

Research ICT Africa!
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Essential facilities: undersea cables & local loops

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Introduction

- Essential facilities
- Undersea cables
- Local loop unbundling
- Conclusion

Essential facilities

- Developed under antitrust law in the USA
- Original decision concerned a railway bridge over the Mississippi
- Now well-established jurisprudence
- The essential facility:
 - must provide a substantial and long term advantage
 - must be very expensive or very difficult to replicate

Undersea cables

- A bottleneck for communications to the rest of the world:
 - undersea cable
 - cable landing station
 - links to the landing station
- Control of these result in high prices for:
 - voice telephony
 - Internet access
- Some countries have no undersea cable and little chance of getting one

Possibility of bankruptcy

- Excessive building in the 1990s
- Resulted in bankruptcy
- Other firms bought up their assets at low prices:
 - Tata Communications (a.k.a. VSNL)
 - Reliance Communications
- Using those to offer cheaper services
- Serious risk of further bankruptcies:
 - potential over-building around Africa
 - will the 2nd and 3rd ashore get enough business?

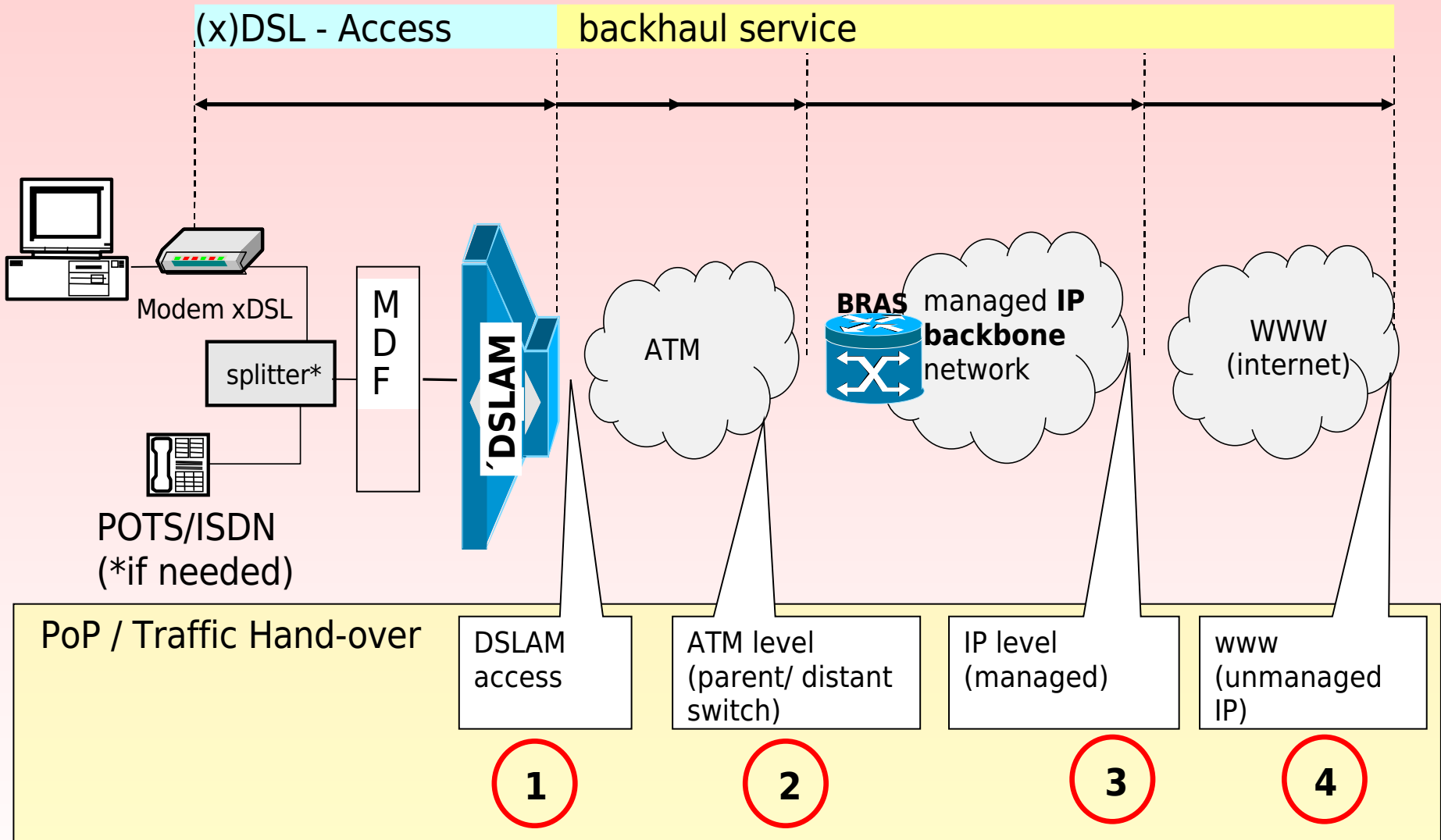
Local loop unbundling

- Originally intended as part of the voice traffic “ladder of investment”
- Re-invented for broadband
- Favours service-based competition over pre-existing copper lines
- Regulation has proved very complicated:
 - economic modeling of costs
 - immensely detailed regulation
 - several additional technical options

