



The new Universal service and Users' rights Directive

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OUTLINE



A. The new regulatory framework

B. The new Universal service and Users' rights Directive

- Universal service obligations**
- End-user Interests and Rights**
- Regulatory Controls on SMP undertakings in Retail Markets**

OUTLINE



THE NEW REGULATORY FRAMEWORK

The 1999 Review

Globalisation:
alliances,
WTO...

Liberalisation:
experience,
5th report

Spectrum
Green Paper

Convergence
Green Paper

Markets:
data, internet,
mobile, new
services, DVB,
e-commerce ...

Technology:
digitisation,
wireless,
satellite, fiber
optics,
compression ...

The need to overhaul the 1998 telecoms framework



- Respect review obligations from current directives
- Amplify the benefits of competition for users (choice, prices, quality)
- Adapt the framework to technology-driven market changes (convergence, Internet, e-commerce, etc.)

Meet the demands of the Lisbon Summit, to have the package adopted by the end of 2001

Overhauling the existing framework

Services Directive (90/388/EEC)
extended to: Satellite (94/46/EC)
Cable (95/51/EC)
Mobile (96/2/EC)
Full competition (96/19/EC)
Cable ownership (1999/64/EC)

Liberalisation Directive

ONP Framework Directive
(90/387/EEC amended by 97/51/EC)
Licensing Directive (97/13/EC)
GSM Directive (87/372/EEC)
ERMES Directive (90/544/EC)
DECT Directive (91/287/EEC)
S-PCS Decision (97/710/EC)
UMTS Decision (99/128/EC)
European Emergency Number Decision (91/396/EC)
International Access Code Decision (92/264/EEC)
ONP leased lines Directive
(92/44/EEC amended by 97/51/EC)
TV standards Directive (95/47/EC)
Interconnection Directive
(97/33/EC amended by 98/61/EC)
Voice telephony Directive (98/10/EC)
Telecoms data protection Directive (97/66/EC)

