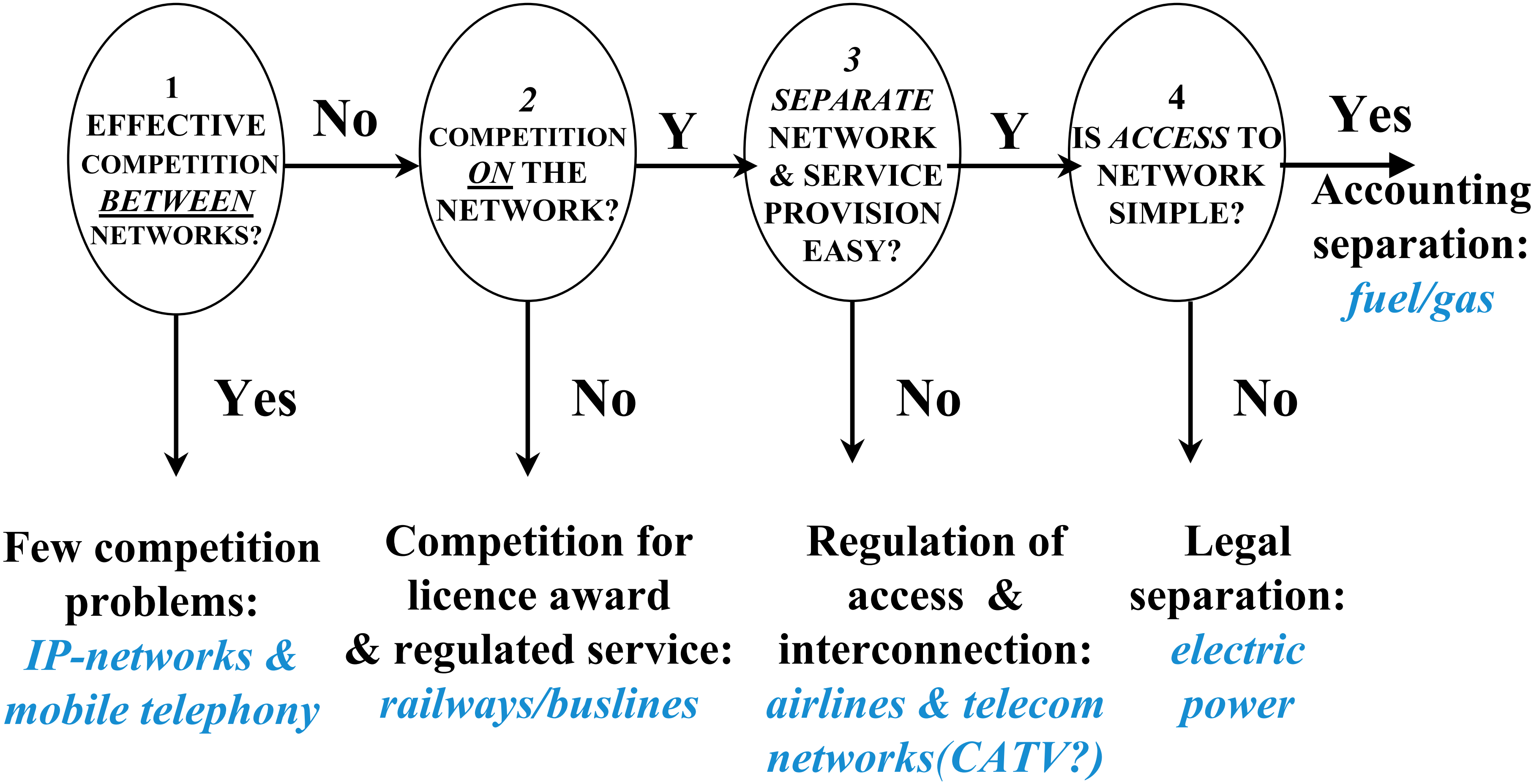
COMPETITION DIAGNOSIS OF NETWORK SECTORS



(RE-)BALANCING LINE RENTAL IS KEY TO COMPETITION ON BROADBAND MARKET!

