

# Research networks and the new European regulatory framework – competing public priorities?

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# Outline

- Telecoms regulation in Europe
- Impact of telecoms regulation on NRENs
  - Direct impacts (regulatory status)
  - Indirect impacts (market conditions)
- Some public policy issues



# Introduction

- SERENATE regulatory work item aim: to assess main implications for European NRENs of regulatory situation, with particular reference to new ownership models
- Telecoms regulation: market liberalisation and rules for running networks and providing services (excludes NREN-specific rules, eg their own statutes).
- Main areas:
  - Competition rules
  - Limited resource management eg spectrum, rights of way
  - Universal service and consumer protection



# Telecoms regulation in Europe

- From July 2003 actually “electronic communications” in place of telecoms – reflecting convergence (but excludes content regulation)
- EU (and EEA) markets in theory fully liberalised since January 1998; annual Commission “implementation reports” track progress
- New regulatory package approved April 2002 for transposition in all member states by July 2003
- Accession countries must adopt *acquis communautaire* by date of joining
- Idea of a European regulator floated during 1999 Review but dropped – no international regulation (apart from WTO)

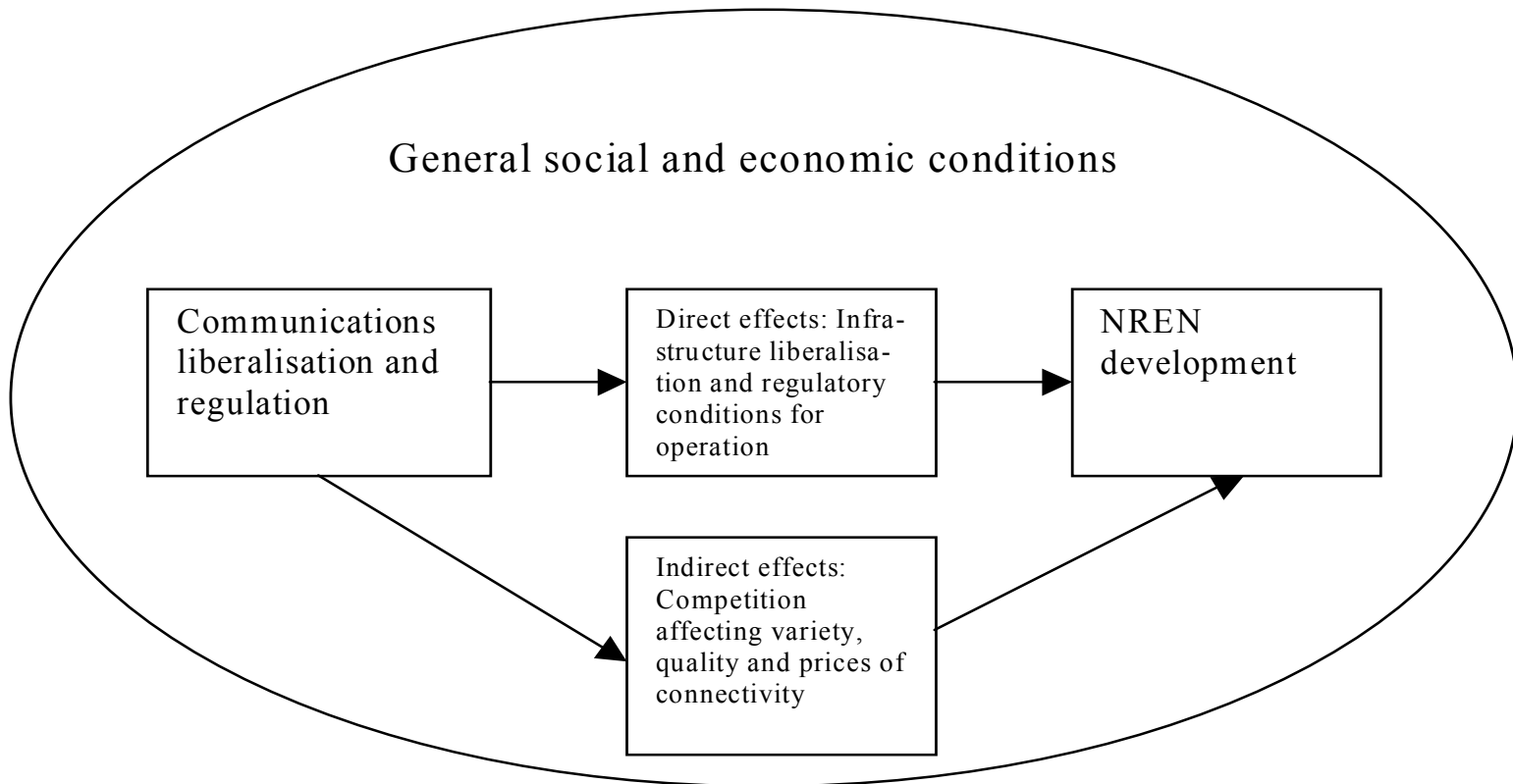


# Main points of new regime

- Aim is freest possible market consistent with adequate consumer protection; further opening plus “tidying up” exercise (but smooth transition intended from status quo)
- Continuing basic principles: objective, non-discriminatory, proportionate, transparent; also technology-neutral
- Licensing abolished, replaced by general authorisations for electronic communications service (ECS) provision subject to general conditions of entitlement – notification only, minimal fees
- Market analysis procedure must justify additional *ex ante* regulation to curb abuse of Significant Market Power (SMP) – mainly, by former incumbent operators



# Main implications for NRENs



# Main implications for NRENs

- Indirect: liberalisation (with continuing regulation, cf leased line pricing, mobile termination rates) should eventually bring lower prices, higher quality and more variety
- Direct:
  - No general regulatory barriers to owning or running networks