**Framework Directive
Authorisation Directive**

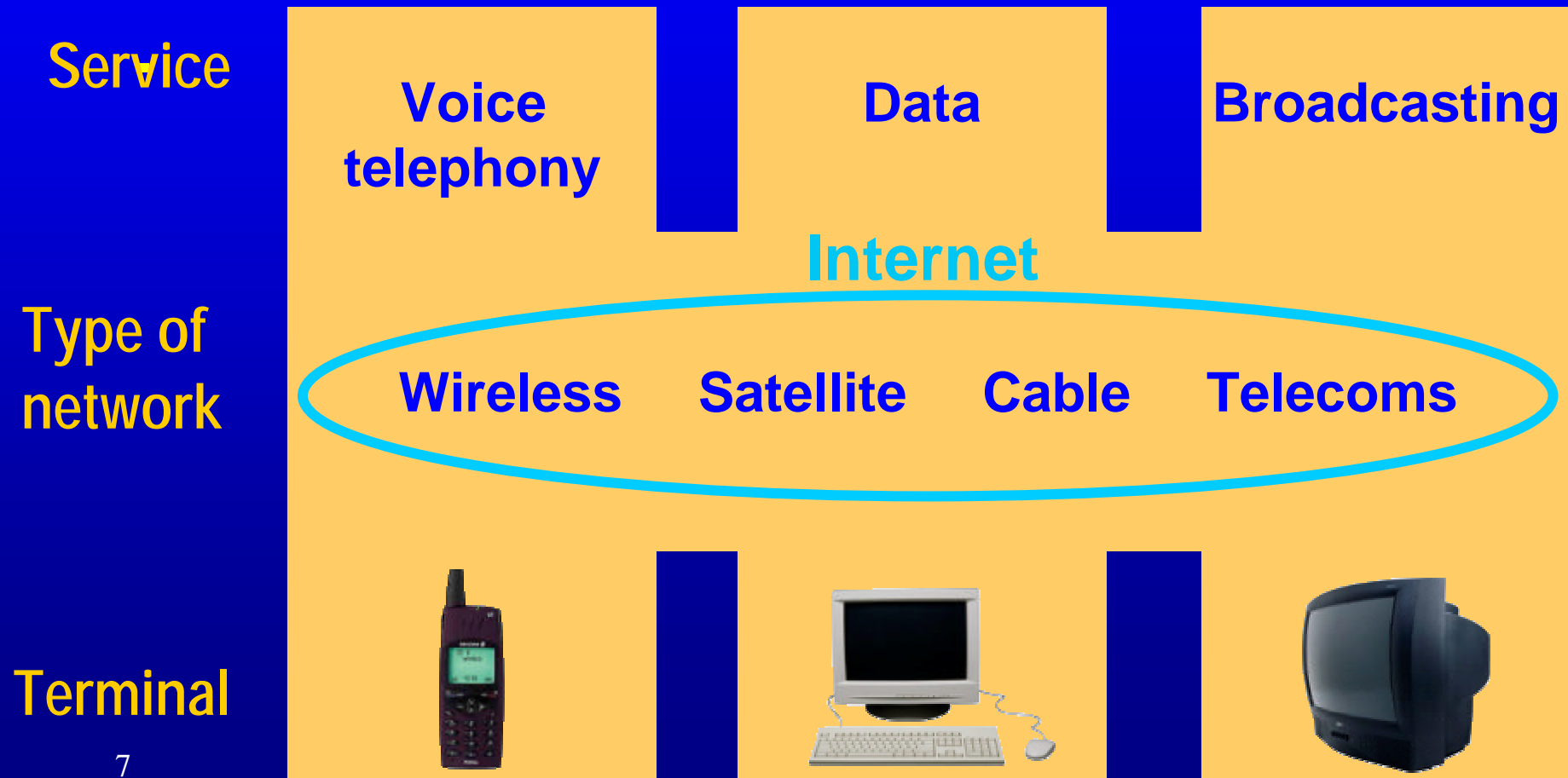
**Access & Interconnection
Directive**

**Unbundled local loop
Regulation**

Users' Rights Directive

Data protection Directive

Convergence removes sector boundaries



Terminal

Electronic communications

- a key element of the Lisbon agenda

- ◆ **March 2000 Lisbon Summit: part of eEurope**
- ◆ **July 2000: Commission publishes its proposals**
- ◆ **December 2000: EP and Council adopts Regulation on unbundling of the local loop**
- ◆ **December 2001: EP and Council agree package on electronic communications 4 Directives + Decision on spectrum policy**
- ◆ **1st half 2002: expected adoption by EP and Council of Directive on Data protection**
- ◆ **May/June 2003: Date of application of the package**

The new package



Electronic communications networks and services - Scope

Content Services

**- outside scope of new framework
(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)**

Main features of package (1)

- ◆ Provide regulators with tools to cope with evolving future technology and market changes, within a defined framework of objectives and remedies
- ◆ Roll back regulation as competition becomes effective
- ◆ Ensure that national legal systems allow for appeals on NRA decisions
- ◆ Strengthen the internal market through strong co-ordination mechanisms at European level

Main features of package (2)

- ◆ **Promote European standards for interactive digital television**
- ◆ **Simplify market entry rules and stimulate more competition.**
- ◆ **Maintain the universal service obligations in order to avoid exclusion from the Information Society**
- ◆ **Establish a policy framework for co-ordination of policy approaches on radio spectrum**

