



PoSTel 2008 Interconnection – Regulatory Challenge & Experiences

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Chapter 1

It all starts in Bruxelles ...

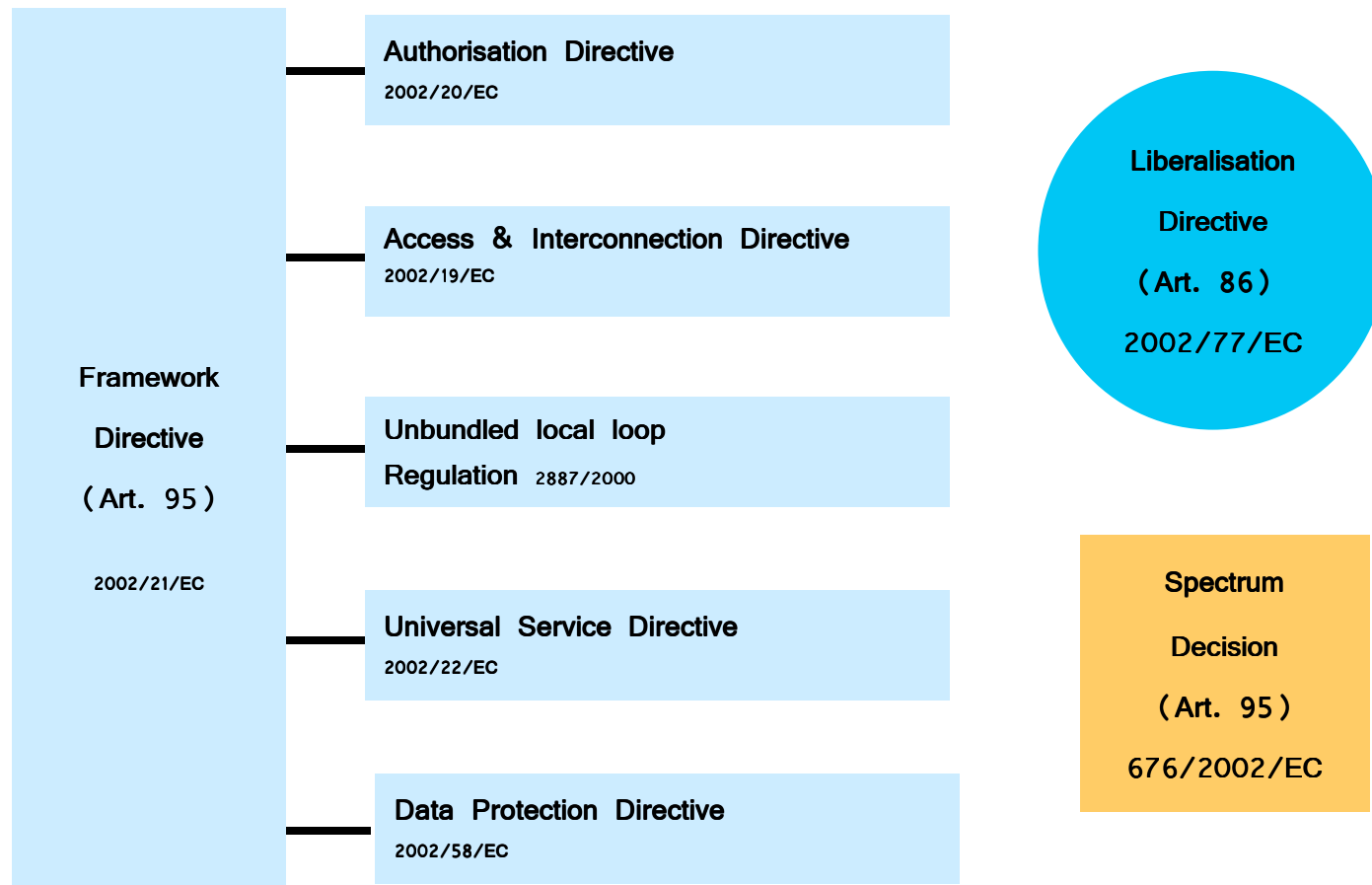
It all starts in Bruxelles ...

