



The new regulatory framework for Electronic Networks and Services

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

demands

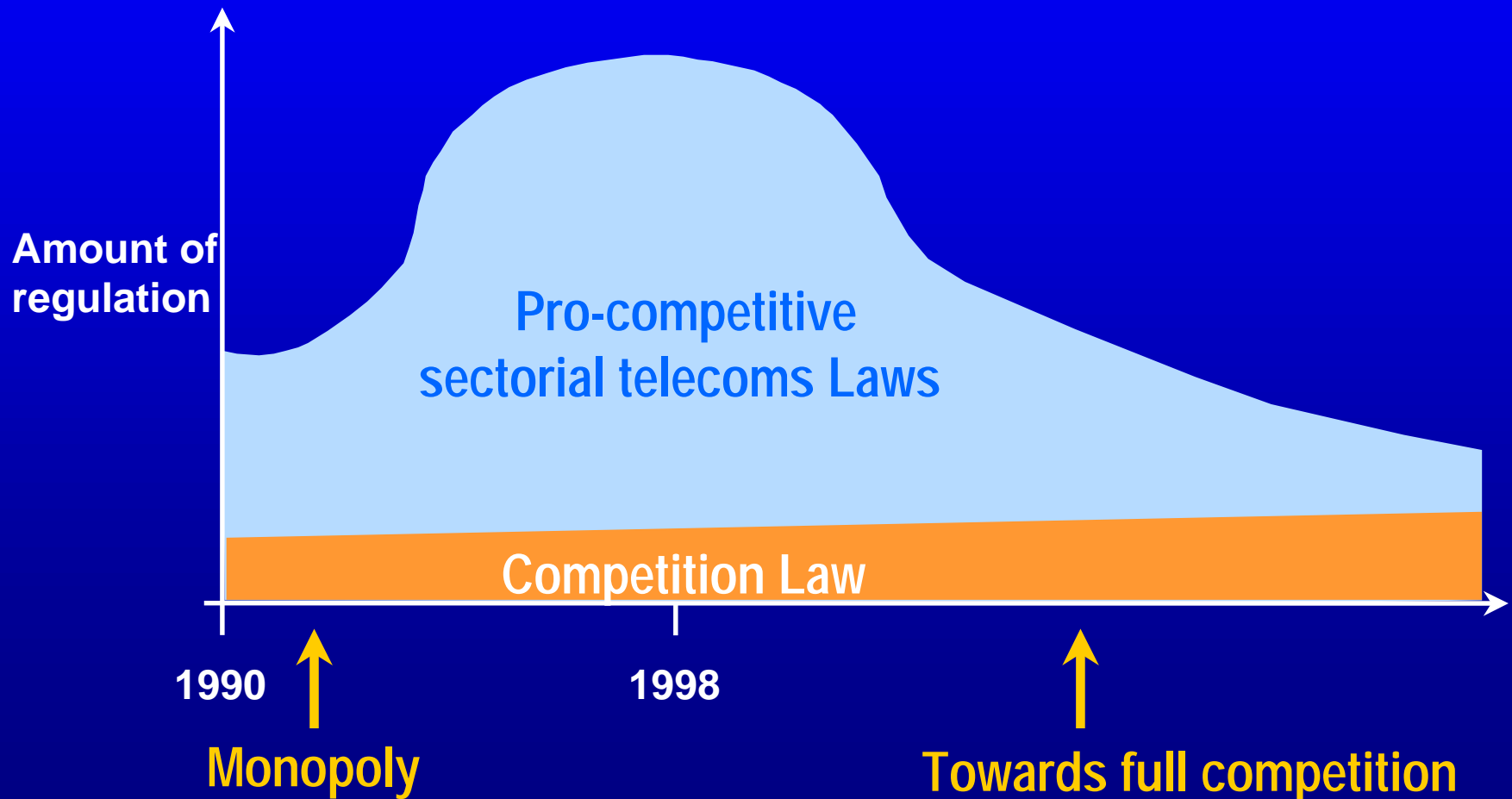
**“an inexpensive, world-class
communications infrastructure”**