- **IF LINE RENTAL IS SUBSIDISED FROM HIGH MINUTE TARIFFS , (ADSL) BROADBAND BUSINESS CASES CANNOT BE CONSISTENT AND/OR COMPETITIVE**

=>A CONDITION FOR FAIR COMPETITION IN FIXED BROADBAND MARKETS IS COST-ORIENTED LINE RENTAL FROM INCUMBENTS, REQUIRING:

1. **MAJOR REBALANCING (STILL TO BE IMPLEMENTED IN SEVERAL EU MEMBER STATES), AND/OR**
2. ***USO* TO BE REDESIGNED (OR PHASED OUT FAIRLY AND EQUITABLY), AND/OR**
3. **INNOVATIVE (SHARED) WIRELESS ACCESS**

STRUCTURAL SEPARATION OF NETWORK & RETAIL SERVICES, OR "EQUIVALENCE"?

- **EU TELECOM LIBERALISATION WAS BASED ON A POLTICAL COMPROMISE, IN ORDER <u>TO ALLOW VERTICALLY INTEGRATED INCUMBENT (PHONE) OPERATORS TO CONTINUE AFTER 1998</u> =>**
- **IN THE INTEREST OF FAIR COMPETITION, THE NOTION OF ECONOMIC "EQUIVALENCE" TO VERTICAL SEPARATION WAS ADOPTED BY**
  - **OPTA in 2002 (ex-ante price-squeeze tests)**
  - **OFCOM (and ACCC) in 2005**

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CONSUMER BENEFIT PER REGULATED SECTOR IN NL (% of total surplus; v Bergeijk & Bremer, 2005)

Period 2002-2004:

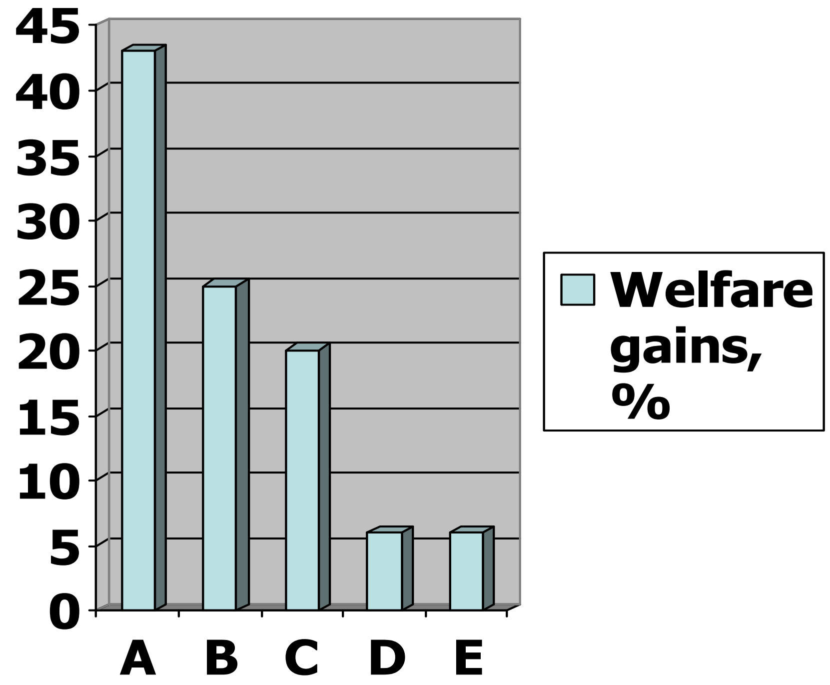
A: Price caps by OPTA

B: Energy sector

C: ICT sector

D: Retail services

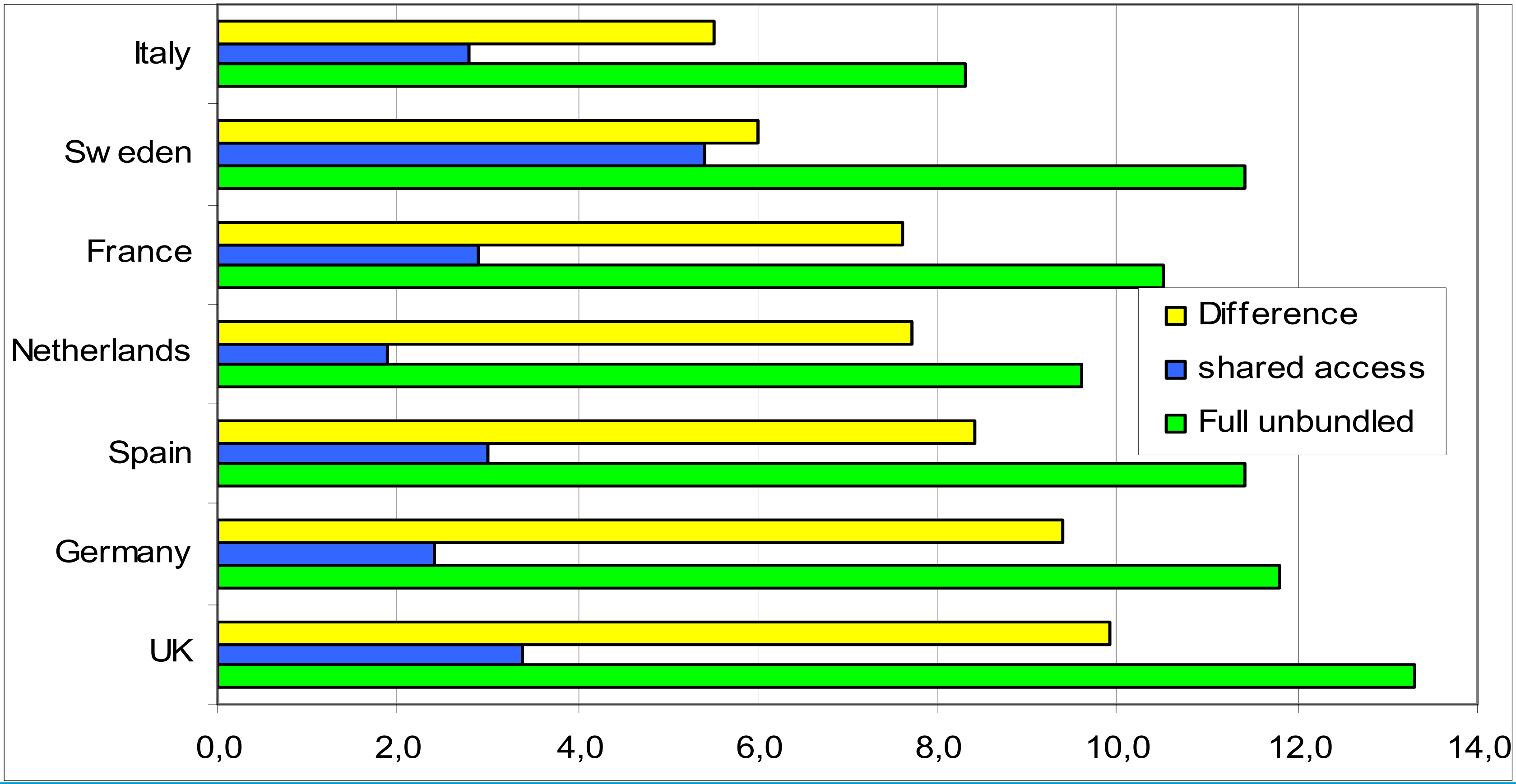
E: All other sources



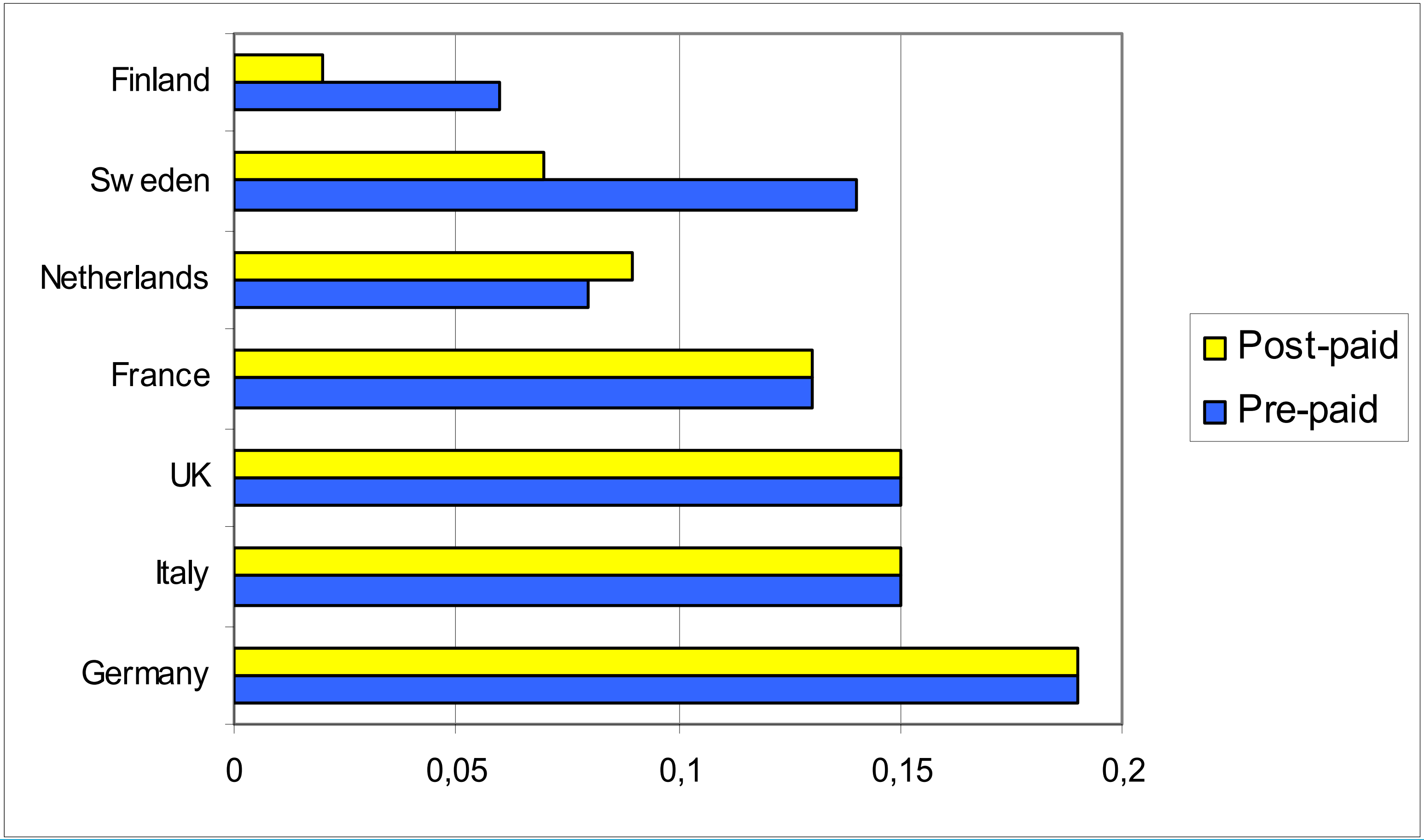
- **Total consumer surplus: 1,9 milliard € in NL**

CHARGES (€/mth) FOR *BROADBAND* ACCESS, USING INCUMBENT'S LOCAL-LOOP

Source: Eur. Commission, 9th and 10th Impl. Reports



Lowest single SMS-price (€) in 2004 in GSM peak hours, without <u>any</u> regulation!



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ADDITIONAL TASKS OF 25 INDEPENDENT TELECOM REGULATORS IN EU (BY MID-2005)

1. **FREQUENCY MANAGEMENT (88% of NRAs)**
   Exceptions: Czech Republic, Cyprus & Netherlands
2. **POST (USO & COMPETITION: 76% of NRAs)**
   Exceptions: Czech Republic, Denmark, Italy, Slovakia, Spain & UK
3. **BROADCAST REG. (excluding content: 52%)**
4. **TTP & DIGITAL SIGNATURES (32% of NRAs)**
5. **ENERGY (12%: Germany, Latvia, Luxembourg)**
6. **SPAM/AUTODIALLERS (>8%): incl. Netherlands**
7. **RAILWAYS (8% of NRAs): Germany, Latvia**

WIDELY VARYING DIRECT COSTS OF REGULATORS IN EU

- **IN 2004, THE COSTS OF COMMUNICATION REGULATORS IN EU RANGED FROM <1 € TO 6.30 € PER CAPITA (– A FACTOR OF 6!)**
- **MOST EXPENSIVE (>6 €/inhabitant) WERE PORTUGUESE, DANISH AND FINNISH NRAs**
- **LEAST EXPENSIVE (< 1 €/inhabitant) WERE ARCEP(France) AND OPTA (Netherlands)**
- ***Note:* COSTS OF A FEW NATIONAL REGULATORS ARE BORNE BY GOVERNMENT (e.g. Germany)**

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THE CRUMBLING FIXED TELEPHONY MARKETS.... (OVUM, 2004)