- Republic of Serbia signed in 2008. Stabilization and Association Agreement – it brings future prospect of negotiations and accession to the EU, but is also a huge obligation.
- After European Council grants to the Republic of Serbia a candidate status – formal negotiations could start.
- First step is so called Screening Process – evaluation of the European Commission based on questionnaires for each chapter of so called *acquis communautaire* – Community law.
- After Commission prepares Screening Report, negotiations in each of the chapters (totally 35) could start individually.
- Chapter 10 – Information Society and Media is important for electronic communications networks and services (previously known as telecommunications)
- Within negotiations, Commission may ask for so called opening and closing benchmarks – preconditions to start and to provisionally close each individually chapter, depending on the results of the Screening Report on that chapter (i.e. part of the legal system is more or less already harmonized with the Community law)

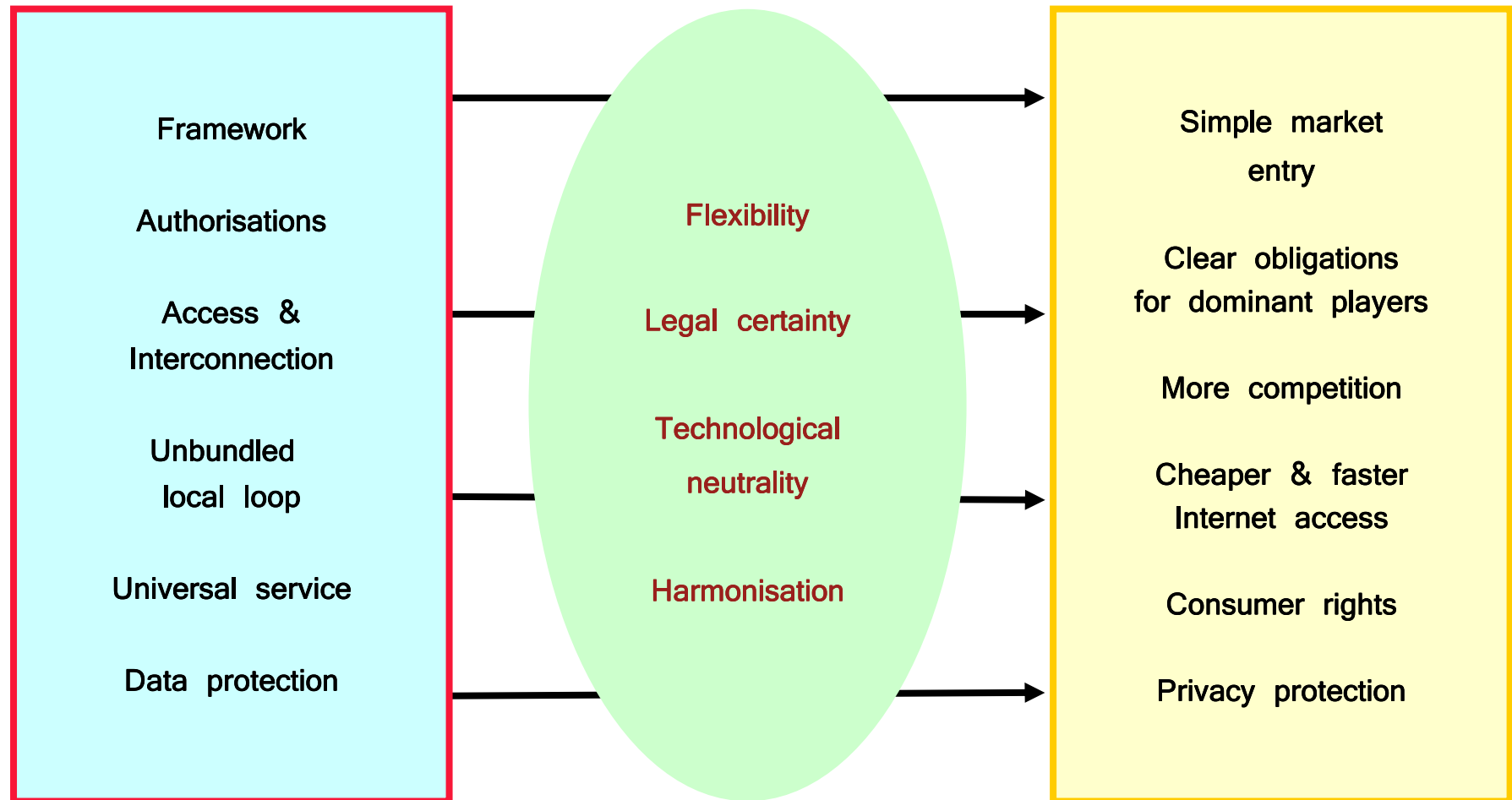
And brings consequences in the market

- EU always requests full transposition of Community law into national law AND **implementation** in practice !
- That means:
 - Full liberalization – no monopoly, virtually or literary !
 - General authorization as a licencing regime
 - Sector specific competition law – access, interconnection, pricing
 - Spectrum management – refarming, trading, technology & service neutrality, digital dividend and analouge TV switch-off
 - RTTE certification regime
 - Indenpendence of the National Regulatory Authority – functional & financial – from the Government but also from the industry !

Current EU Regulatory Framework



Objectives, policy, means



EU Regulatory Framework means in practice

Main obligations:

- applicable to electronic communications networks
- increased power of NRA's
- installation of Appeal Body
- definition of market analysis and significant market power (SMP) concepts

Promotion of competition and interconnection:

- Sustainable competition should be promoted to reach a single European market for electronic communication networks and services
- No restrictions for negotiating access and interconnection agreements should be implemented according to the Access Directive
- Obligation to interconnect - right to get interconnection (as well as access in general !!)

Chapter 2

Framework & Access Directives –
