

Strategy and Regulation on Telecommunication Markets

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1. Introduction

2. The Importance of a Strategic Perception on Regulation

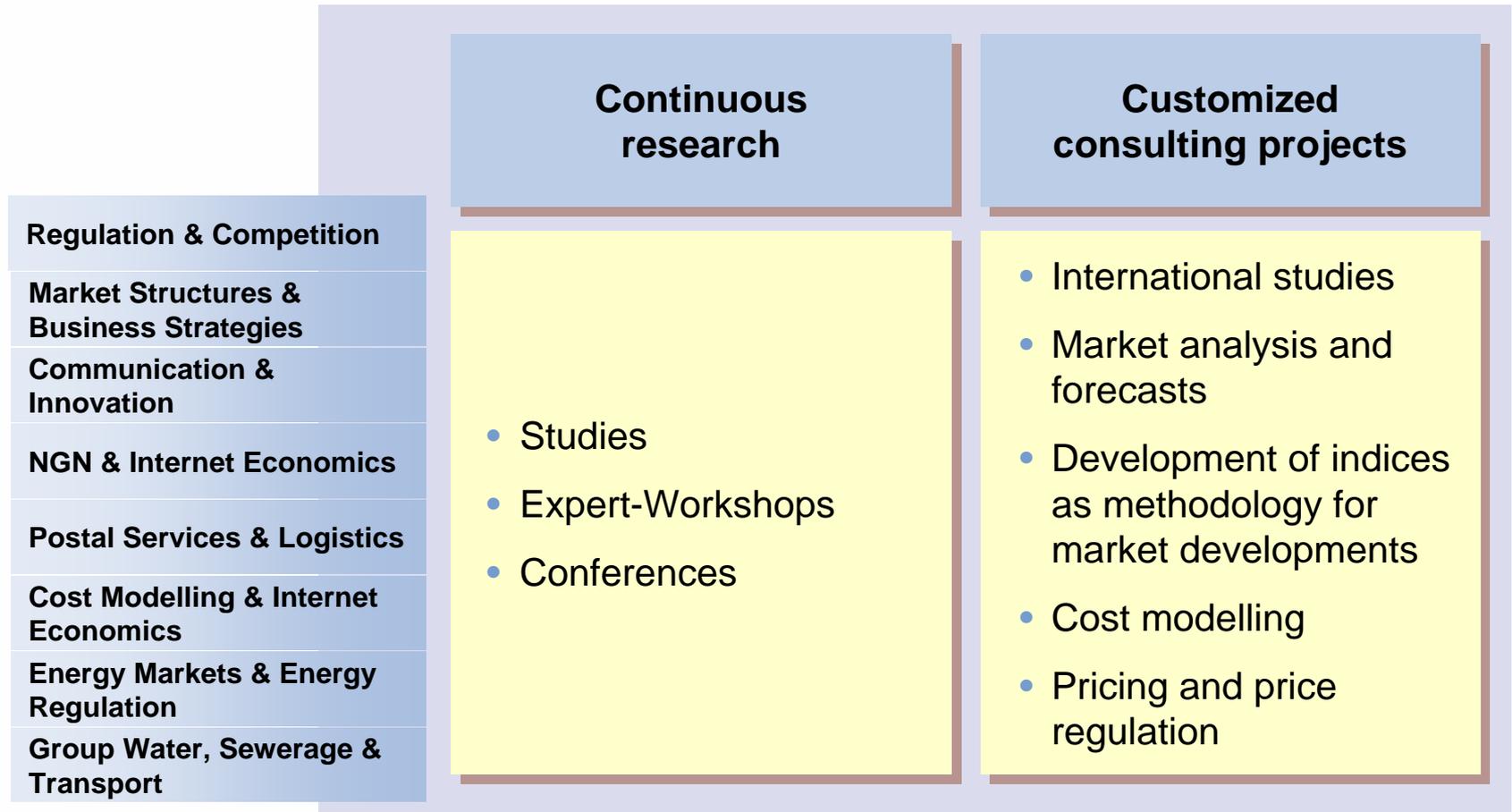
3. Recent Case Studies

- Network Neutrality
- Regulation of NGA Networks

4. Conclusions

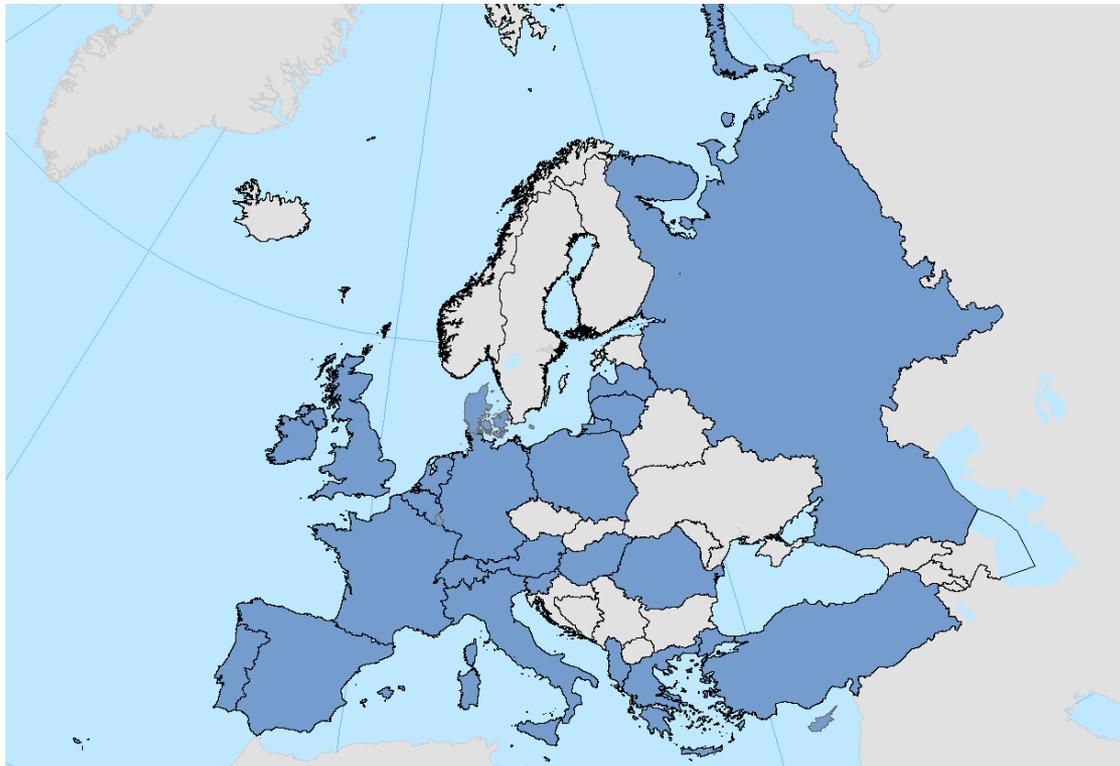
Introduction

WIK's Business Areas



WIK Consult's Footprint

We consult international organizations, governments, regulatory authorities, industry organizations and companies from all over the world.



