

# Consumer protection and Net neutrality

**Latin America-EU Symposium on ICT Regulation**

**Brussels**

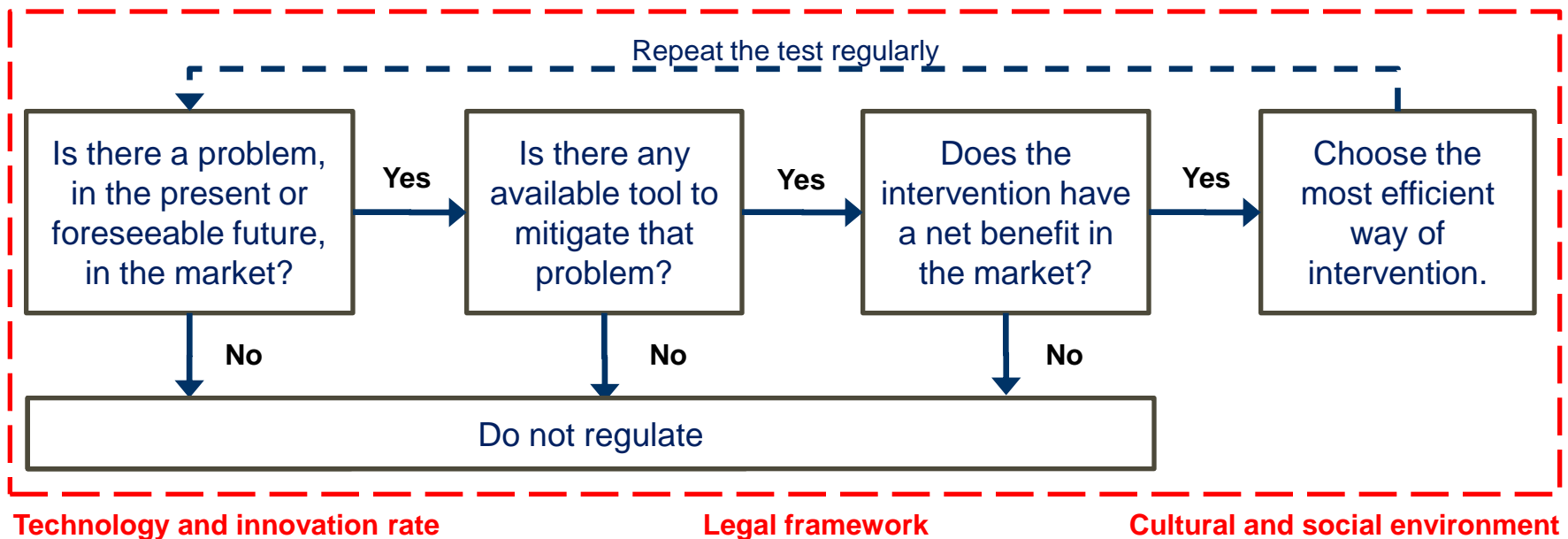
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# 1. Conceptual framing