Objectives

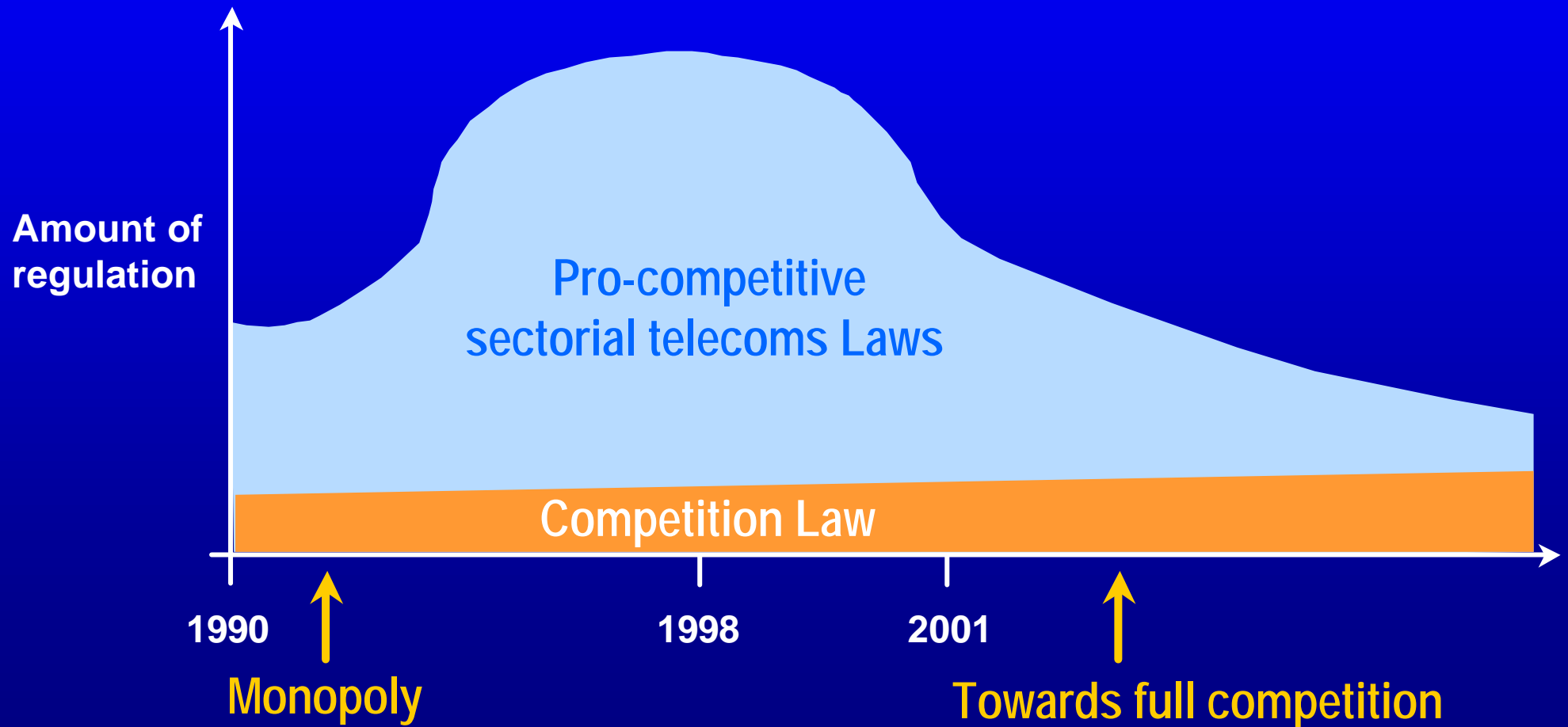


- ◆ **Promoting open and competitive markets**
- ◆ **Contributing to development of internal market**
- ◆ **Promoting interests of European citizens**

Regulatory principles of the package

- ◆ **Consumers interest would be best served by market forces**
- ◆ **Intervention if**
 - ◆ market is not competitive
 - ◆ market forces do not satisfy public interest
- ◆ **Intervention should be**
 - ◆ minimal and linked to degree of competition
 - ◆ flexible BUT harmonised at an European level
 - ◆ technologically neutral

Rely increasingly on competition rules



Overview of the obligations

	SMP	No SMP	Universal Service Provider
Regulatory Framework Directive		Facility sharing Accounting separation (Possibility to impose compulsory standards)	
Access Directive	Menu of possible obligations to be chosen by the NRAs <ul style="list-style-type: none"> - Access - at non discriminatory conditions - at cost based conditions - transparency - accounting separation - Other obligations with prior agreement of the Commission 	Interconnection and interoperability CAS and associated facilities for international commitments	
Universal Service Directive	Control on retail services Carrier (Pre) selection Leased lines	Contract – Transparency Quality Interoperability of TV equipment Directories emergency numbers Additional facilities Number portability Must carry	Universal Service Obligation

