

ITU seminar, 5th March 2002, Bratislava



EU *acquis* for the telecommunications sector

- the implications for candidate countries as they approach accession**

**Dick Harris
DG Information Society
European Commission**

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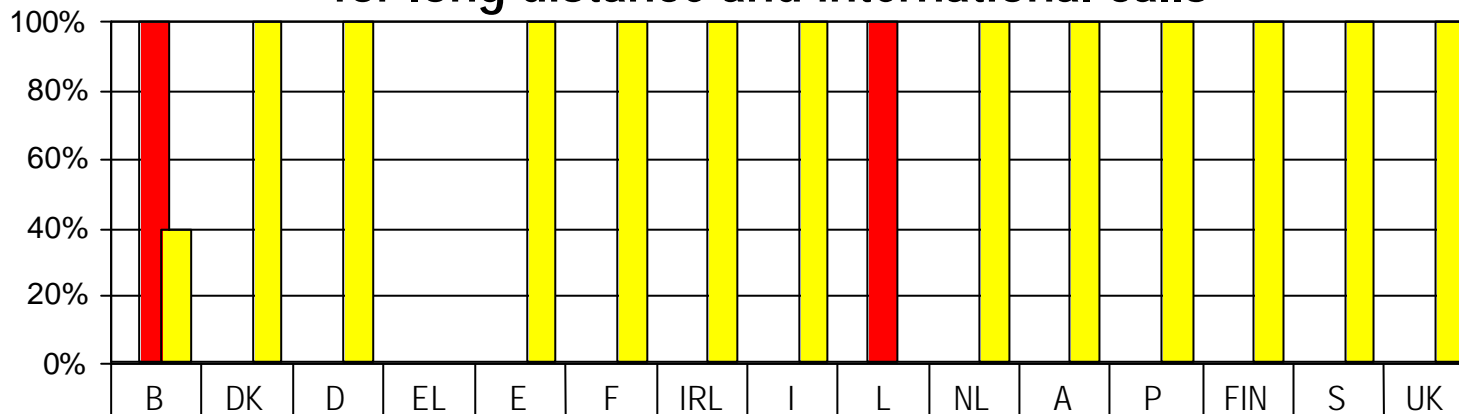


1. After 3 years of the 98 package.
2. Why change the 98 package?
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Consumer choice