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Rely increasingly on competition rules



Creating the “right” legislative framework



A successful legal framework will:

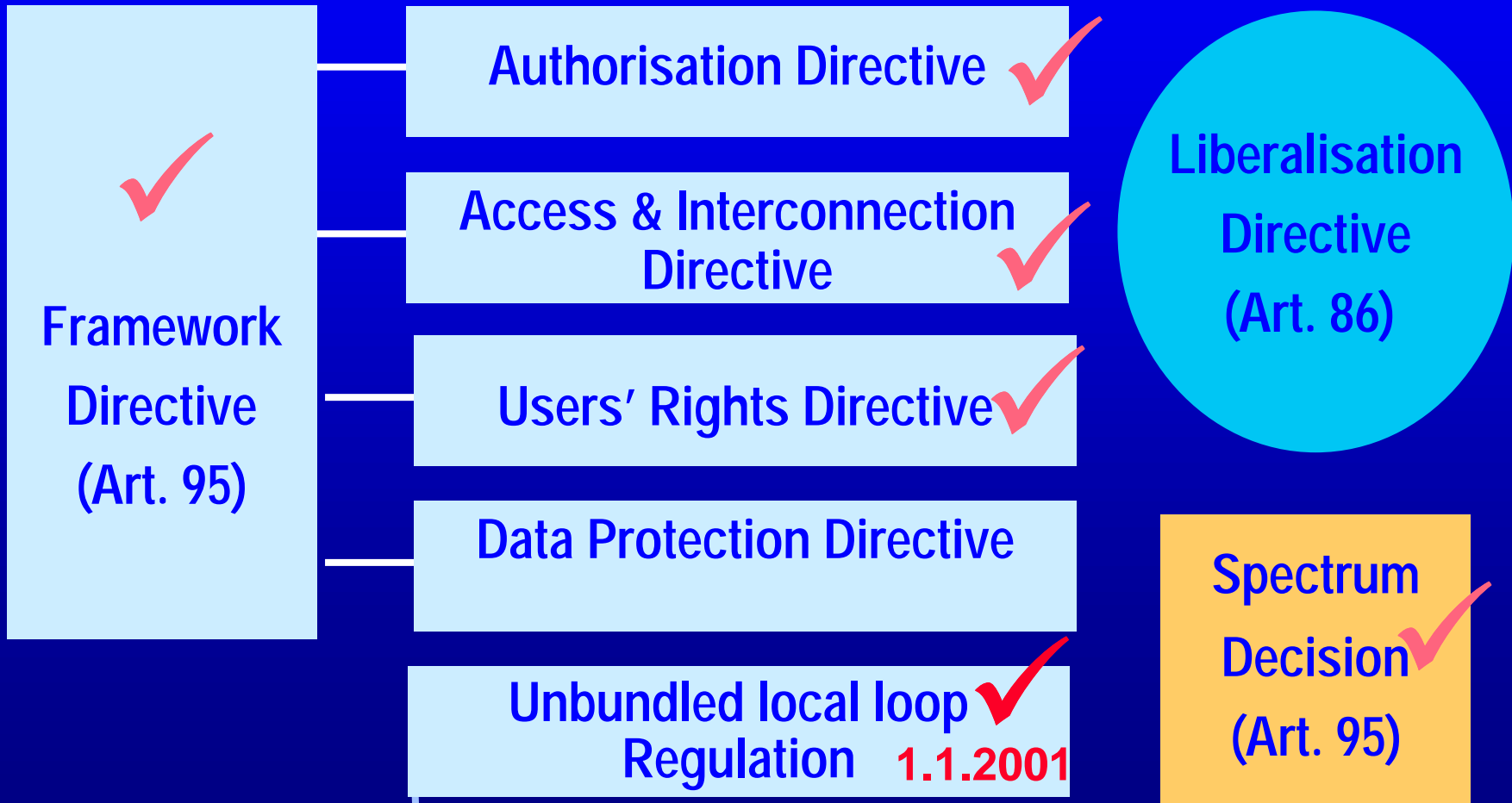
◆ Attract investment, by

- 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

The new package



Framework Directive



- ◆ **Definitions and scope**
- ◆ **National regulatory authorities: objectives, duties, rights of appeal**
- ◆ **Transparency and consultation procedures**
- ◆ **Numbering naming addressing; rights of way; collocation & facility sharing**
- ◆ **SMP and market analysis**
- ◆ **Standardisation**
- ◆ **Dispute resolution procedures**
- ◆ **Communications committee**

Authorisation Directive



- ◆ Establishes right of market entry
- ◆ Limits the conditions that Member States can impose in authorisations
- ◆ Rights of use of radio frequencies and numbers
- ◆ Compliance and information provision
- ◆ Charges and fees
- ◆ Transition from existing licences

Access Directive



- ◆ **Covers relationships between suppliers of networks and services (ie wholesale)**
- ◆ **Ensures “any to any” interconnection**
- ◆ **Provides NRAs with menu of obligations to use to address interconnection and access issues**
- ◆ **Carries over existing TV conditional access regime, but allows for future adaptation**

Universal service Directive



- ◆ **Scope, costing and financing of Univ service**
