

Telecoms markets in Europe

The co-ordination challenge

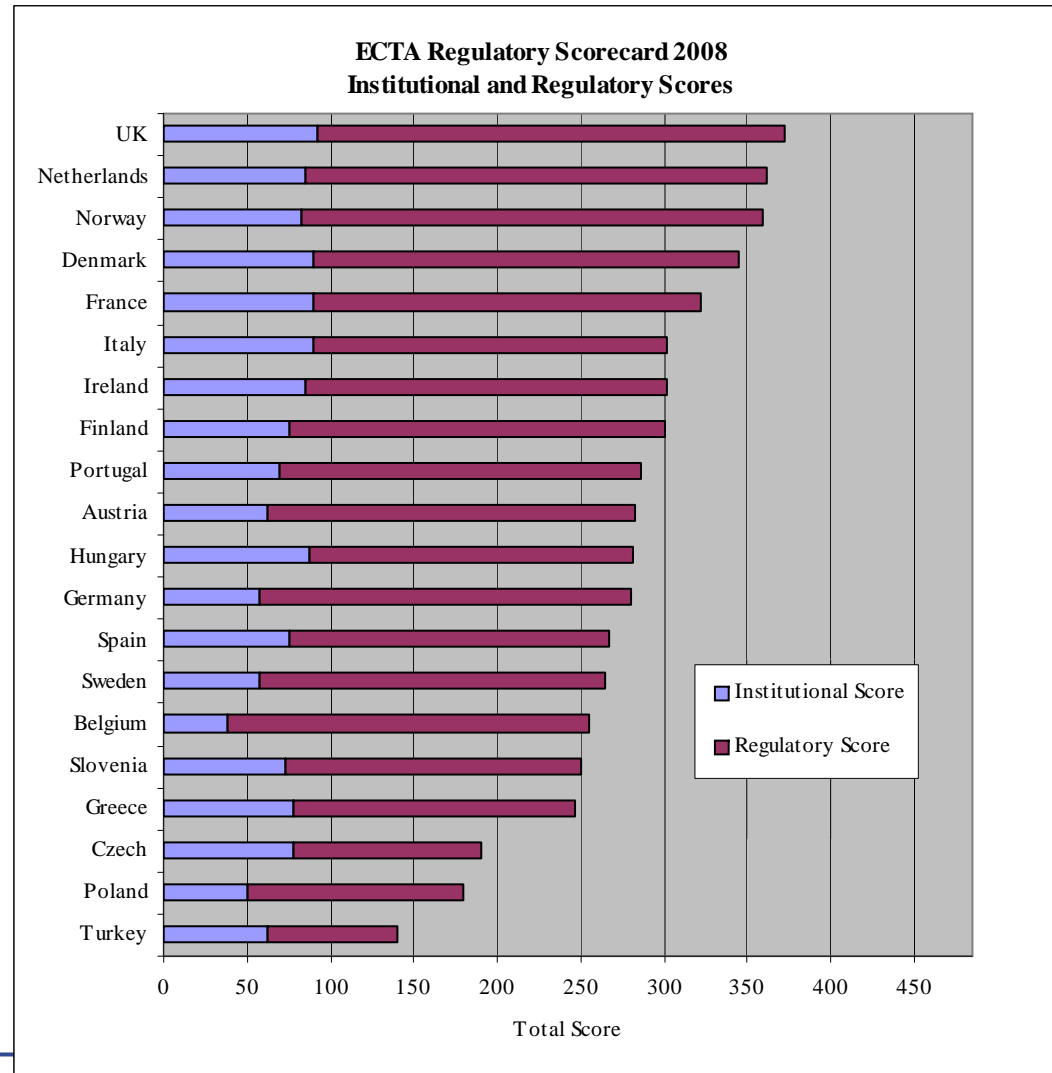


One common framework

- National regulators must promote, competition and consumer interests and contribute to the development of the single market (article 8 Framework Directive)
- All regulators must carry out reviews of the market and apply regulation wherever SMP (significant market power/dominance) found on technologically neutral basis (article 14-16 Framework Directive)
- All member states must ensure number portability

27 national approaches...