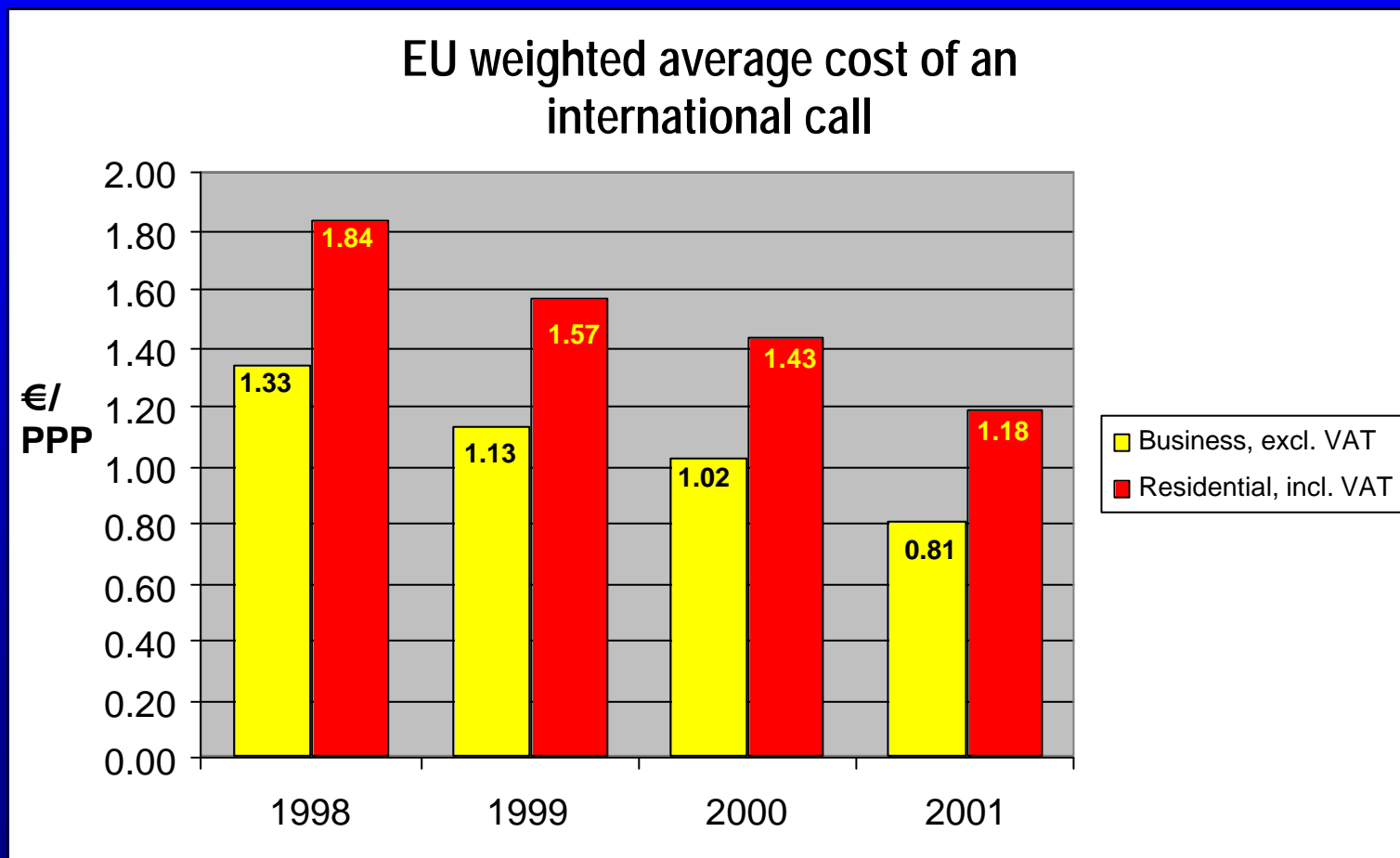


Percentage of population with choice of operators
for long distance and international calls



■ 2 operators				0%											
■ 3-5 operators	100%			0%					100%						
■ More than 5	40%	100%	100%	0%	100%	100%	100%	100%	0%	100%	100%	100%	100%	100%	100%