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THE NEW UNIVERSAL SERVICE REGIME

Principles



◆ From monopoly to accompanied liberalisation

- ◆ Choice (via competition) is the best means to satisfy user needs
- ◆ In general the market should determine retail prices and quality, (including the provision of relevant information to users)
... but ...
- ◆ NRAS should have power to act where user needs are not met

Current framework



- ◆ **Services Directive (90/388/EEC as amended)**
- ◆ **ONP leased lines Directive (92/44/EEC amended by 97/51/EC)**
- ◆ **TV standards Directive (95/47/EC)**
- ◆ **ONP-Interconnection Directive (97/33/EC amended by 98/61/EC)**
- ◆ **ONP-New Voice telephony Directive (98/10/EC)**

Current framework



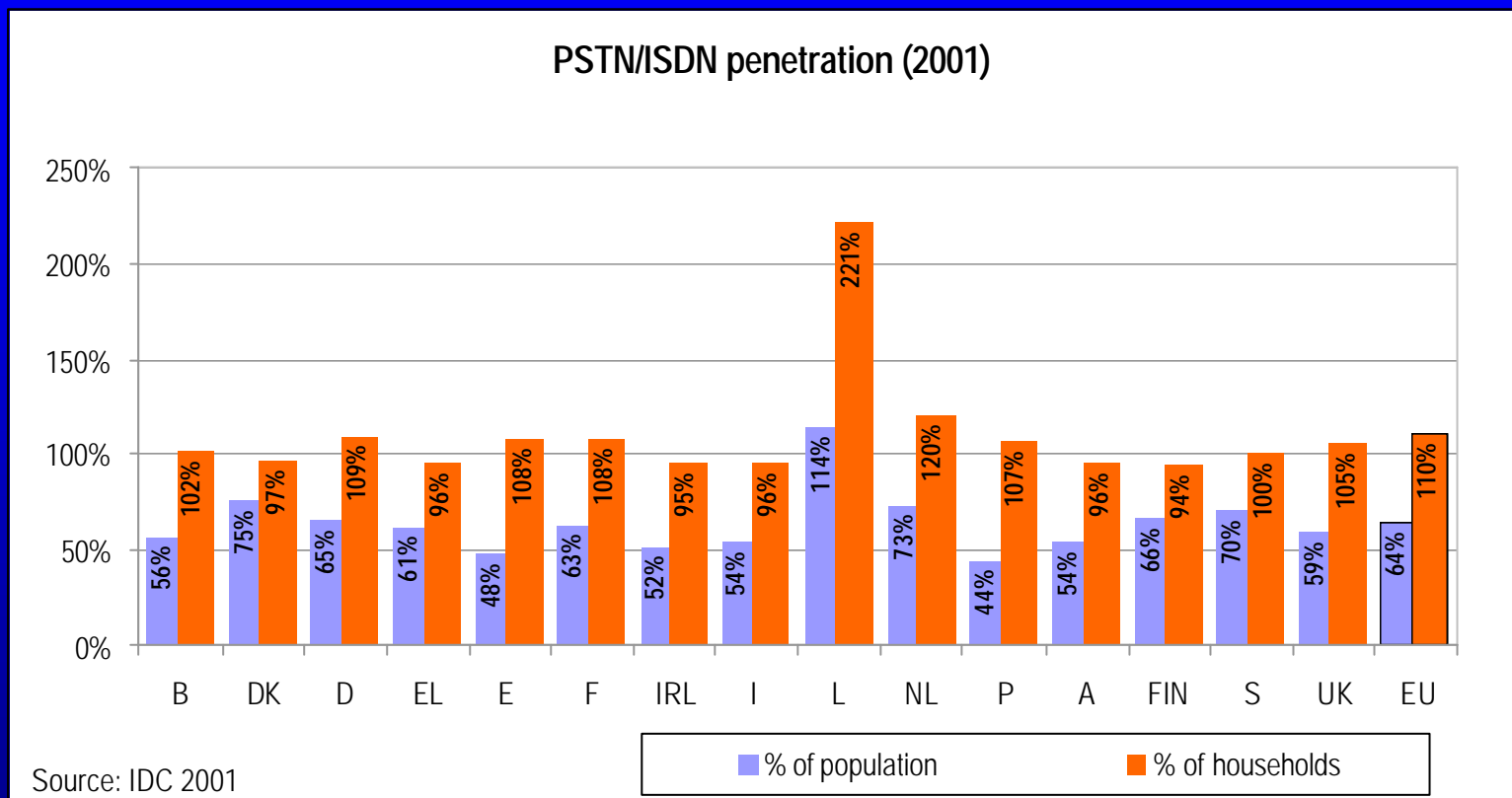
- ◆ **Commission Communication 13 March 1996 on Universal Service (COM(96)73)**
- ◆ **Commission Communication 27 November 1996 on Costing and Financing of Universal Service (COM(96)608)**
- ◆ **Commission Communication 1996 on Services of General Interest in Europe**
- ◆ **Commission Communication 2000 on Services of General Interest in Europe**
- ◆ **Commission Report 17 October 2001 to the Laeken Council on the Services of General Interest (COM(2001)598)**