## The “Triple Yes Test” for regulation / market intervention.

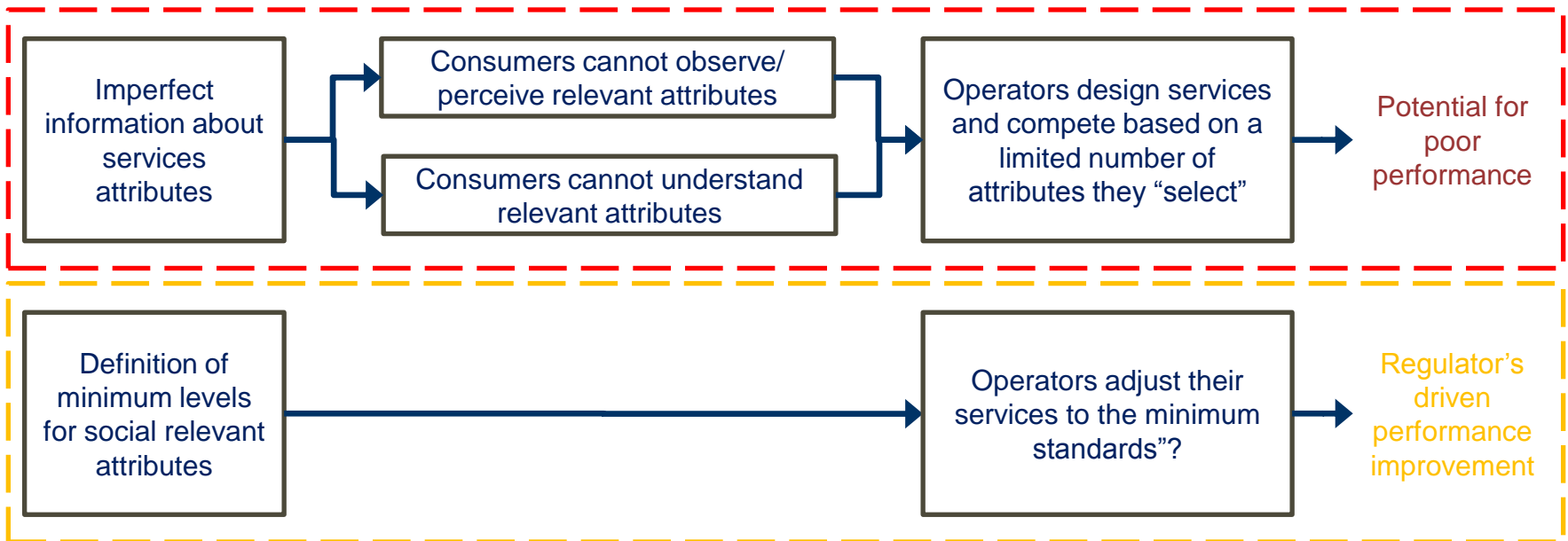


### In this case we have a fast moving target:

- to take the initial picture
- to design the intervention tool and act in due time

## 2. Consumer protection

## Competition with imperfect information



## Current regulatory framework

### Information on portability

- Regulation 58/2005, of 18 Aug., amended by Regulations 87/2009, of 18 Feb., and Regulation 302/2009, of 16 Jul.
- Compensation of the subscriber for delays in portability
- Updated information is collected by ANACOM and made freely accessible

### Some figures on portability

- 1.286.924 geographic ported numbers (fixed service), out of 4.2 million land lines
- 362.757 mobile ported numbers, out of 16 million active SIM cards
- 1.443 other non-geographic ported numbers.

## Current regulatory framework

### Regulation on Quality of Service

- Parameters currently defined:
  - PQS1 - Supply time for initial network connection;
  - PQS2 - Fault rate per access line;
  - PQS3 - Fault repair time.

These parameters are based on ETSI Guide EG 201 769-1 V1.1.1 (2000-04).