  - Nearly all NRENs will require authorisation as they do provide services for payment
  - Public network status brings special rights and responsibilities and may objectively justify discrimination (replaces old “infrastructure based” category)
  - Rights of way and construction permits may remain a problem



# Future of interconnection regulation

- “Interconnection” is now a special case of “access” – ie ability to use network elements and other facilities (eg buildings, ducts, software)
- Interconnection means “physical and logical linking of networks to enable users of both networks to communicate with each other”
- “Public communications network” (PCN)
  - Wholly or mainly for provision of *publicly available* ECS
  - ECS are *normally provided for remuneration*
- PCN operators must negotiate access and interconnection, regulators may intervene where necessary
- Regulators may require more of SMP operators:
  - Fair, reasonable, timely, non-discriminatory, transparent access
  - At cost-oriented prices (based on separated accounts)





# New regime for interconnection/ access

Issue	Now	From 25/07/03
Must negotiate interconnection	Annex II operators	Public ECN providers
Must provide interconnection/access to meet reasonable demand	SMP operators	SMP operators
Can request access	System-based operators	Any ECS provider
Can get colocation and facility sharing at regulated rates	Varies	Public ECN providers



# NRENs are not generally public ECNs

- Normally serve a closed community and therefore plainly not public ECNs
- Acceptable Use Policies usually preclude commodity internet access, therefore not in competition with ISPs
- Extensions to schools/homes may serve significant groups and look “public”
- Oftel: “where it is possible physically or logically to partition a network...the part that provides public services will attract interconnection rights...”



# But NRENs have wide public benefits

- NRENs are mainly publicly funded, for good reasons:
  - education is a public good
  - NRENs help close “digital divides” between and within countries
- Need access to advanced infrastructure (especially fibre)
- It is in the public interest for NRENs to get best possible terms for interconnection and access – even if they are not technically public ECNs
- Public-private partnerships are worth exploring for maximising rapid provision of advanced infrastructure, especially to less favoured areas