Current framework

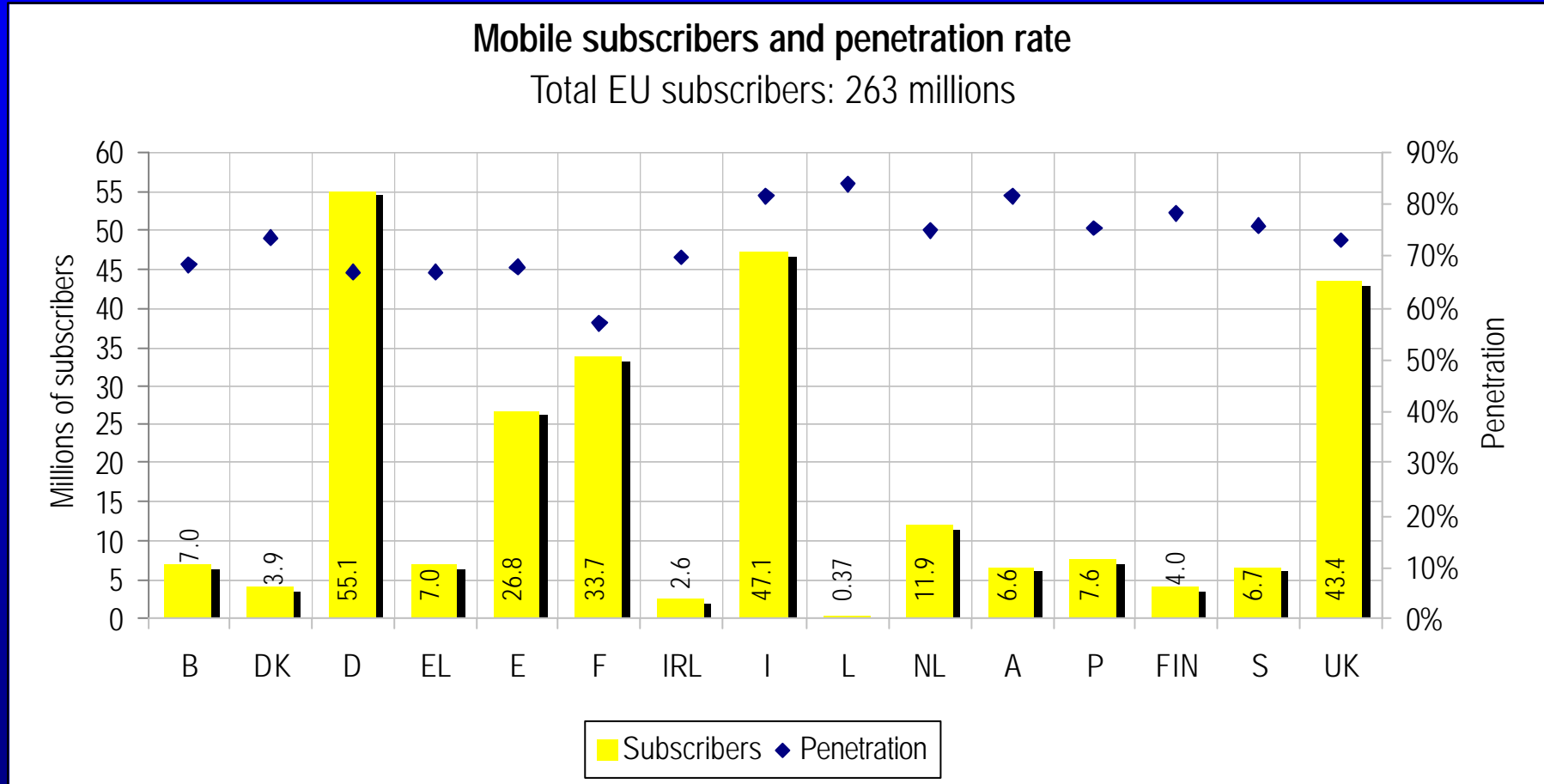


- ◆ **Case C-384/99 Commission v. Belgium, 30 Nov. 2000**
 - ◆ Scope of USO
 - ◆ Calculation of the USO cost
- ◆ **Case 146/00 Commission v. France, 6 Dec. 2001**
 - ◆ on tariff re-balancing
 - ◆ Calculation of the USO cost and transparency
 - ◆ Contribution before liberalisation