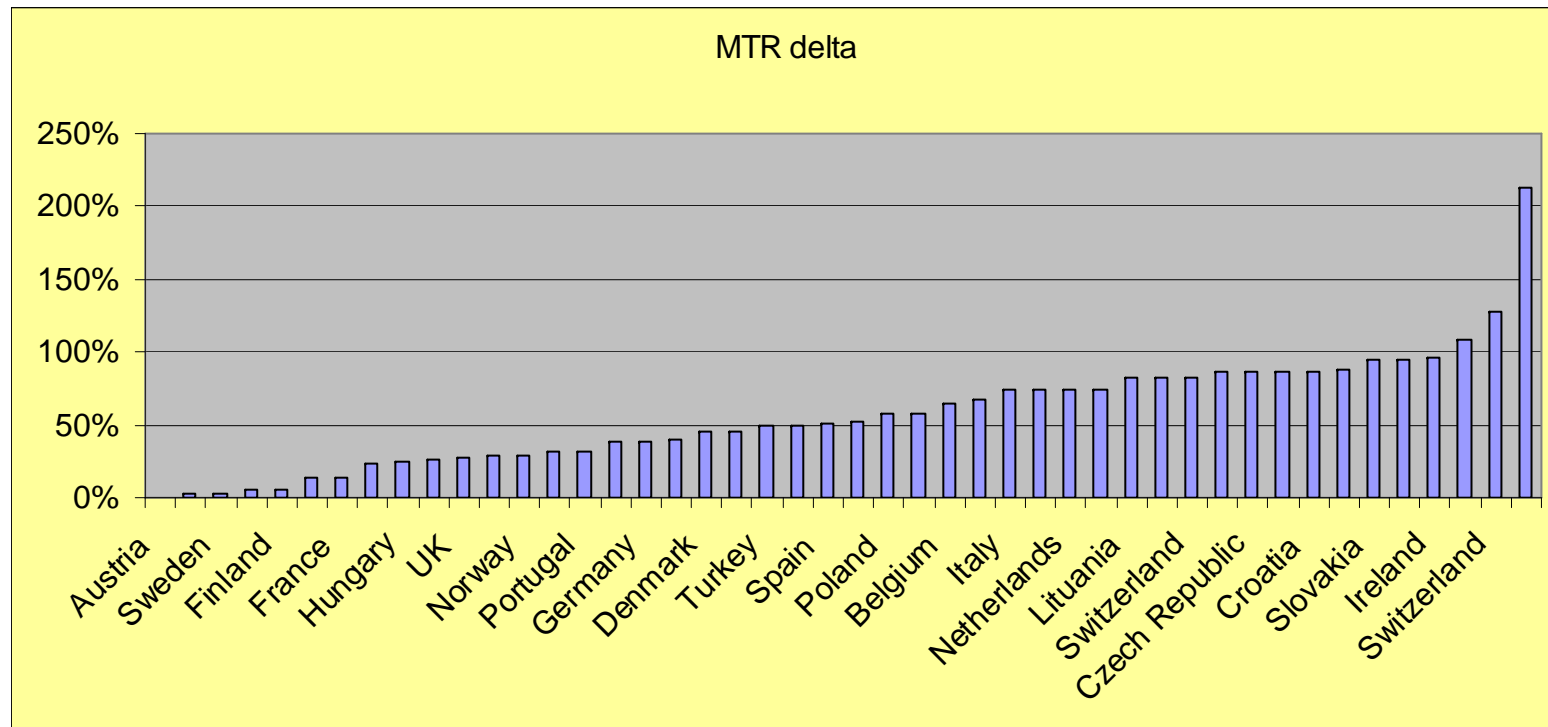
- ECTA's annual scorecard based on survey responses from NRAs and operators shows legislation, regulatory policy and delivery varies...



27 national approaches...

- Institutional environment
 - Power of NRA to impose fines: Ranges from no power to 10%
 - Average time required to complete appeals ranges from less than six months to two years
 - Government shareholdings in incumbents are above 50% in Belgium, Slovenia, but 0% in UK, Italy, Spain, NL
- Consumer rights
 - Time required to port fixed and mobile number ranges from 1 to 45 days
- Regulatory Questions
 - Different approaches for regulating 'termination' and fibre access (see following slides)
 - Advanced inputs for business communications and service-level requirements are available in some countries but not in others