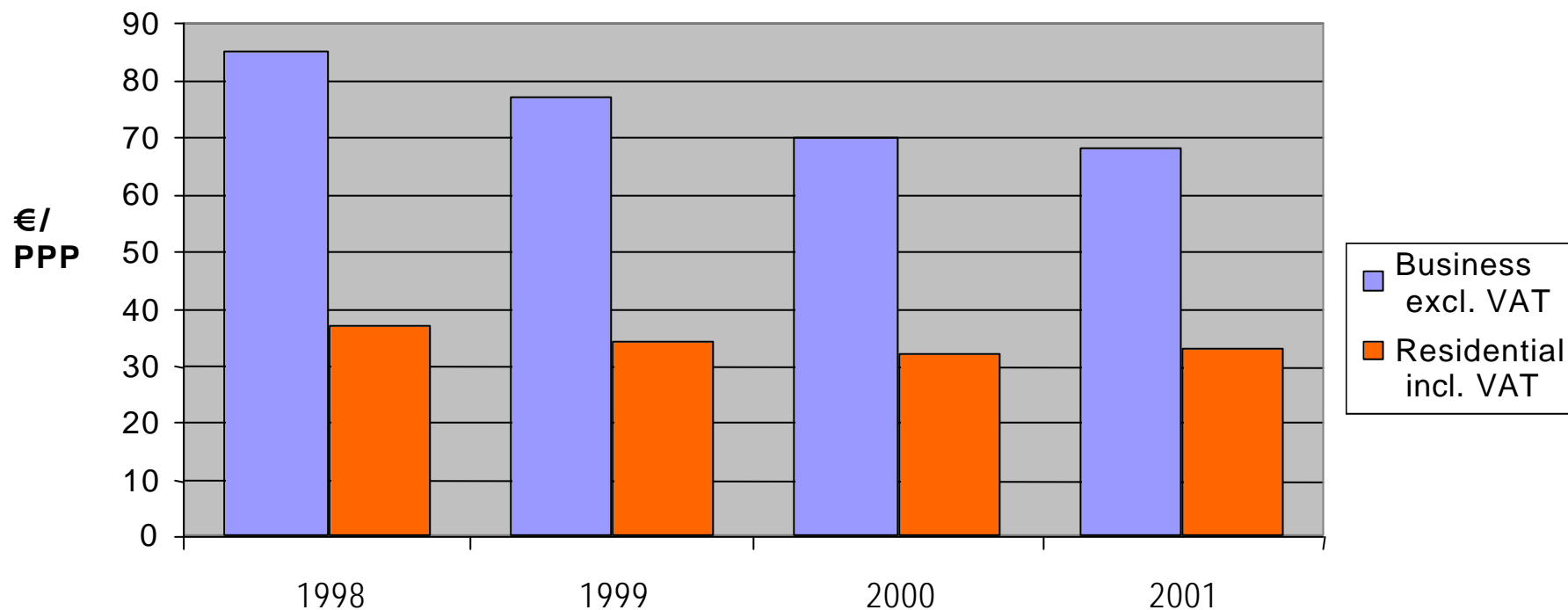
Cost of international calls



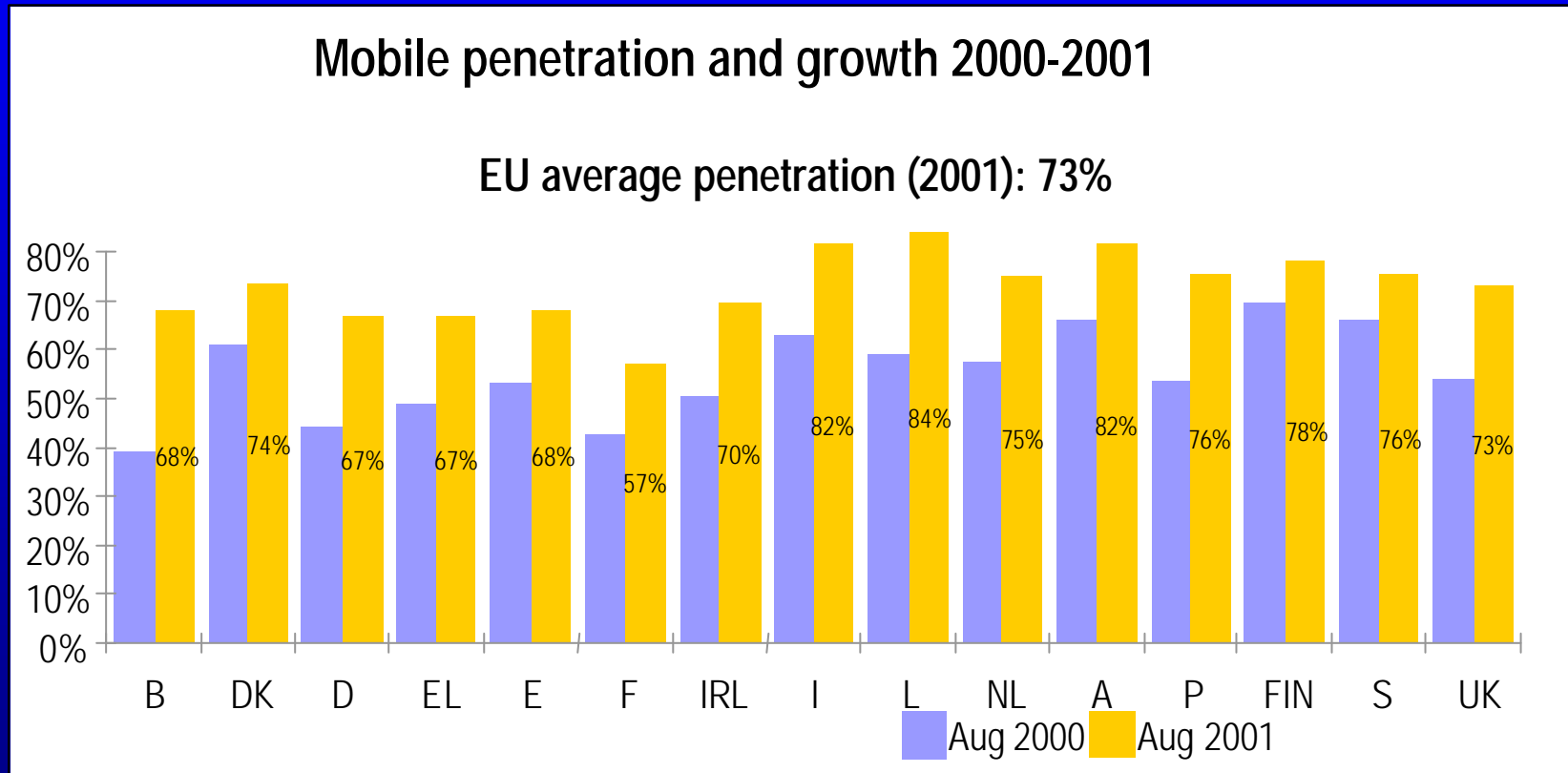
Average monthly expenditure



