

Regulation in a Converged Digital Ecosystem

**ITU Regional Regulatory and
Economic Dialogue (REDs) for
Africa**

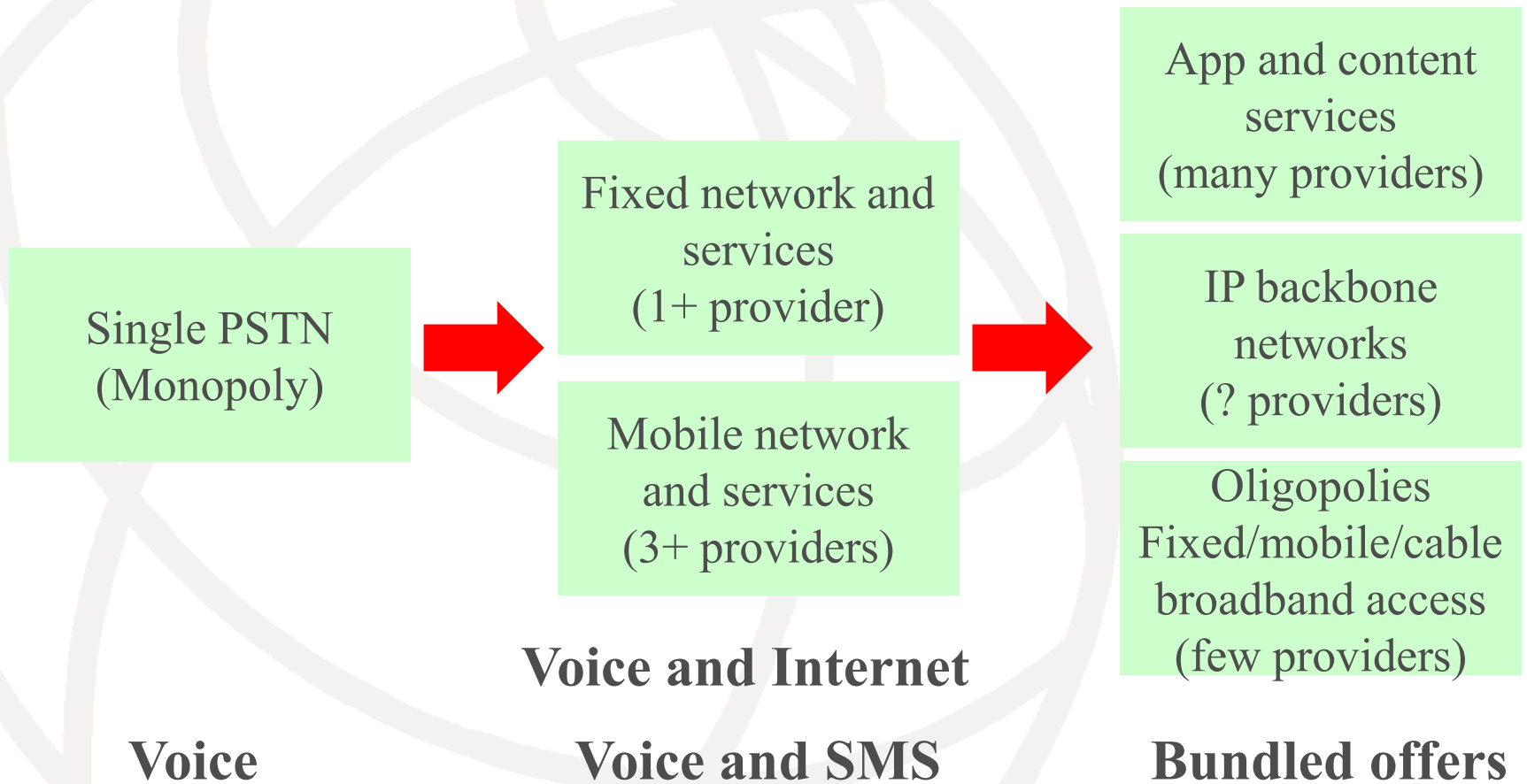
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Overview

- Digital supply side evolution
 - From Monopoly era to Competition
- Changing business models and their impact on regulation and competition law
 - The IP network revolution
 - Online platforms business model
 - The two sided nature of online platforms
 - Market structure and market power
- Current and future requirements
 - Competition law: how effective?
 - What new remedies can be enforced?

