

mobile telecommunications international roaming

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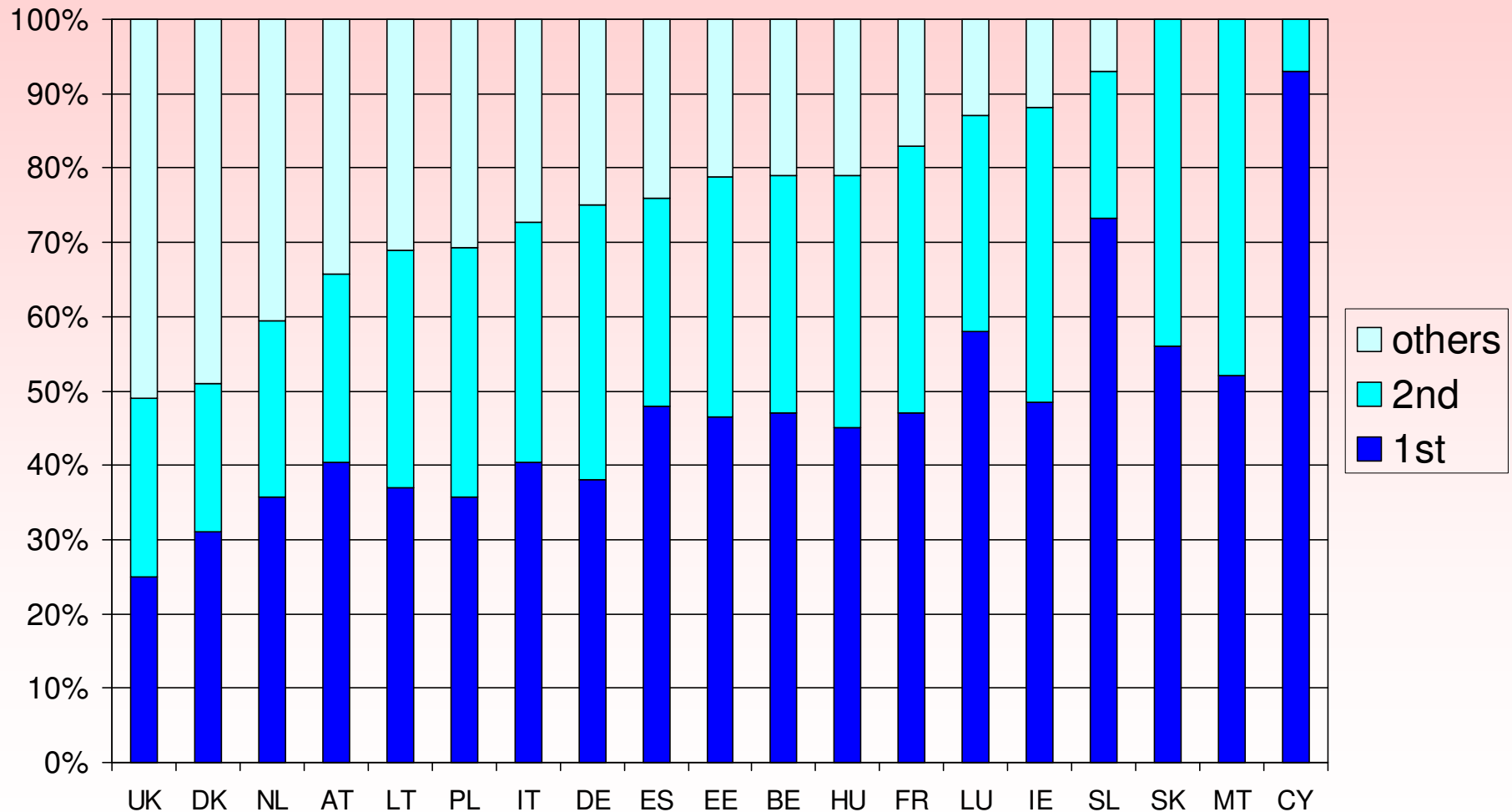
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European Union

- Many member states still far behind schedule on transposition and implementation of 2002 directives
- The European mobile market is:
 - Replacement
 - Churn
 - Ring-tones
 - Cheap 3G voice
- 2006 Review of the telecommunications legislation

