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# Competition: The EU approach

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# Introduction

- Piecemeal reforms
- Subsidiarity
- The EC Treaty
- Full liberalisation – 1998
- The 1999 Review and the 2002 directives:
  - extended to ten new member states in 2004
  - two more in 2007
- The 2006 review
- Conclusion

# Pro-competitive policies

- Opening of markets for Customer Premises Equipment (CPE)
- Licensing of operators:
  - obligation to licence GSM operators
- Provision of leased lines:
  - for all operators
- Carrier (Pre-)Selection
- Number Portability
- Local loop unbundling

# European Community Treaty

- Competition law provisions:
  - merger control
  - cartels
  - abuse of dominance
  - limits on state aid
  - special and exclusive rights
- They apply to telecommunications in addition to any statutes

# European Commission

- DG Competition is responsible for merger control (unless very small)
- Used to accelerate liberalisation:
  - Global One  
(Deutsche Telekom and France Telecom)
  - Telia and Sonera
- Important cases brought by operators:
  - price squeeze
  - abuse of dominance

# Ladders of investment

- Only a metaphor
- Originally for voice telephony
- Re-applied to consumer broadband
- A different ladder again for business VPNs
- Generally not applied to mobile

# 2002 directives

- The result of the 1999 Review
- Massive consultative and legislative effort
- Systematic review
- Building on previous reforms
- Further liberalisation
- Move towards competition law
- Focus on bottlenecks
- Use of market analyses
- Transposed into national law

# Market analyses

- A list of markets specified by the EC:
  - subject to periodic review
  - can be supplemented by a regulator (e.g., SMS in France)
- National authorities required to analyse the markets:
  - To designate operators as having SMP
  - To impose remedies to resolve problems
  - To repeat the analysis



# Significant Market Power

- Presumption of abuse:
  - c.f. competition law which requires proof
- Initially an arbitrary 25% market share
- Changed to competition law definition:
  - dominance
  - much higher threshold
  - solid jurisprudence from EU courts
- Focus regulation on a few players
- Ultimate reliance only on competition law

# EU 2006 review

- Regular review cycle
- Consultations
- Legislative proposals include:
  - functional separation
  - spectrum reforms
  - single European regulator
- Debate in European Parliament and in the Council of ministers
- Little sign of the end of sector regulation

# Conclusions

- Two systems running in parallel
- *Ex ante* has been scaled back
- Markets have been made more competitive
- Extended to new member states, to accession countries and beyond
- A slow process
- Adjusted to many market and technological changes

# Thank you

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