core regulatory tool for
interconnection regulation

Framework Directive – Main Provisions

- **Significant Market Power (SMP):** definition criteria: power to behave to some extent independently of competitors, customers and ultimately consumers. Criteria for such assessment in Annex II.
 - Where an undertaking has SMP it may be also deemed to have SMP on a **closely related market**
- **Market definition** according to Annex I (minimum coverage of services of other directives) – **Recommendation on Relevant Markets !!**
- **Standardisation:**
 - The Commission shall draw up and publish in the Official Journal of EC a list of standards/specifications (CEN, CENELEC, ETSI, ITU..)
 - Member States (MS) shall encourage the usage of these standards
- ***In practice, it is all about market analysis – it lies at the heart of regulation !!***

List of relevant markets (from 2007.)

- ***Retail level***

1. Access to the public telephone network at a fixed location for residential and non-residential customers

- ***Wholesale level***

2. Call origination on the public telephone network provided at a fixed location
3. Call termination on individual public telephone networks provided at a fixed location
4. Wholesale (physical) network infrastructure access (including shared or fully unbundled access) at a fixed location
5. Wholesale broadband access
6. Wholesale terminating segments of leased lines
7. Voice call termination on individual mobile networks

Access Directive

- **Aim:** harmonisation of access to and interconnection of electronic communications networks and associated facilities for sustainable competition and interoperability
- **Scope:** rights and obligations for operators and undertakings seeking access to and interconnection of their networks and associated facilities
- **Operators of public communications networks** have the right and obligation to negotiate interconnection. Operators shall offer access and interconnection to other undertakings on terms and conditions consistent with obligations imposed by NRAs

Access and Interconnection in practice

Main obligations for Operators:

- publish detailed and transparent Reference Offer

Obligations for NRA's:

- To impose remedies after performing appropriate market analysis:
 - Transparency
 - Non-discrimination
 - Pricing control (wholesale and/or retail)
 - Accounting separation
 - Obligation to grant access
- And, to resolve disputes among operators