EU weighted average monthly expenditure for national calls



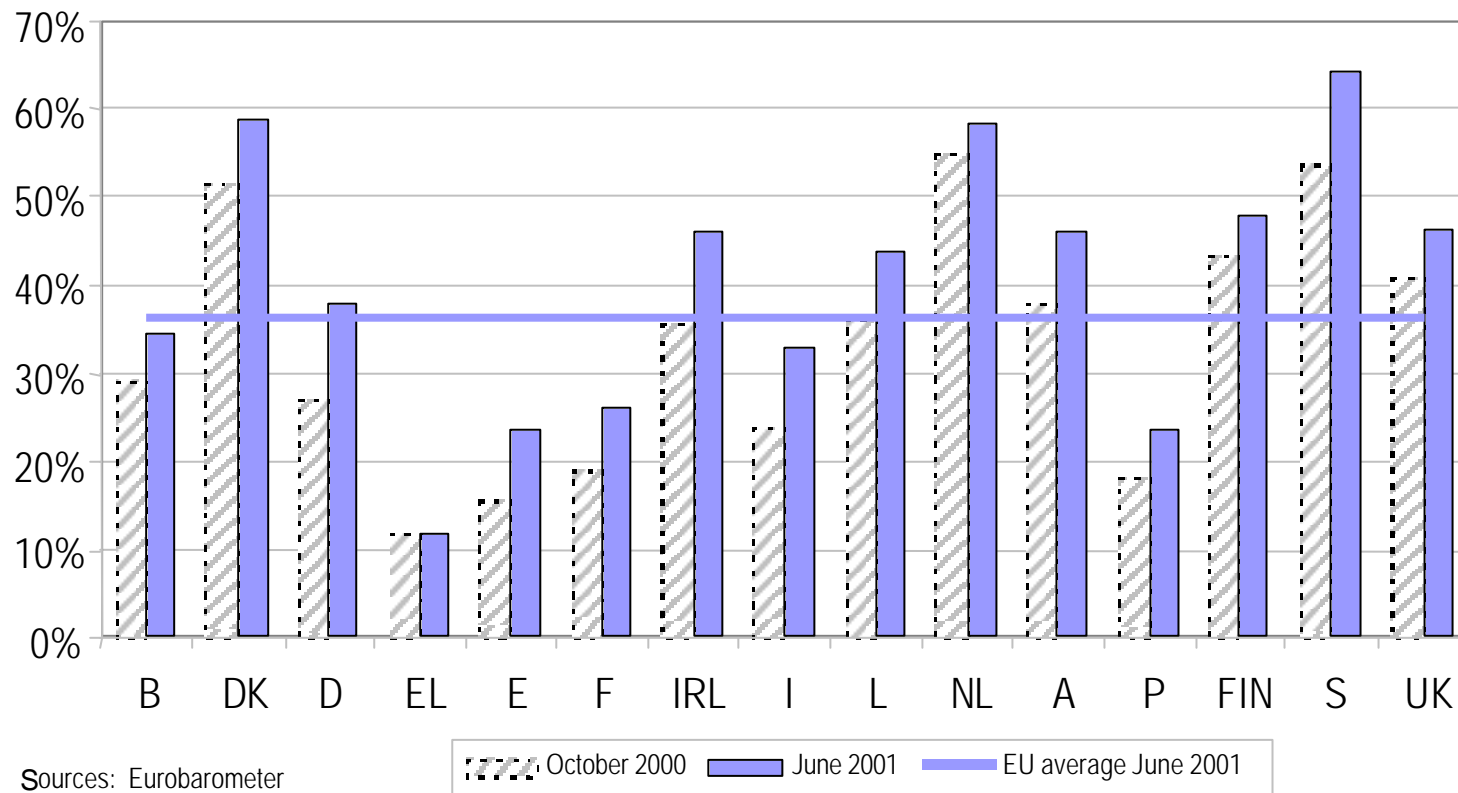
Mobile penetration and growth