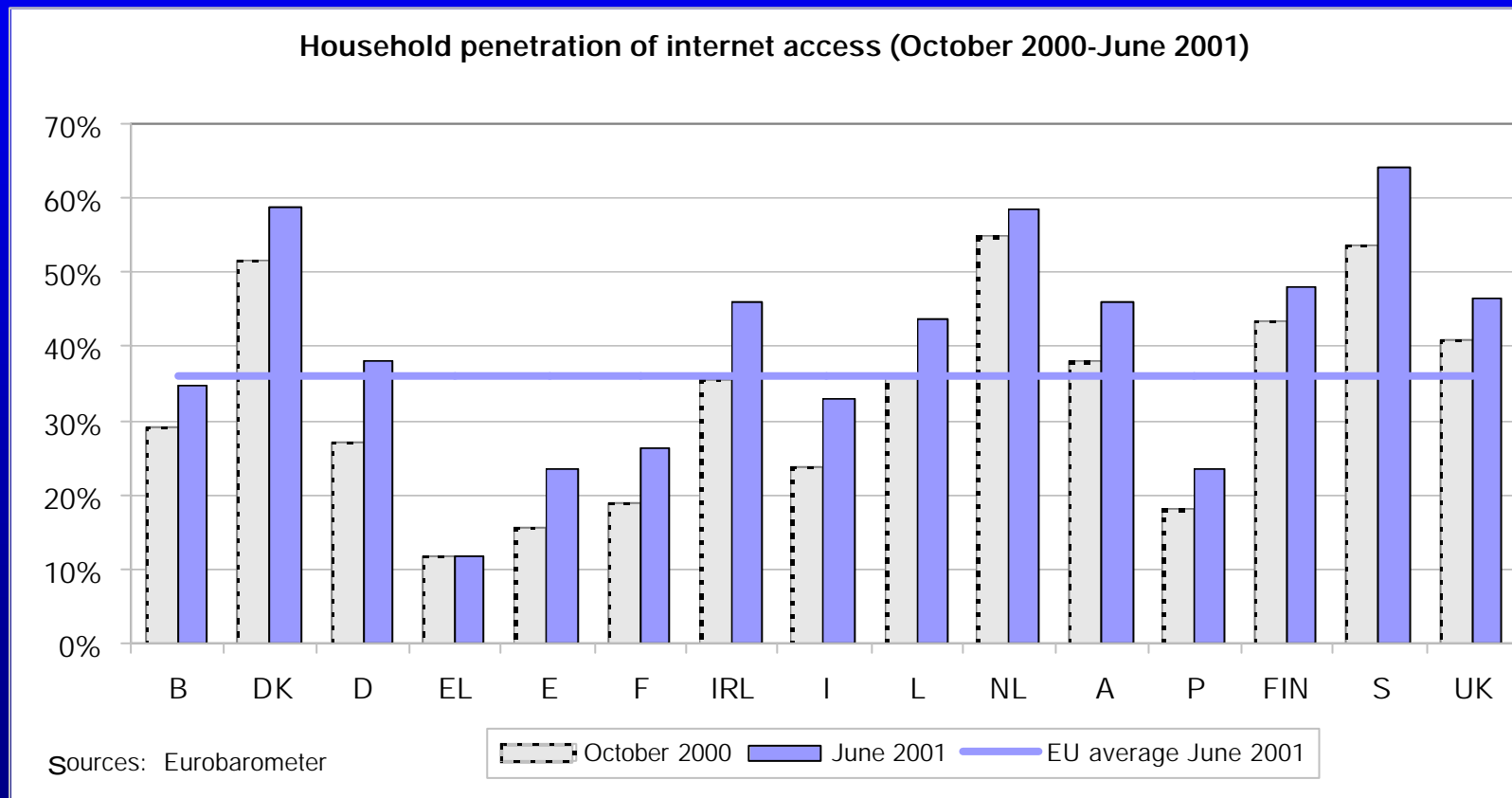
PSTN/ISDN Penetration



Mobile Penetration



Internet Penetration



Need for change ?



- ◆ Commission First Monitoring Report on Universal Service in Telecommunications in the European Union, 1998
- ◆ WIK Study on the Re-examination of the scope of universal service in the telecommunications sector of the European Union, 1999
- ◆ EOS Study on the Situations of telecommunications services in the regions of the European Union, 2000
- ◆ **No need of substantial modifications, but need to simplify, clarify, and take into account convergence**

Structure of the new Directive



Universal Service Obligations	User Rights	Retail Markets Controls
Specific undertakings	All undertakings	SMP undertakings
Ensure availability of services	Protect consumers	Ensure effective competition

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NEW UNIVERSAL SERVICE DIRECTIVE

The universal service

Scope of Universal Service: General



- ◆ **Set of services**
- ◆ **must be available under some conditions:**
 - ◆ affordability (type of users, and geographical locations)
 - ◆ quality
- ◆ **Possible review**
- ◆ **Linked with financing mechanism - Member States can go further with the general budget**

Scope of Universal Service: Different services



- ◆ **Provision of access at a fixed location**
 - ◆ sufficient for functional Internet access
 - ◆ technologically neutral (wire or wireless) on connection at fixed location
 - ◆ no extension to mobile
- ◆ **Directories and directory enquiry services**
- ◆ **Public pay telephones**
- ◆ **Special measures for disabled users**

Scope of Universal Service: Conditions



