EU regulation of networks

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3 common myths

• EU has deregulated
• EU has imposed privatisation
• EU has imposed regulation on unwilling member states
Traditional governance of networks

- No EU regulation - networks seen as outside general competition law and no sector specific legislation
- Public ownership of most suppliers of final services
- National monopolies
- Most powers in hands of ministers
- No independent regulatory authorities
• Many cross-subsidies
• Use for political, social and technological aims
• Service public
Growth of EU network regulation

- Gradual growth of sectoral regulation late 1980s-today
- Liberalisation, re-regulation, institutional forms of national regulatory authorities (little)
- Regulatory networks- formal and informal
- General competition law- especially takeovers and mergers
EC telecoms LIBERALISATION DIRECTIVES

• TERMINALS DIRECTIVE 1988
• SERVICES DIRECTIVE 1990
• SATELLITE DIRECTIVE 1994
• CABLE TV NETWORKS DIRECTIVE 1995
• VOICE TELEPHONY DIRECTIVE 1995
• MOBILE COMMUNICATIONS DIRECTIVE 1996
• FULL COMPETITION DIRECTIVE 1996
EC RULES TO ENSURE ‘FAIR COMPETITION’

• OPEN NETWORKS PROVISION DIRECTIVE 1990 (AMENDED 1997)
• LEASED LINES DIRECTIVE 1992 (AMENDED 1997)
• VOICE TELEPHONY DIRECTIVE 1995 (REPLACED 1998)
• INTERCONNECTION AND UNIVERSAL SERVICE DIRECTIVE 1997
• LICENSING DIRECTIVE 1997
• NUMBERING DIRECTIVE 1998
• CABLE DIRECTIVE 1999
REGULATORY PACKAGE 2000-2

- The 1999 Communications Review
- Unbundling/access to local loop Regulation (EC) No 2887/2000
- Authorisation Directive 2002/20/EC
- Access Directive 2002/19/EC
- Universal Service Directive 2002/22/EC
Current debates

- Euro-regulators
- Networks of regulators
- Mobile charges
- Structural separation
- Legislative package of November 2008 - esp European Electronic Communications Market Authority
Electricity- 1996 Directive

- partial liberalisation (25-33% of distribution),
- access to grid,
- MSs to create dispute settlement procedures
- MSs free to choose liberalisation via licences or competitive bidding for generation
Limits to 1996 Directive

• Different forms of access to grid- inc single buyer
• No structural separation required
• MSs allowed to impose public service obligations- eg security, continuity and quality of supply and protection of environment
• IRAs not required
2003 Electricity Directive

- Monopoly over distribution to end by 2007
- End of single buyer model or bidding for generation
- Rules for ‘fair competition’ - eg greater separation of grid from other activities
- Regulators to be independent of suppliers
- Public service provisions - eg price transparency, fair contractual terms, special measures for vulnerable users
Legislation and MSs

• Member states accepted EC legislation
• Mostly passed under normal Commission-Council-EP co-decision procedures
• Even when use of Article 86 (ex Article 90), agreement on substance
Features of EU decision making aiding acceptance

• 1 Participation of national governments
• 2 Incrementalism;
• 3 Advance sign-posting
• 4 Compromises;
• 5 Balance and linkages
• 6 National power/discretion after EU directives
Functions for governments and national champions

- Legitimate privatisation
- Prepare for inevitable competition
- Allow EU-strategy for ‘national’ firms
- Aid institutional redesign - eg establishment of IRAs
Scope for national discretion

- Implementation by NRAs
- Few EU rules on NRAs
- Variations in institutional design of IRAs
- Continuing controls over IRAs
- State controls over suppliers
- Informal linkages between public policy makers and suppliers
Electricity in France

- Majority public ownership of EDF
- Government powers over regulated tariffs
- CRE set up 2000 due to EU legislation
- Low-cost nuclear power
- Strong sectoral network - grands corps
- Linkages between French private suppliers and state - eg Suez
French strategy

• CRE pressed for gradual liberalisation
• CRE moves for profitable domestic market - eg price rebalancing and increases in regulated tariffs
• State-led restructuring of energy sector (CNR, Suez-GDF)
• Overseas expansion by EDF
Responding to myths

- No deregulation- in fact, more rules
- No privatisation required
- EC regulation imposed- often desired by national governments and suppliers