Internet access



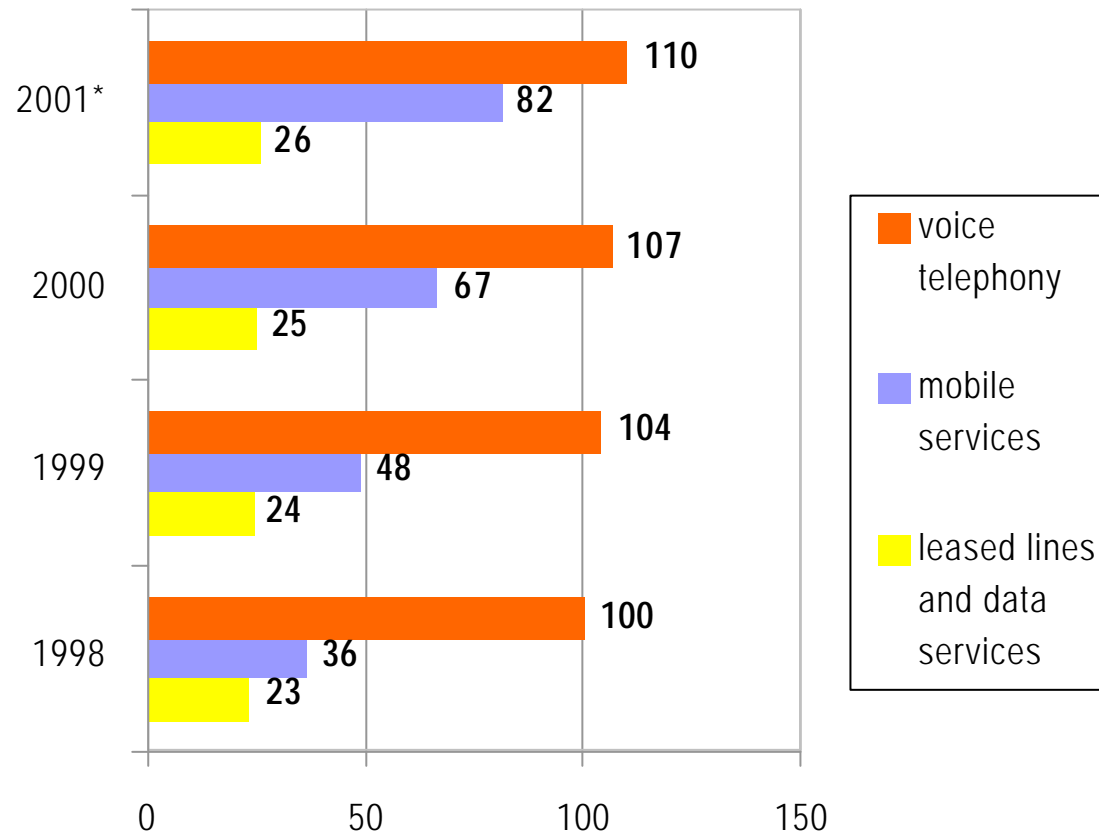
Household penetration of internet access (Oct 2000-June 2001)