Mobile market shares



DG Competition

- 1996 original notification by GSM Association
- Letters of comfort under Article 81 (3):
 - Standard Terms for International Roaming Agreements (STIRA)
 - Inter Operator Tariffs (IOT)
- Sector inquiry under Regulation 17/62:
 - Working document (December 2000)
 - Dawn raids (July 2001)
 - Draft statements of objections (2004/5)
 - Cases remain open (2006)

1999 Review

- EP forced inclusion of roaming markets in Annex I of Framework Directive
- Heavy operator involvement in development of the market definition in the Recommendation
- Only two market analyses so far:
 - Finland and France
 - inconsistent conclusions
- Market definition may well be wrong

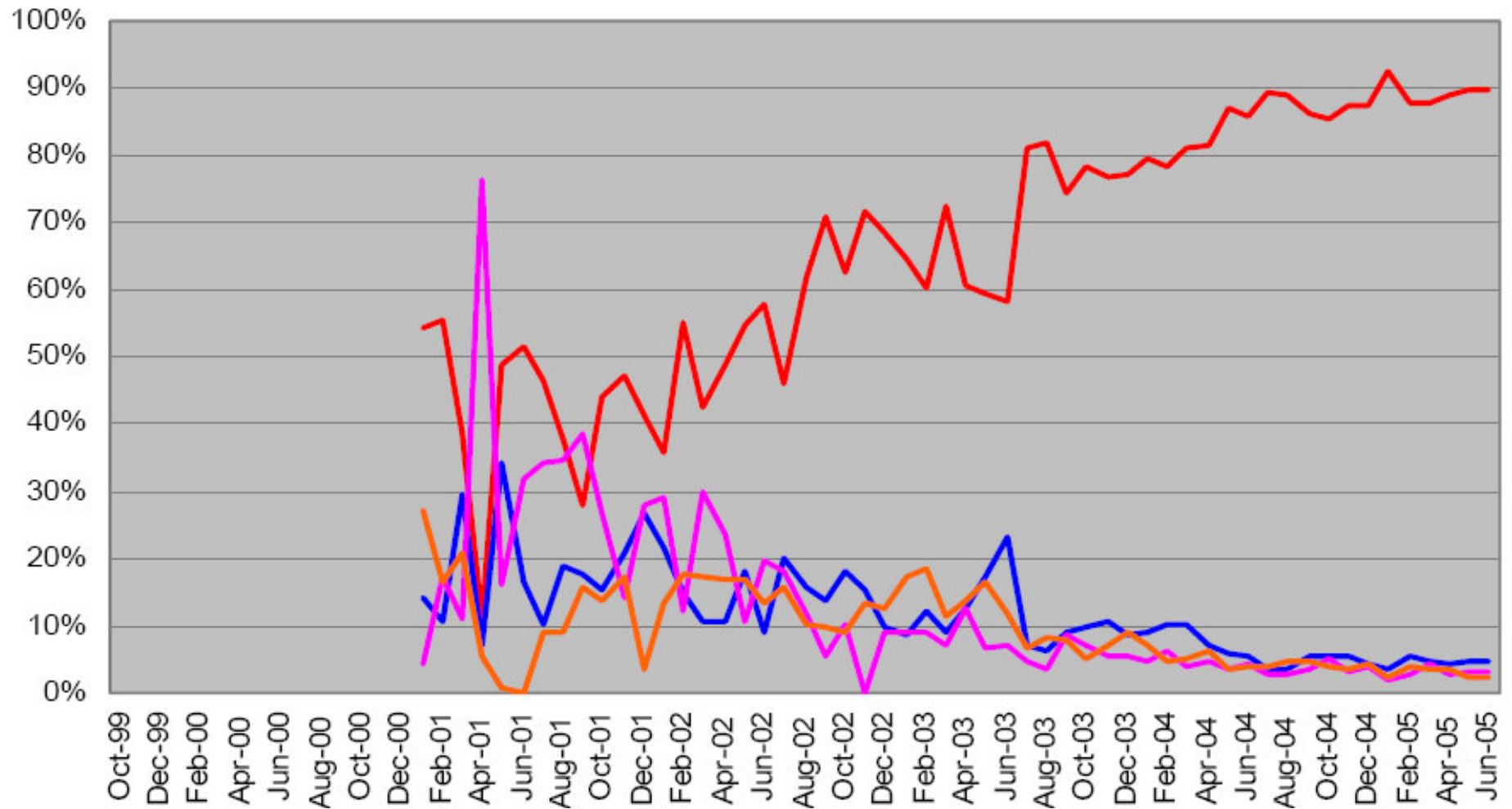
France – ARCEP suggestions

- Regulation as a trans-national market:
 - Article 15 (4) requires EC to define such a market
 - Article 16 (5) requires all twenty-five EU regulators to sit as a single body with EC, analyse the market and determine remedies
- Tight oligopoly:
 - Very little evidence provided
 - Novel approach in competition law
 - Contestable up to EU courts, so long years of delay
- Blamed the EP, but it had ensured a market had to be analysed

Traffic direction technologies

- Supposedly introduced competition
- Linked to price reductions, but not necessarily the cause
- Hutchison Whampoa example roaming to Spain is controlled by its three UK rivals
- Appears to consolidate traffic with groups
- Does not create a competitive market structure

Vodafone traffic direction data



2006 review

- Politically impossible to:
 - remove wholesale international roaming market
 - retain wholesale international roaming market
- So a very hard political choice:
 - Revised market definition:
 - Wholesale mobile access?
(national and international roaming, MVNOs and SPs)
 - Some alternative solution:
 - Regulation under Article 95
 - Review of application of Article 81 (3)
 - New trans-national spectrum

2006 review

- EC presently preparing proposals:
 - no drama, shock or awe
 - only streamlining and tinkering
 - formal legislative proposals by late 2006
 - to be implemented in member states by 2010
- Review of the list of markets that NRAs must analyse:
 - mobile termination will remain
 - operators want mobile call origination and access removed
 - new definitions should take effect in 2007