- ◆ **Leased lines, carrier (pre) selection**
- ◆ **Number portability, caller location (fixed and mobile)**
- ◆ **Contracts and user rights**
- ◆ **Transparency of information, quality of service**
- ◆ **Network integrity, ‘must-carry’, interoperability of digital TV equipment**
- ◆ **ETNS, ‘112’, ‘00’, pay phones, directory services**

Data Protection Directive



- ◆ Processing of traffic data
- ◆ Processing of location data
- ◆ Calling line identification
- ◆ Directories
- ◆ Unsolicited communications ('spam')
- ◆ Exceptions for national security and law enforcement purposes

‘Art 86’ liberalisation Directive



- ◆ **Consolidates changes to original 1990 liberalisation Directive 90/388/EEC**
- ◆ **Adapts scope and terminology to be consistent with Art 95 Directives**
- ◆ **Will be applied at same time as Art 95 package**

Spectrum Decision



- ◆ **Co-ordination and, where appropriate, harmonisation of spectrum in the EU**

- ◆ **Establish procedures in order to:**
 - ◆ **Facilitate policy-making concerning use of radio spectrum**
 - ◆ **Ensure implementation of spectrum policy and legislation**
 - ◆ **Make available information (allocation, availability and use of spectrum)**
 - ◆ **Ensure co-ordination of EU interests at international negotiations**

Important changes



- ◆ **Scope**
- ◆ **Market entry and licensing**
- ◆ **Effective competition - the basis for ex-ante regulation**
- ◆ **Consistency of application of rules**