EU market growth 1998 - 2001



EU telecommunications market (bn)



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Lisbon European Council March 2000



**A “competitive and dynamic
knowledge-based economy”**

demands

**“an inexpensive, world-class
communications infrastructure”**

Problems with current legal framework



- ◆ Long and complex individual licensing procedures in some Member States
- ◆ Not enough flexibility to cope with rapidly changing markets
- ◆ Not enough consistency in how rules are applied in Member States
- ◆ Designed for a newly liberalised market, not one moving to a fully competitive market without sector specific rules

Creating the “right” legislative framework



A successful legal framework will:

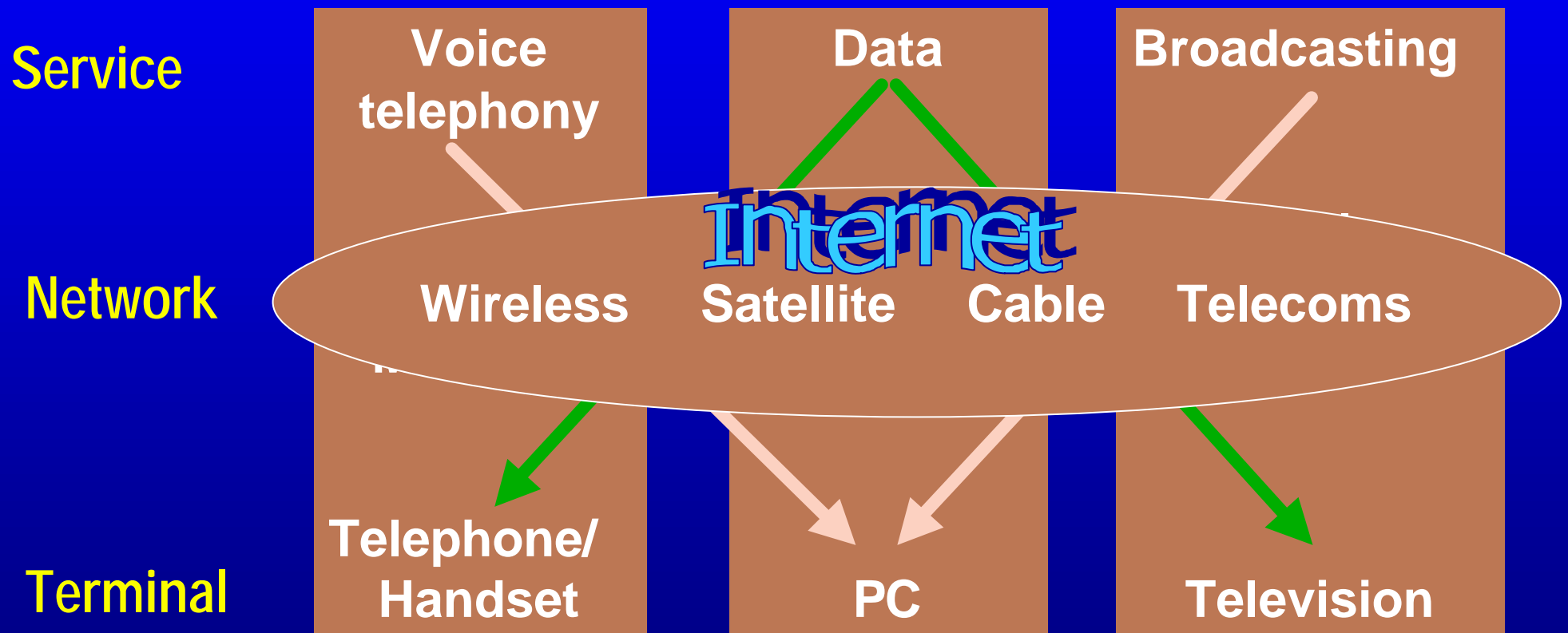
◆ Attract investment, by

- encouraging market entry
- providing legal certainty
- restraining firms with undue market power
- keeping regulation to the minimum necessary

◆ Promote choice and competition

◆ Safeguard users interests, where market forces do not

Convergence is a reality



DEALING WITH CONVERGENCE



- 1. All content can be delivered over all networks; network-dependent rules are being overtaken by technology; markets are merging; so:**
 - **coherent regulation of communications infrastructures and associated services**
- 2. Content and transport are different, so:**
 - **separate regulation for transport and for content, while recognising the links between them**

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What's different ?