Support for removal of M.17

- Danish telecommunications industry
- EICTA
- L M Ericsson
- ETNO
- France Telecom
- Magyar Telecom
- Mobilkom Austria
- O₂
- Portugal Telecom
- Telefónica de España
- Telecom Polska
- Telenor

Mrs Reding's regulation

- European Commissioner has promised a regulation
 - no need for transposition
 - but no support in domestic law for implementation
- First it has to be drafted
- Then it has to pass the Commission, the Parliament and, hardest of all, the Council
- It goes directly against the conclusion that the regulatory framework is satisfactory
- No very obvious explanation of why the NRF does not work for IMR
- It is unlikely to take effect in 2006
- Not at all certain it will have the desired effect

Article 81 (3)

- Letters of comfort are very old
- It is time to review whether the benefits required are still being delivered
- Regulation 1/2003 gives powers to national courts, NCAs and even a few NRAs
- OFCOM and ComReg could widen their market analyses to consider Art. 81 (3)
- Then, using 81 (2) strike out the offending parts of STIRA and IOT
- Even with an appeal it would be fairly fast
- Easy for other member states to copy

Spectrum

- Some spectrum is being recycled:
 - 450 MHz for CDMA and FLASH-OFDM
- Potentially available in the 2.0 and 2.6GHz bands
- 3GSM operators vehemently opposed to technological neutrality, want to delay or deny market entry
- A compromise would be to allow them to change 900 and 1800 MHz to technology neutral, thus UMTS
- Should then allow WiMAX in higher bands
- Some countries are pushing for spectrum trading
 - there maybe buyers
 - but are there sellers?

Conclusions

- No effort to create an internal market, still fixedly national markets
- Roaming charges diffused to other areas
 - pre-paid
 - data
 - broadcasting
- Regulation has, to date, failed
- Action is long, long overdue
- A regulation might work, but very uncertain
- Article 81 (3) could be a more effective route

Issues

- How did we get into this mess?
- Why does nobody care about the internal market?
- What make roaming so very hard to understand?
- Why do we not have a model of the roaming markets that allows us to predict what will happen?
- What are the lessons for:
 - Next Generation Networks?
 - IP Multimedia Subsystem?

thank you

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