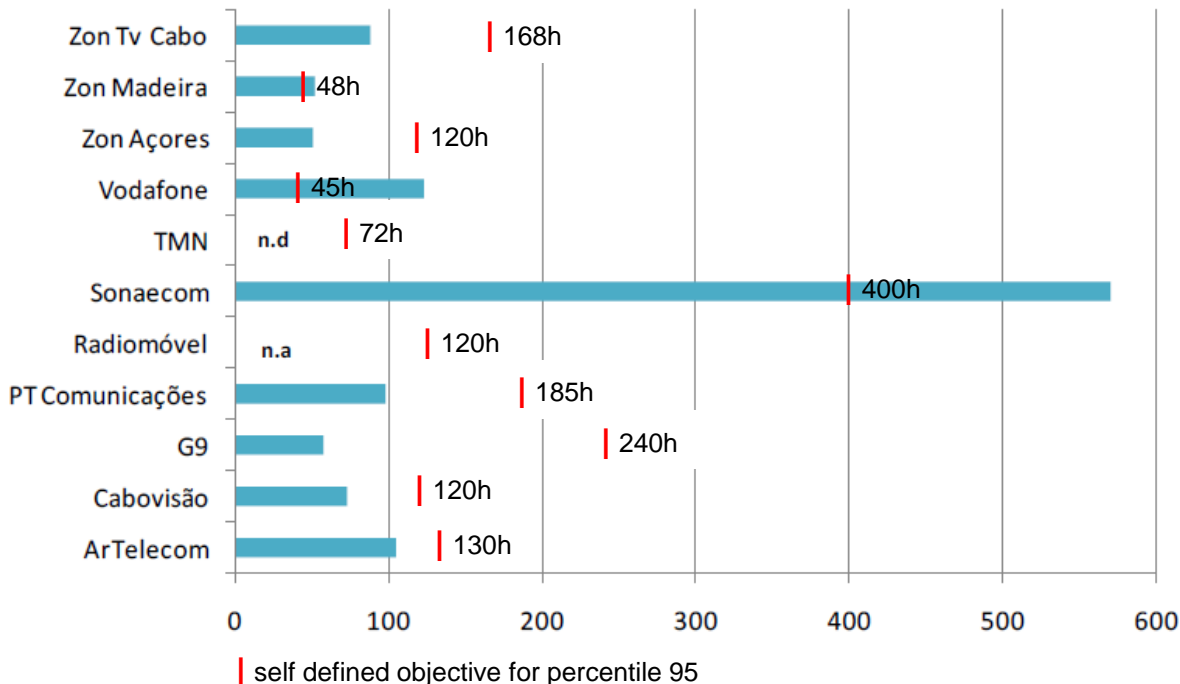
- Information concerning full calendar quarters.
- ANACOM makes available in its website a summary of the information received – see <http://www.anacom.pt/render.jsp?categoryId=323697&themeMenu=1#horizontalMenuArea>

## Current regulatory framework

### Regulation on Quality of Service

- The problem: information is gathered (costly) ... but “nobody cares”