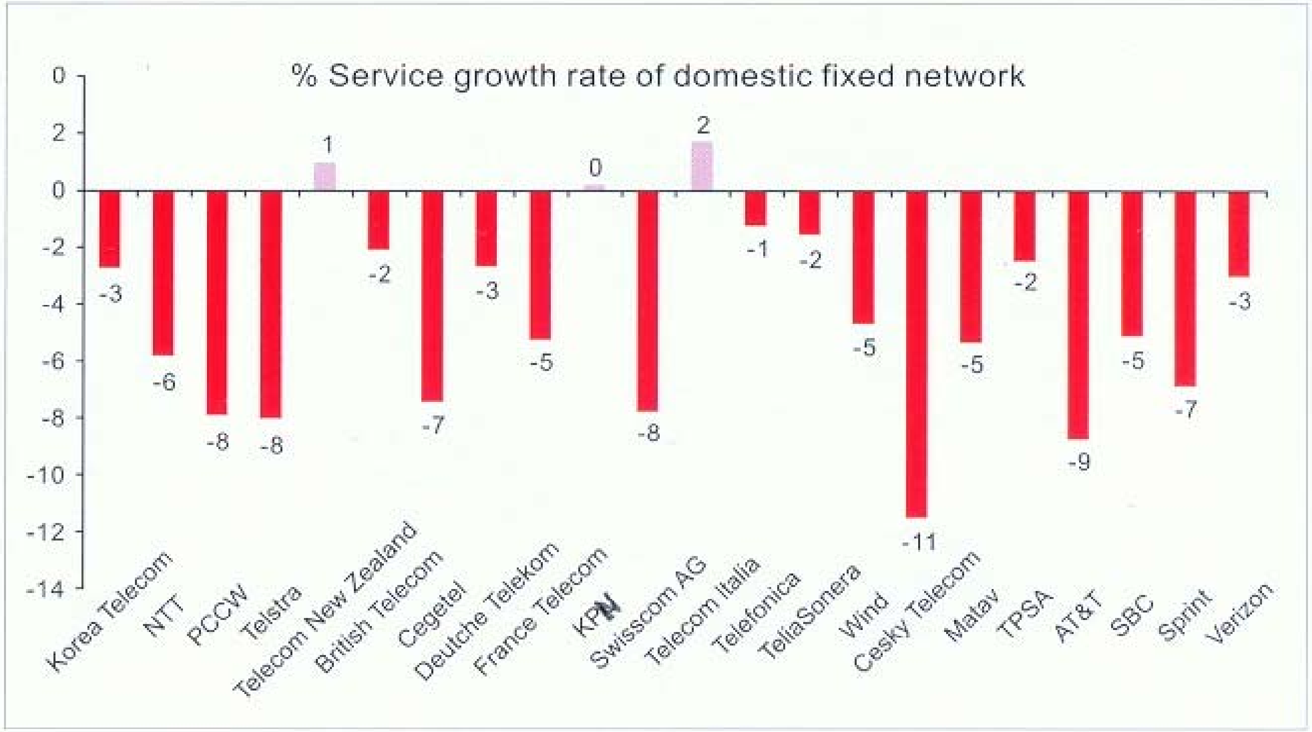

Figure 1 Service growth rate of global fixed network operators

....BUT ALSO NEW OPPORTUNITIES, SUCH AS NEW MOBILE SERVICES

- **TWO YEARS AFTER LAUNCH, WCDMA (3G) TAKE-UP IS GROWING AT FASTER RATE THAN GSM (2G) AT THE CORRESPONDING STAGE**
  - **4 years after launch, 28 million GSM subscriptions, but 43 million WCDMA subscriptions (3.5 million/month in 2006)!**
- **=>WCDMA IS MATURE, WITH WIDE CHOICE AND AVAILABILITY OF MOBILE TERMINALS**
- **SERVICE INNOVATION IS IMPORTANT MARKET**

THE FUTURE OF NRAs IN THE EU?

- **NRAs have found it difficult to look beyond their individual national and technical arena; this has lessened the potential joint influence of ERG**
- **Widely different judicial systems in member states have complicated and delayed EU harmonisation of electronic communications**
- **The market for <u>international mobile roaming</u> provides a key opportunity for genuine cross-border cooperation in the ERG (with so far only one NRA dissenting…)**

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