Different approaches: termination rates

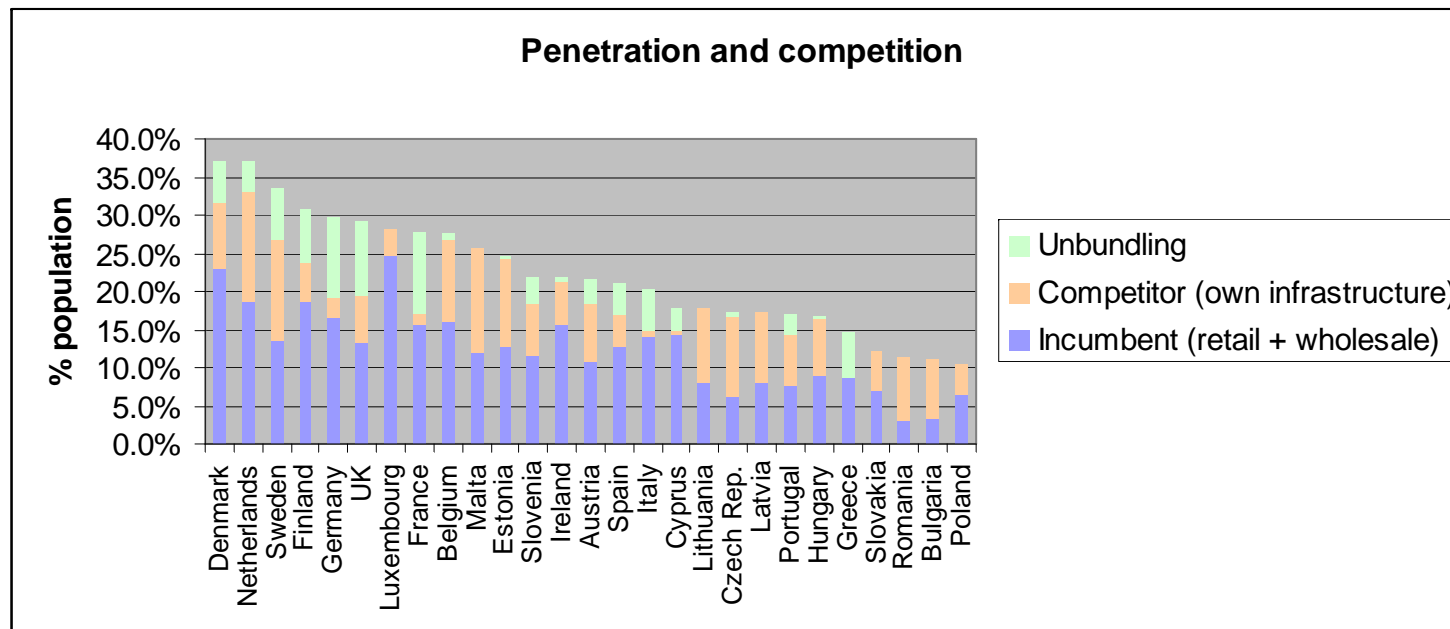


- Different cost methodologies led to wide variation in the cost of calling mobile phones – data from 2008