- ◆ **Affordability of tariffs**
 - ◆ Low income or peripheric regions

- ◆ **Unbundled offer and facilities permitting control of expenditure**

- ◆ **Quality of services: Publication and performance targets**

Scope of Universal Service: Review



◆ Periodic review of the scope

- ◆ Consideration of social, economic and technological developments
- ◆ Extend the scope IF positive externalities or need of social inclusion
- ◆ Mobility and data rates
- ◆ First review within two years after the date of application

Means: Designation of USO providers



◆ If necessary, Member States may designate one or more USO providers

- ◆ Use of efficient, objective, transparent, and non-discriminatory mechanism
- ◆ to ensure that USO is provided in a cost-effective manner and may be used as a mean of determining the net cost
- ◆ Designation for all or part of the different services, all or part of the territory

Means: Determination of the cost of USO



- ◆ **When representing an unfair burden, NRA shall calculate the net cost of USO**

- ◆ **Either calculation of the net cost**
 - ◆ **Avoidable cost - provision at non-commercial conditions - take into account intangible benefits**

- ◆ **Or, cost revealed during designation process (eg: auctions)**







Means: Financing the USO cost



- ◆ **The net cost of USO can be financed in two ways**
- ◆ **General government budget and/or**
- ◆ **Sectoral Fund**
 - ◆ Should respect principles of transparency, least market distortion, non-discrimination and proportionality
 - ◆ Contributors: providers of electronic communications networks and services
- ◆ **Transparency**