Chapter 3

Case practice – telecom market
liberalization in Croatia

Case Practice – telecom market liberalization in Croatia

Activity	Outcome	Proposal
Harmonization of Law	Fully done only in 2008., process started end of 2002. – too long, in 2 phases	Do it at once !
Independence of NRA	First it was separated in 2 bodies, merged in 2003	To have one body, to settle it immediately
By-Laws	Not immediately prepared and passed after the law, law was in 2003, some by-laws based on 1994. law	Prepare in parallel as much by-laws as possible
Market Analysis	Properly done only in 2008/2009	Do it immediately after new law is in force, preparations could be done even before

Case Practice – telecom market liberalization in Croatia

Activity	Outcome	Proposal
Carrier select and preselect	Introduced in 2005 – as it is absolutely precondition to ANY liberalization in fixed market – too late	Do it in parallel with opening of fixed market
Unbundling	Introduced in 2005 – as it is absolutely precondition to FULL liberalization in fixed market – too late	Do it immediately after opening of fixed market
Number portability	Introduced in 2005 – it is also important to future liberalization	Do it immediately in mobile networks !
RIO	Introduced in 2005 - Very important – no real interconnection without it !	It has to be prepared BEFORE opening of fixed market

Case Practice – telecom market liberalization in Croatia

Activity	Outcome	Proposal
RUO	No unbundling without RUO First in 2005/2006 – delay !	Do it in parallel with fixed market liberalization, make efficient mechanism for changes to adopt to real market demands
Accounting separation	Will be introduced in 2009.	To start to implement immediately after market analysis of relevant market is over – fixed and mobile !
Pricing control	Will be introduced in 2010.	To start to implement immediately after market analysis of relevant market is over – fixed and mobile !

Case Practice – telecom market liberalization in Croatia

Acitivity	Outcome	Proposal
Leased lines	Covered by RIO but also by wholesale offer – as of 2008.	Do it immediatelly after market analysis
DTK (ducts)	Covered by new Law from 2008	Practice showed “wild west” – it is necessary to regulate together with Markets 4. / 5.
Bitstream access	Covered by wholesale offer – as of 2008	Do it immediatelly after market analysis You cannot have ADSL and IPTV products of incumbent and no bitstream offer (or, shared access with unbundling !)

- To conclude: **IT IS A SERIOUS AND RESPONSIBLE TASK TO REGULATE THE MARKET !**
- Success depends on strong, well positioned, staffed, expert and indenpendent regulator
- Lot of activities has to be done in parallel, overall view of the market and regulation needed !
- Good and consistently implemented annual work programme of NRA is essential ! – Clear goals & agenda !



Chapter 4

EU regulatory framework review

EU Regulatory Framework review

- Started in **November 2007**. officially
- Commission prepared its proposals
- European Parliament held first reading and vote in September 2008.
- Now, Council of Ministers should come out with its common position until 27. November 2008.
- Second reading in European Parliament – until April 2009.
- Final adoption in Council of Ministers – **June 2009**.
- Transposition and implementation in Member States – **01. January 2011**.
- **Importance for all candidate countries**: they will be obligated to implement all new provisions before accession to EU – **and to implement in practice !!**

Objectives & Main Proposals of the review

- **The Aim is to giving users:**
 - More choice
 - Better quality
 - Greater value for money
- **Main proposals:**
 - Strengthening consumer rights
 - Reinforcing national regulators
 - Promoting the wireless economy
 - A new European Authority
- **In practice:**
 - Streamlining of Framework, Access and Authorisation Directives
 - Amending Universal Service and ePrivacy Directives
 - New Regulation of European Regulatory Market Authority (EECMA, BERT, ORT, GERT ...?)

Commission's 6 priorities in the review

- **Investment into new networks**
- **Veto on remedies & functional separation**
- **European Telecoms Regulator**
- **E-Privacy:**
 - **Enhanced privacy protection**
 - **Discussion on "action against illegal activity on the internet"**
- **Spectrum & The digital dividend**
- **Consumer rights**



Thank you!
Hvala Vam na pažnji !

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and serves more than 17 million customers ...