- ◆ **Scope**
- ◆ **Who is regulated on which markets ?**
- ◆ **NRA duties and responsibilities**
- ◆ **Market entry procedures**
- ◆ **Commission powers; committees**

Electronic communications networks and services - Scope



Content Services
- outside scope of new package
(e.g. broadcast content, e-commerce services)

Communications services
(e.g. telephone, fax, e-mail)

Communications networks
(fixed, mobile, satellite, cable TV, powerline systems,
networks used for radio and television broadcasting)
and associated facilities (e.g. CAS)

Keeping regulation to the minimum necessary



- ◆ Which markets are subject to sector-specific regulation ?
- ◆ Which companies are regulated on those markets ?
- ◆ What obligations do they face ?

Extent of ex-ante regulation



Ex-ante regulation only imposed in markets where:

◆ **competition is not effective**

AND

◆ **competition law remedies do not suffice**

◆ **except for general obligations arising from public policy reasons eg consumer protection**

Identifying Markets



◆ Commission Recommendation

- ◆ identifies product/service markets which may be subject to ex-ante regulation

◆ NRA decides on relevant geographic market

- ◆ NRA can define markets other than those in Recommendation, but Commission can block

◆ Commission Decision (optional)

- ◆ identifies trans-national markets, where NRAs have to act together

Significant market power



SMP is the threshold for ex-ante intervention by NRAs, when competition is not effective

- ◆ 'old' threshold of significant market power based on 25% market share
- ◆ 'new' SMP threshold linked to competition law concept of dominance

Commission has issued Guidelines on 'new' SMP

Players to be regulated



- ◆ **Those with a dominant position in an identified market where competition is not effective**
- ◆ **NRA designates such players as having SMP and imposes appropriate obligations**
- ◆ **Commission can block NRA decisions regarding designation, or not, of players with SMP**

Obligations on players with SMP



May include :

- ◆ **price control, including cost orientation**
- ◆ **transparency**
- ◆ **accounting separation**
- ◆ **non discrimination**
- ◆ **mandatory provision of specific facilities**
- ◆ **mandatory access to specific facilities**

NRA Consultation Procedure



- ◆ **NRAS must consult nationally**
- ◆ **NRAs must consult other NRAs on issues with impact on the single market**
- ◆ **Commission has power to require NRA to withdraw decisions that are incompatible with objectives**
- ◆ **Right of appeal on NRA decisions, at national level, on merits of case**

New EU Groups and Committees



◆ Spectrum policy group

- ◆ High level policy group established by Commission decision, chaired by Member State

◆ Radio Spectrum Committee

- ◆ standard comitology committee with regulatory and advisory roles

◆ Communications Committee

- ◆ standard comitology committee with regulatory and advisory roles

◆ European Regulators group

- ◆ Chaired by a Regulator; aim is to seek consistent application of rules in all M States

Market entry procedures



- ◆ **Market entry needs no prior permission**
- ◆ **Conditions are set out in general authorisation, and are limited**
- ◆ **Individual rights-of-use of frequencies and numbers assigned via individual authorisations**



The new package



Timeline



March 2002
Entry into force

June 2003
Date of application in all MS

15 months

NRAs transpose, but don't apply

NRAs do market analyses

For more information ...



**The letter with the distributed papers
contains the Internet addresses of many
relevant documents.**

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What does it mean for EU candidates?



- 1 The pace of change is still great**
- 2 Better to liberalise early**
- 3 All technologies can compete**
- 4 Inward investors choose carefully**
- 5 New skills needed by regulators**
- 6 Don't forget the competition rules**

The end



Thank you for your attention