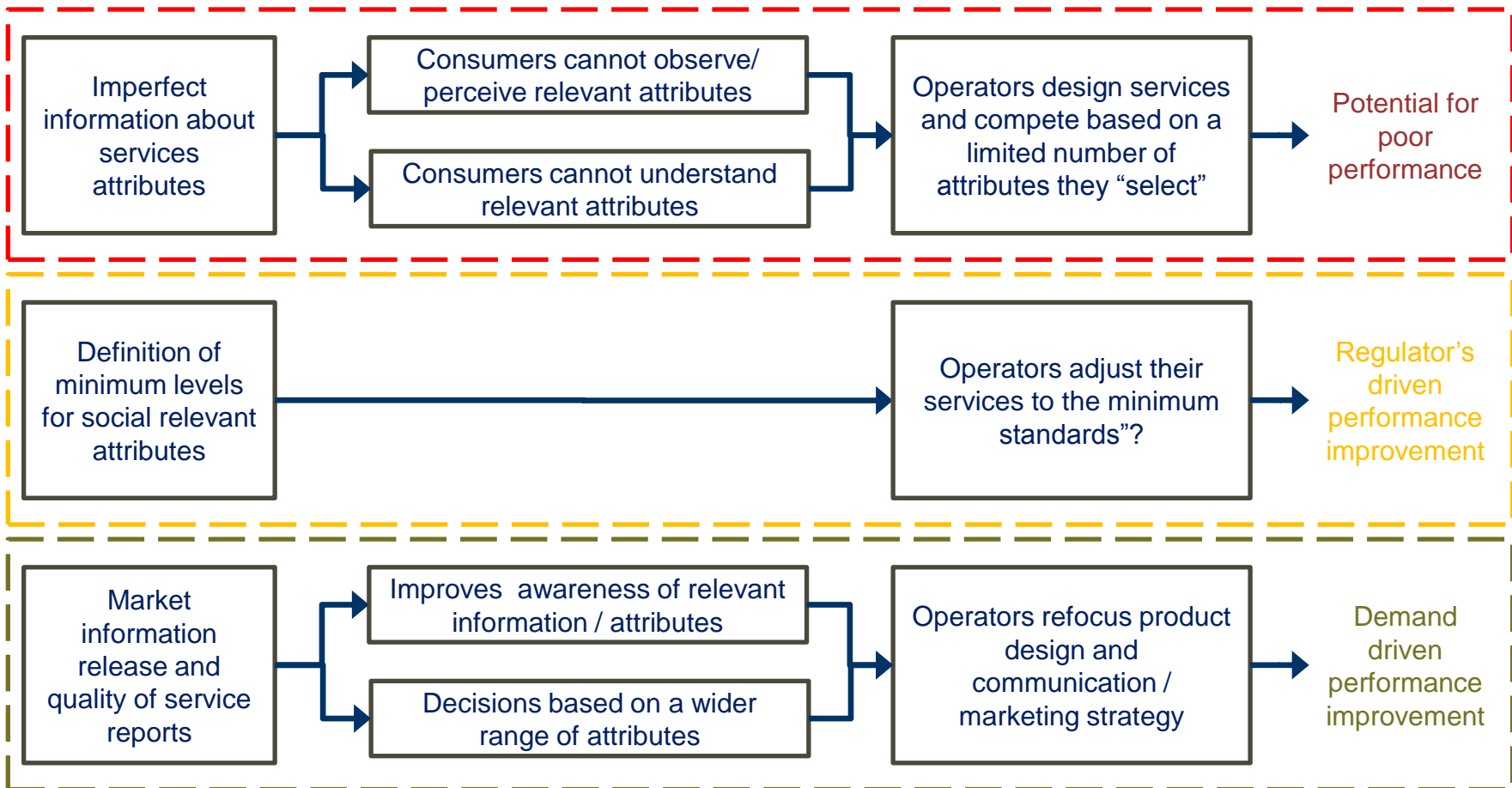
Example: PQS3 - Fault repair time (consecutive hours) percentile 95 – 2Q2010



Website access statistics for quality of service information

- 279 visits out of 370.000 in the last 4 month;
- Around 0,08% of site visits

## Competition with imperfect information



## Current regulatory framework

### Other information on quality of service

ANACOM also conducts and publish the results of regular studies :