Today - separate networks, separate rules

Service

**Voice
telephony**

Data

Broadcasting

Network

**Fixed
Mobile**

Fixed

**Cable
Satellite
Terrestrial**

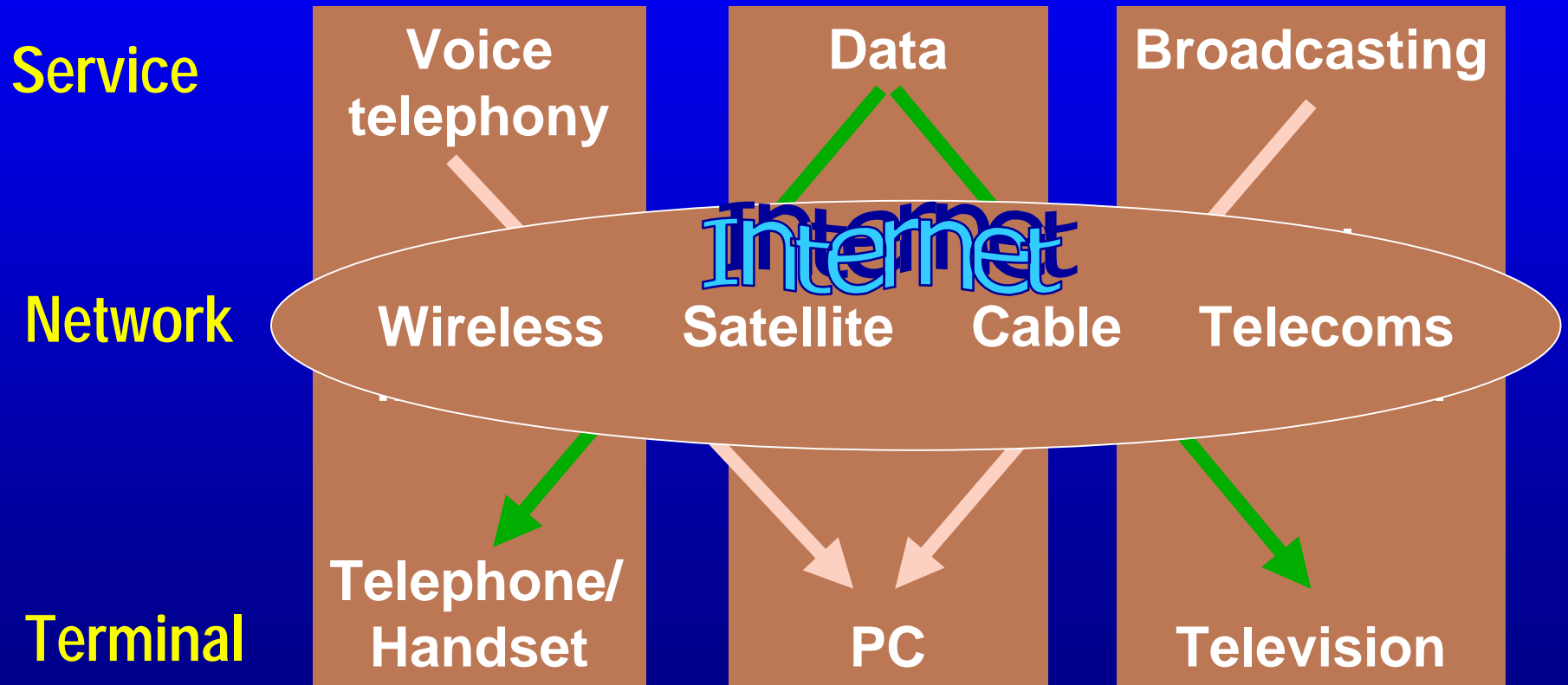
Terminal

**Telephone/
Handset**

PC

Television

Convergence is a reality



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)

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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**

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**

Structure of the new approach



General national national law covering rights and obligations regarding all or certain types of services and networks, giving rise to a:

GENERAL AUTHORISATION

Supplemented by regulatory decisions with regard to individual undertakings covering :