Different approaches: fibre regulation

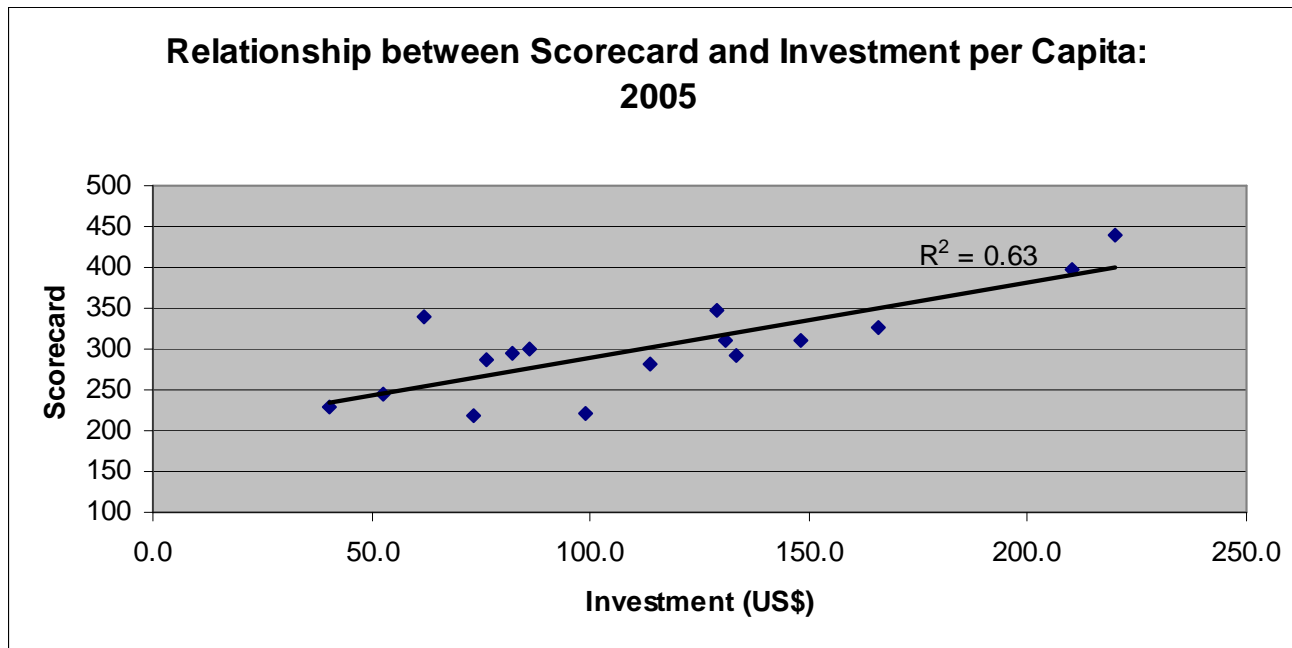
- Regulatory holiday
 - Germany: National law prohibits regulation of 'new services' – Commission infringement proceeding ongoing
 - Spain: No remedies applied for broadband lines >30Mbit/s – Commission issued 'serious doubts', but has no power over remedies
- Regulation of dominant firms under market analysis rules
 - Netherlands: Comprehensive rules requiring fibre unbundling and wholesale services for consumers and businesses
 - Sweden, Belgium, Ireland similar proposals
- Undertakings with dominant firm through competition law
 - UK: BT's fibre roll-out is covered by rules agreeing a strict 'functional separation' of the access unit from downstream services. BT must offer fibre access to competitors on non-discriminatory terms
- Symmetric regulation on all firms
 - France: Different legal basis used to require all fibre investors to offer access to the 'terminating segment' at a point determined by the regulator

Diverging outcomes: take-up



- Markets with more competition tend to achieve low prices, high take-up and coverage of broadband and high-speed services
- Cost of triple play in duopoly Belgium (TV + Broadband + telephony) more than double cost in France!

Diverging outcomes: investment



- Countries with less effective economic regulation (measured by ECTA regulatory scorecard) have lower investment in communications sector (OECD data)

European institutional solutions: today

- European Commission (DG Comp and DG Infso) can:
 - review the market analyses of national regulators (article 7 process) and can veto decisions about 'market definition' and 'market power', but not remedies
 - issue non-binding Recommendations and guidelines on application of regulation (mobile termination rates, next generation access regulation) after opinion of member states (Communications Committee)
 - Take infringement proceedings against countries which have failed to implement EU Telecoms legislation
 - Firm decisions but little or slow enforcement power
- European Regulators Group:
 - Issues common positions eg on Next generation access, IP Interconnection
 - Comments informally on Commission proposed Recommendations and legislative proposals
 - Comments informally on article 7 cases where Commission expresses 'serious doubts' (precursor to veto)
 - Tends towards lowest common denominator and 'flexibility' – no regulator wishes to be accountable to another regulator or body

European institutional solutions: changes

- Under proposed revised Telecoms Framework (due to be approved end 2010)
- European Commission
 - Strengthened wording for article 7 review of national regulators' market analysis but still no veto on remedies
 - New power to issue a Decision if a previous Recommendation has not been followed (article 19 Framework Directive)
- European Regulators Group
 - Becomes body established under EU law – BEREC (Body of European Regulators in Electronic Communications), but composition similar to ERG of today
 - Must be formally consulted by Commission for Recommendations, Decisions and article 7 (serious doubts) cases

Conclusions

- European Telecoms Framework provides solid basis for promoting effective competition in the telecoms sector, but leaves significant room for national interpretation
- Result is markets that have been opened to different degrees with diverging outcomes for consumers and businesses
- Current institutional co-ordination mechanisms ineffectual
- New mechanisms positive, although may not go far enough. Effectiveness of BEREC and Commission 'Decision' power remains to be seen.