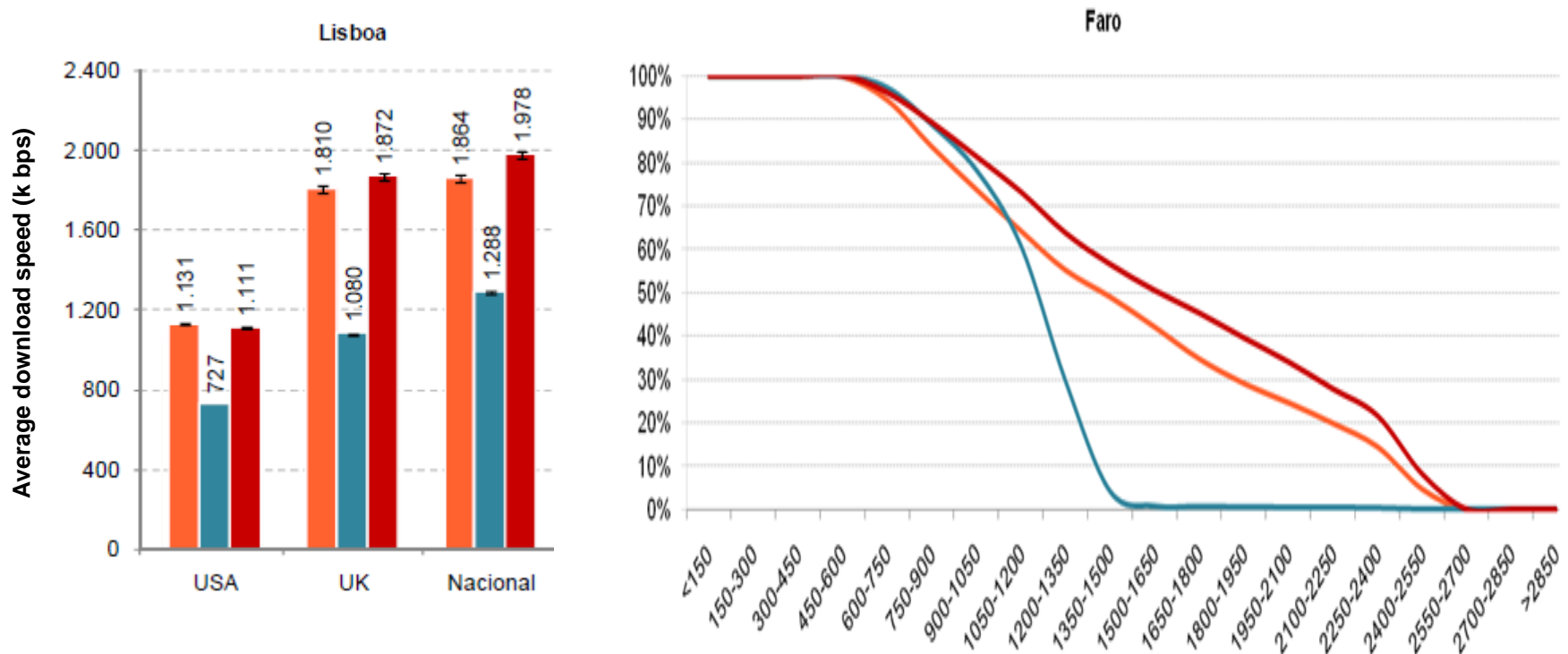
- On the quality of the broadband Internet access (mobile and fixed) service from a user perspective.
- On GSM / UMTS Mobile Communications Systems - Evaluation of the QoS of voice services (GSM), video telephony (UMTS) and network coverage (GSM and WCDMA) in major urban areas and along main roads.
- On the number and type of complaints, per service and per operator

## Immediate reaction from operators

Outdoors; SMS ads; Radio spots; Prime time TV advertisements; etc

## Current regulatory framework

Example: broadband internet access report 2009 – Mobile (2Mbps offers)



## Current regulatory framework

Example: Complaints report – 1<sup>st</sup> semester 2010

### Complaints per 1,000 subscribers

A	< 0,5
B	$\geq 0,5$ e < 1
C	$\geq 1$ e < 2,2
D	$\geq 2,2$

### Pay TV services

A	ZON - TV Cabo Madeirense, S.A.
	ZON - TV Cabo Açoreana, S.A.
B	CABOVISÃO - Televisão por Cabo, S.A.
	AR Telecom - Acessos e Redes de Telecomunicações, S.A.
	ZON - TV Cabo Portugal, S.A.
C	UNITELDATA - Telecomunicações, S.A.
	PT Comunicações, S.A.
D	OPTIMUS - Comunicações, S.A.
	VODAFONE PORTUGAL - Comunicações Pessoais, S.A.