Rights to use frequency

Rights to use numbers

Rights of way

SMP obligations

Universal service obligations

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

Significant market power



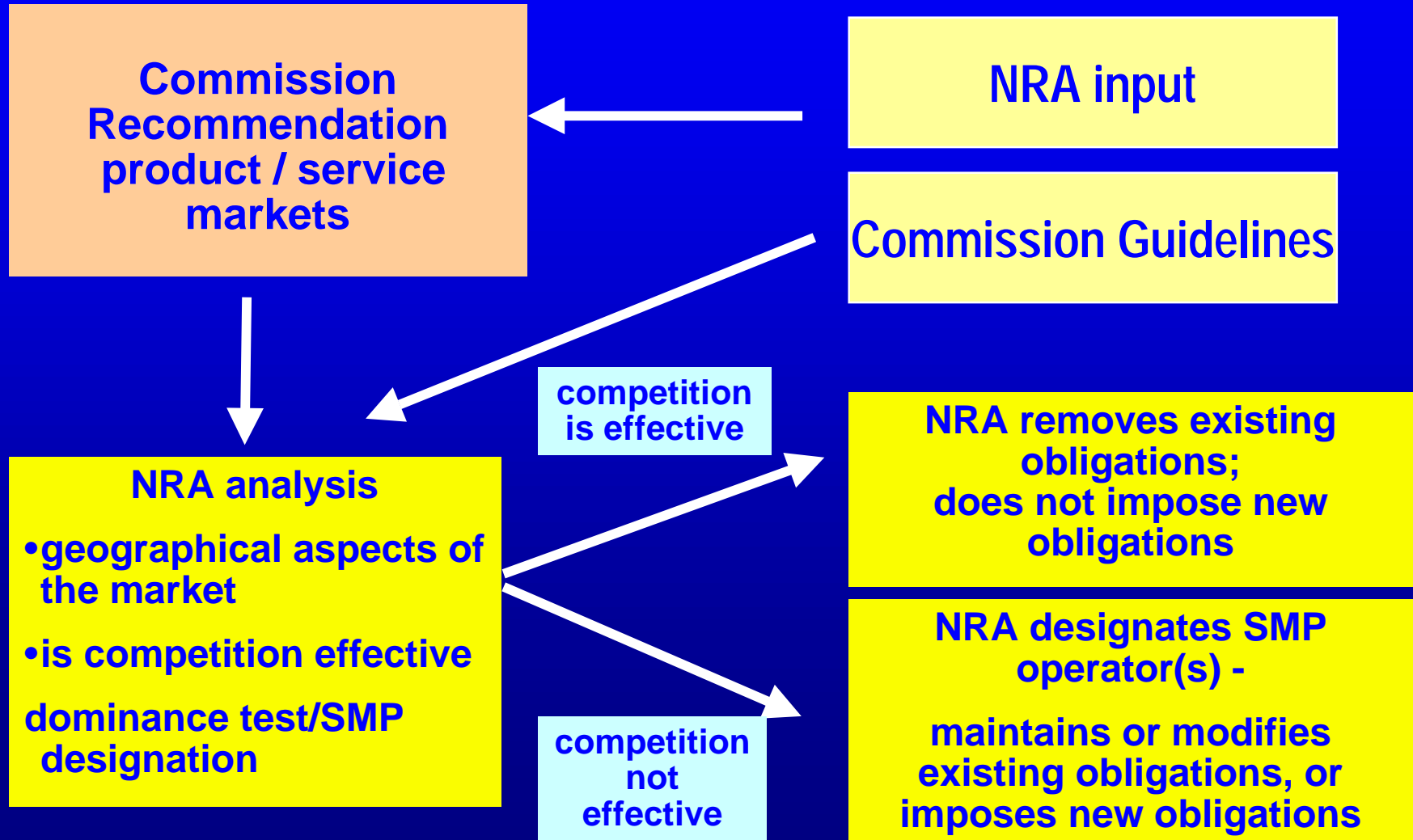
SMP is the threshold for ex-ante intervention by NRAs, when competition is not effective

- ◆ ‘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



SMP: Determination



Obligations on undertakings with SMP



May include :

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

Framework for NRA action



◆ **Unpredictability of markets**

◆ **Need for legal certainty**

◆ **Ensuring consistent application of the rules**

➤ **Flexibility for regulators**

➤ **Clear objectives and strict procedures for regulators**

➤ **Strong control and coordination of NRAs**

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 concerning market definition and SMP designation (comitology procedure)**

New Groups and Committees



◆ Spectrum policy group

- ◆ High level policy group established by Commission decision, chaired by M 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 to seek consistent application of rules in all M States

Timeline



Next steps



Commission

- SMP Guidelines
- Recommendation on relevant markets, and possible Decision on trans-national markets
- List of Standards
- Art 86 Directive

Member States

- transposition and preparatory market analysis

Council and EP

- adoption of data protection Directive

For more information ...



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