Basic USO Structure



	EU	MS
Definition minimum set services		
Quality specification (USO designated)		
Affordability – prices		
Affordability – user control		
Designation process – criteria		
Net cost recovery (if needed)		

Additional services at national level



- ◆ **Member States may impose availability of additional services**
 - ◆ e-Europe initiatives

- ◆ **BUT can not be financed by a sectoral Fund**

- ◆ **Must respect the European law, esp. State aid control:**
 - ◆ MS must follow a open, transparent and non-discriminating procedures, MS can finance net cost

Comparison with current framework



◆ Scope:

- ◆ Broadly the same as under Art. 3, 5, 6, 7, 8, 12(2), 14, 21 of Dir. 98/10

◆ Designation - Costing - Financing:

- ◆ Some clarification and modifications with regard to Art. 4c Dir. 90/388 as amended, Art. 5(1) Dir. 98/10 and Art. 5 Dir. 97/33 to have a more efficient provision of US
- ◆ Until now, only France and Italy have an active US Fund

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THE NEW UNIVERSAL SERVICE DIRECTIVE

End-user Interests and Rights

Introduction



- ◆ **Apply to every operators**
- ◆ **No possibility of compensation**
- ◆ **Apply without prejudice of the European and national rules on consumers protection**

- ◆ **Benefit to consumers, or end-users**

General Rights



- ◆ **Contracts**
- ◆ **Publication of information on prices and contractual conditions**
- ◆ **Publication of information on quality of service**
- ◆ **Co-regulation**
- ◆ **Out-of-Court dispute resolution**

Rights linked to telecom



- ◆ Integrity of the public telephone network at fixed location
- ◆ Operator assistance and directory enquiry services
- ◆ Single European emergency call number -112-
- ◆ European telephone access code
- ◆ Access to Non-geographic numbers in other Member State
- ◆ Number portability for fixed and mobile networks
- ◆ Possible additional facilities: Tone dialing, CLI

Rights linked to media



- ◆ **Interoperability of consumer digital TV equipment**
- ◆ **Must-carry obligations**
 - ◆ on networks used for the distribution of radio and television broadcasts to the public where used by significant number of end-users as principal mean to receive radio and TV broadcasts
 - ◆ based on clearly identified general interest objectives
 - ◆ proportionate, transparent, limited in time
 - ◆ Possibility of appropriate compensation

Comparison with current framework



◆ General consumer rights:

- ◆ Similar to Art. 10, 11(1), 12(1) Dir. 98/10

◆ Rights specific to telecom:

- ◆ Some clarification: itemised billing, soft disconnection
- ◆ Some extension: European numbers, number portability for mobile

◆ Rights specific to media

- ◆ Similar to Dir. 95/47

OUTLINE



THE NEW UNIVERSAL SERVICE DIRECTIVE

Regulatory Controls on SMP Undertakings in Retail Markets

Regulatory controls on retail services



- ◆ If retail market identified is not effectively competitive,
- ◆ and regulation of wholesale markets would not be sufficient,
- ◆ NRA shall impose proportionate and justified obligations on SMP operators:
 - ◆ tariffs oriented towards costs, no excessive or predatory prices, no discrimination, no bundling of services
 - ◆ appropriate accounting systems

Carrier (pre-) selection



- ◆ If there is SMP operator for the provision of connection to and use of the public fixed network at fixed location,
- ◆ NRA shall require carrier selection and pre-selection
- ◆ Can be extended to other networks if markets are not effectively competitive

Availability of minimum set of leased lines



- ◆ If the market for the provision of part or all of the minimum set of leased lines (with harmonised technical standards) is not effectively competitive,
- ◆ NRA shall impose obligations regarding this minimum set (provision, non-discrimination, cost orientation, transparency)

For more information ...

On the European Commission:

<http://europa.eu.int/>

On DG Information Society:

http://europa.eu.int/information_society/topics/telecoms/index_en.htm

On the new legislation:

http://europa.eu.int/information_society/topics/telecoms/regulatory/new_rf/index_en.htm