The digital supply side evolution



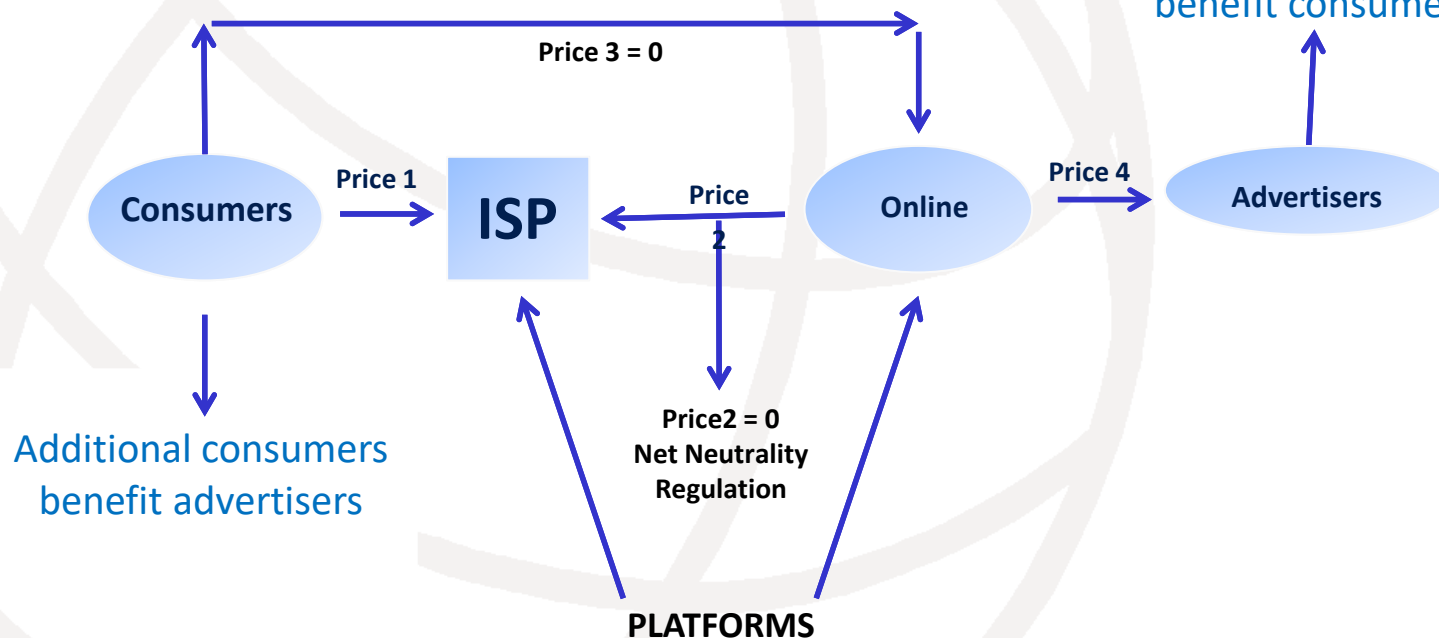
Implementation of IP networks

- The new architecture of these networks makes obsolete existing cost models.
- Decoupling of services from dedicated networks also changes the cost allocation criteria.
- Cost based pricing more important for access as this becomes mandatory to newly build IP backbone networks and less important for termination as the voice cost becomes insignificant due to exponential growth of data.

The online platform business model

Online platform business model (simplified):
consumers can access the online platform “for free”
and in return allow their data to be sold to advertisers

Additional
advertisers may
(or may not)
benefit consumers



Two-sided nature introduces new challenges

- Market definition and what constitute relevant markets:
 - One or two markets?
 - Which price the hypothetical monopolist should be raising?
 - Profits on one or on both sides of the market?
- In the past prices have been taken as the indicator of consumer welfare
- When the consumer price is zero, the direct competitive pressure shifts to product characteristics, service quality and innovative features

Significant Market Power

- *Evans and Schmalensee (2007)*: platforms with bilateral positive indirect network effects create strong self-reinforcing feedback loops.
- Five key factors determine the relative size of competing platforms (and therefore the prevailing market structure):
 - The relevance of indirect network effects
 - Economies of scale
 - The prevailing types of use on the opposite platform side (single-homing/multi-homing)
 - The degree of differentiation
 - Congestion.

Other criteria in assessing market power

- Other fundamental factors may also contribute to determine the relative size of competing platforms for example:
 - the access to data: a barrier to entry?
 - the innovation potential of digital markets
 - digital markets dynamics
- Market shares are less relevant or meaningless.
- None of the factors in isolation, indicate or are sufficient for designating a platform with market power.

Should excessive market concentration be a concern?

	Global market share April 2018 (%)	Business activity
Google	90	Search
Facebook	66	Social media
Apple	45	Smartphone web traffic
Amazon	37	Online retail

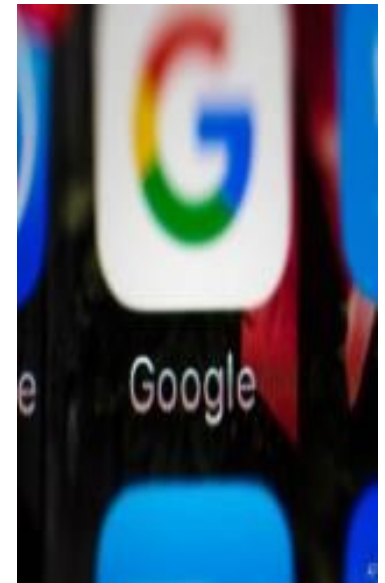
Source: The Economist 30th June 2018, "Fixing the Internet", based on data from Global Stats Counter

No price, no market?

- In 2015 the Higher Regional Court of Dusseldorf in Germany took the view that markets on which services are offered “free of charge” cannot constitute markets for competition law purposes.
- The growing relevance of digital platforms led to amendments to German anti-trust laws. The German competition authority and the courts now need to consider additional criteria when assessing dominance:
 - Direct and indirect network effects
 - The parallel use of several services and user’s switching costs
 - Economies of scale in relation with network effects
 - Access to data relevant for competition
 - Competitive forces of innovation.

Google and the European Commission

- EUR 2.4bn fine for discriminating against rivals in comparison-shopping (2017).
- EUR 4.3bn fine for forcing all Google-play services to be pre-loaded on smartphones (2018).
- Competition law, contrary to ex ante regulation, does not specify what firms should do, but only what they should not do: “it is Google’s responsibility to bring the infringement to an end”. What remains to be seen is what is more effective.



Dominance is a legitimate concern

- None of the recent Commission's antitrust actions appears to have done much to strengthen competition
- A number of remedies are being debated now on how they could be applied to online platforms:
 - Blocking new mergers
 - Mandating spin offs
 - Limiting large online platforms from offering certain services
 - Imposing data access.

Thank You

**If you have any questions please contact me:
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