## Future regulatory framework

(EU regulatory framework revised in December 2009; Transposition into national law by 25 May 2011)

### Information

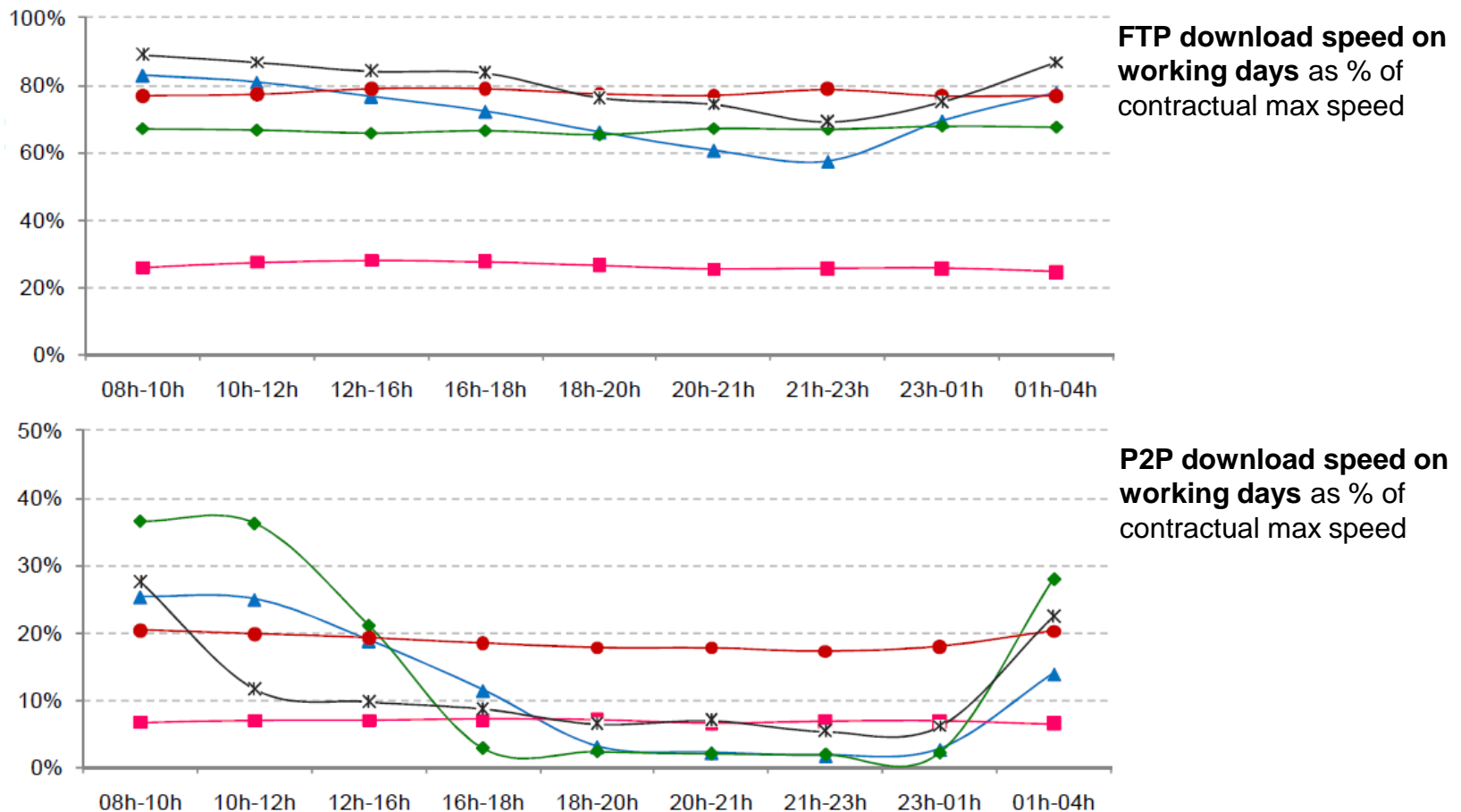
- Better consumer information, as contracts must specify, among others:
  - Information on minimum levels of quality of service (QoS) offered and compensation/refunds if levels are not met (NRA will be able to set minimum QoS requirements to prevent degradation of service or traffic slowing);
  - Any lawful conditions limiting the access to or use of services and applications;
  - Any traffic management techniques and their impact on service quality;
  - Any restrictions on the use of terminal equipment imposed by the provider;
  - Provision or not of access to emergency services and caller location information and any limitations, under Article 26 of USD.