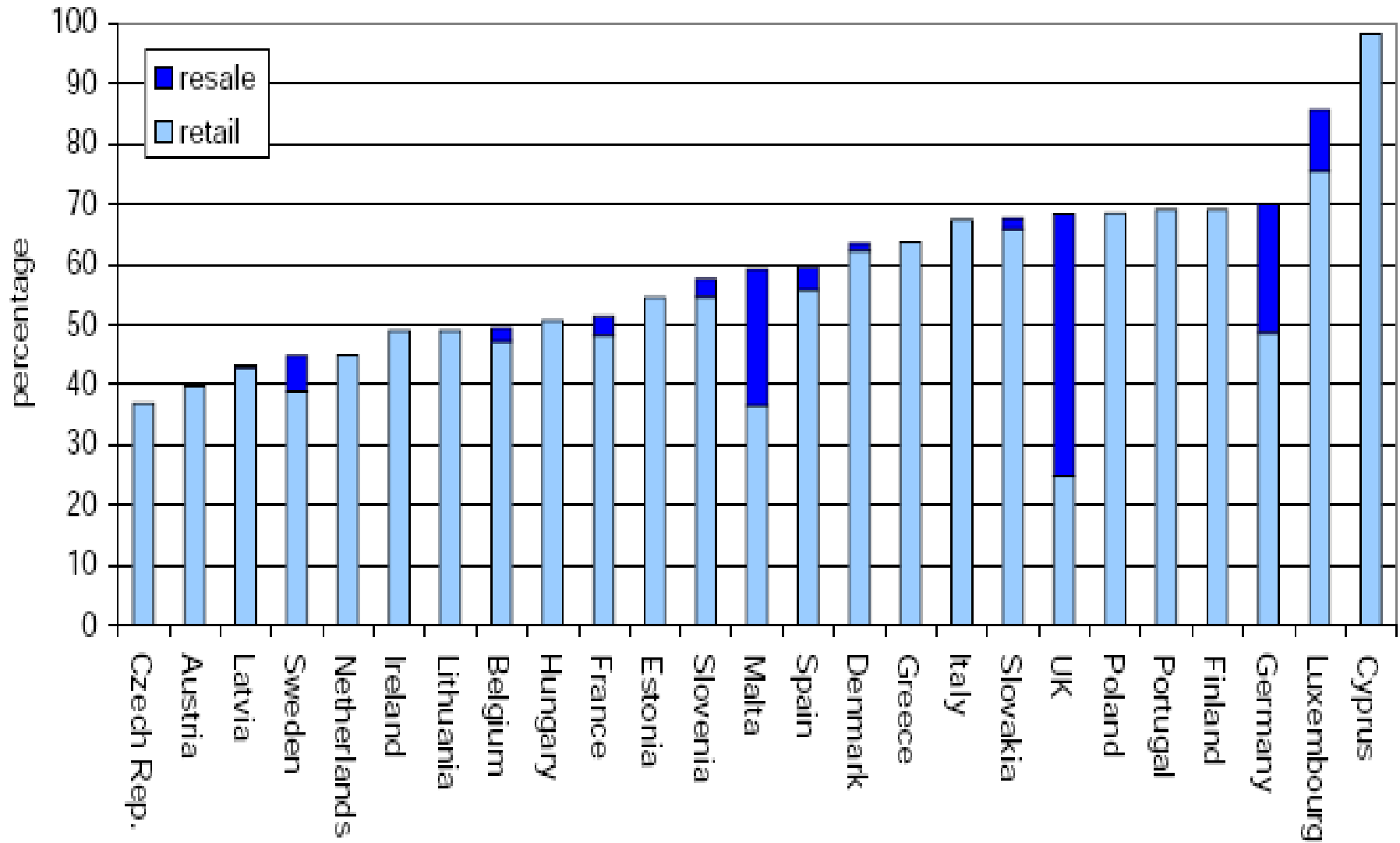
European Union

- Agreed in principle by heads of government
- Unbundling enacted by the European Parliament and Council of Ministers
- Later absorbed into the market analysis process
- Considerable work by national regulators

ERG model



Market shares of incumbents



Ducts or functional separation?

- Broadband debate has moved on from ADSL and ADSL2+
- Fibre To The Home (FTTH)
- Functional Separation:
 - monopoly on local access
 - price and non-price non-discriminatory
 - legal basis
- Opening ducts
 - multiple infrastructure operators
- See the OECD workshop in Stavanger '08

Impact assessment

- How many lines are there to unbundle?
- How many potential market entrants are there?
- What are the costs of the regulatory overhead?
- Will it work?
- What are the alternatives?
 - infrastructure competition?
 - fixed wireless?

Conclusions

- The concept of essential facilities is very clear in antitrust law:
 - is there a basis in your national law?
 - can you get a basis?
- It is applicable to telecommunications markets as a tool to open bottlenecks
- Many emerging countries have an infrastructure deficit so focus on infrastructure competition
- Local loop unbundling is designed for service-based competition

Link Centre policy briefs

- Undersea cables and landing stations
<http://link.wits.ac.za/papers/esselaar-et-al-2007-undersea-cables.pdf>
- Local loop unbundling
<http://link.wits.ac.za/papers/LINK.pdf>

Thank you

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