### Contracts duration

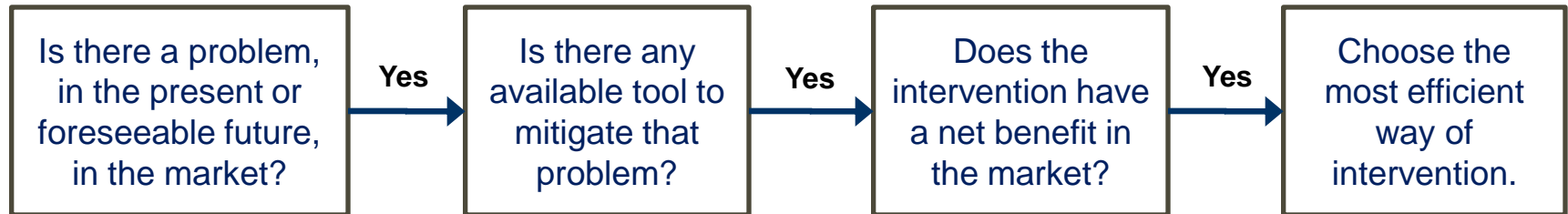
- Maximum initial duration of a contract no longer than 24 months.
- Operators must also offer contracts with a maximum duration of 12 months.

### 3. Net neutrality

## Traffic Management: the evidence (in Broadband QoS report 2009)



## Traffic Management : keep in mind the “Triple Yes Test”



- Potential problem both in the wholesale and in the retail markets
- Provision of a certain quality of service for applications or services more sensitive to problems derived from a simple policy of best effort.
- ISP can make deals with content providers to distribute premium content on an exclusive basis or with a guaranteed quality.
- There is no discrimination between providers and users, but only differentiation (prioritization) between services.
- Economically more efficient? Promotes competition and innovation?

## Regulatory framework for electronic communications

It already envisages the, so-called, “net neutrality”, event though not defining it as such

**The market works, but ...**

- “A competitive market will provide users with a wide choice of content, applications and services.” (Rec. 28 of the Citizens’ Rights Directive, 2009/136/EC and Rec. 23 of the Better Regulation Directive, 2009/140/EC).
- “A competitive market should ensure that end-users enjoy the quality of service they require (...)” (Rec. 34 of the Citizens’ Rights Directive, 2009/136/EC).

### Solution of the new regulatory framework:

- Promotion of competition / Transparency obligations
  - Possibility of imposition of minimum levels of quality of service
- ... and as such, we go back to some information/transparency and QoS provisions of the revised framework, already referred before.***

## Transparency – general obligations

- Operators should:
  - Inform subscribers of any change in conditions that restrict access and/or use of services and applications (Article 21/3 - c) of the Universal Service Directive) ;
  - Inform on any procedures put in place to measure and shape traffic in order to avoid exhausting the capability of a network segment, or surpass it, as well as on how these procedures could impact the quality of service (Article 21/3 - d) of the Universal Service Directive) .
- NRA can:
  - Require operators to publish comparable, adequate and up-to-date information on the quality of their services (Article 22/1 of the Universal Service Directive);
  - Specify the QoS parameters to be measured and the content, form and manner of information to be published (Article 22/2 of the Universal Service Directive).

## Minimum levels of QoS

- In order to prevent the degradation of service and the hindering or slowing of traffic over networks, NRA may set **minimum quality of service requirements**.
- NRA should submit to EC, in due time before the adoption of such requirements, a summary of the reasons for action, the requirements and measures proposed. This information must also be made available to the BEREC.
- EC may make comments or recommendations about them, especially to ensure that the requirements do not adversely affect the proper functioning of the internal market.
- NRA take the utmost account of comments or recommendations from the Commission to decide on the requirements.

(Article 22/3 of the Universal Service Directive)

**Thank you**

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