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3. Recent Case Studies

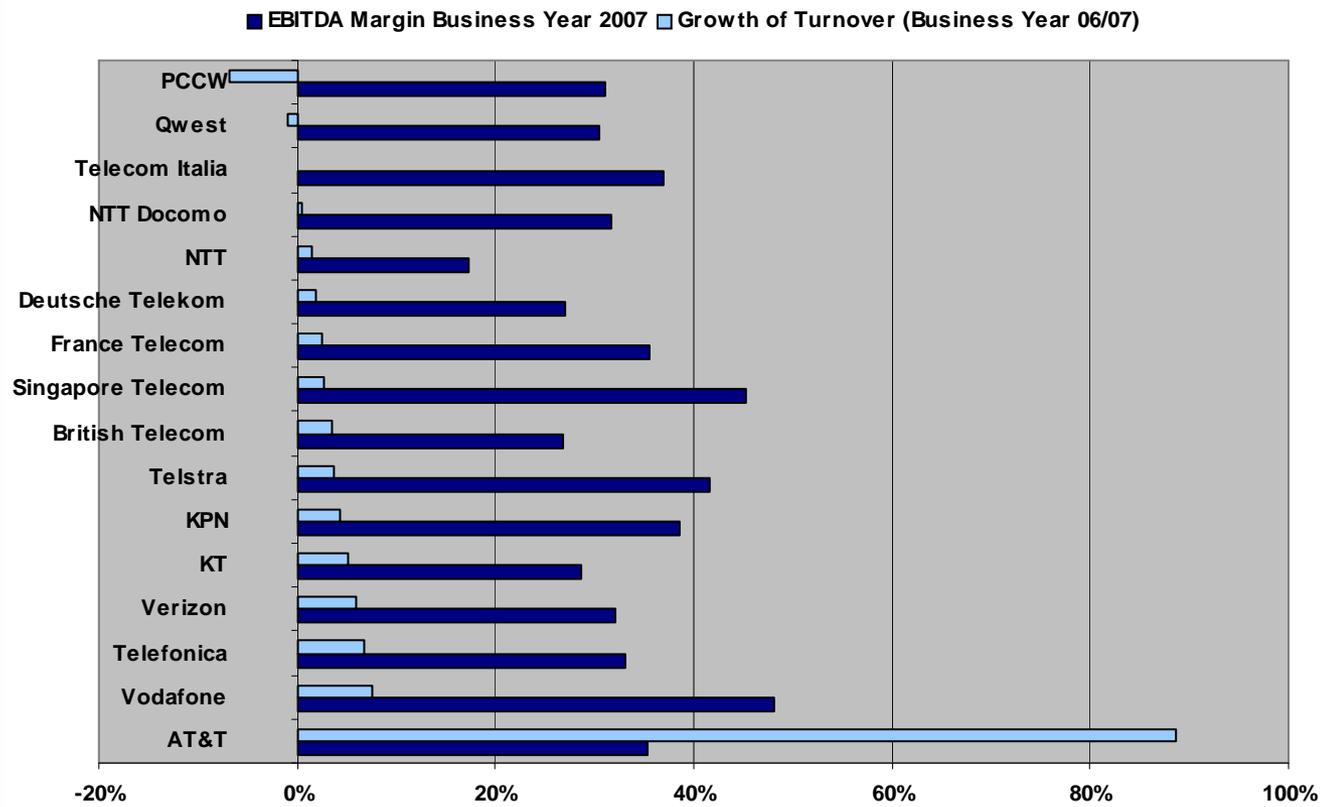
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The Importance of a Strategic Perception on Regulation

Point of Departure (I)

Telecommunications markets are characterised by comparably high margins and a low level of growth.



The Importance of a Strategic Perception on Regulation

Point of Departure (II)

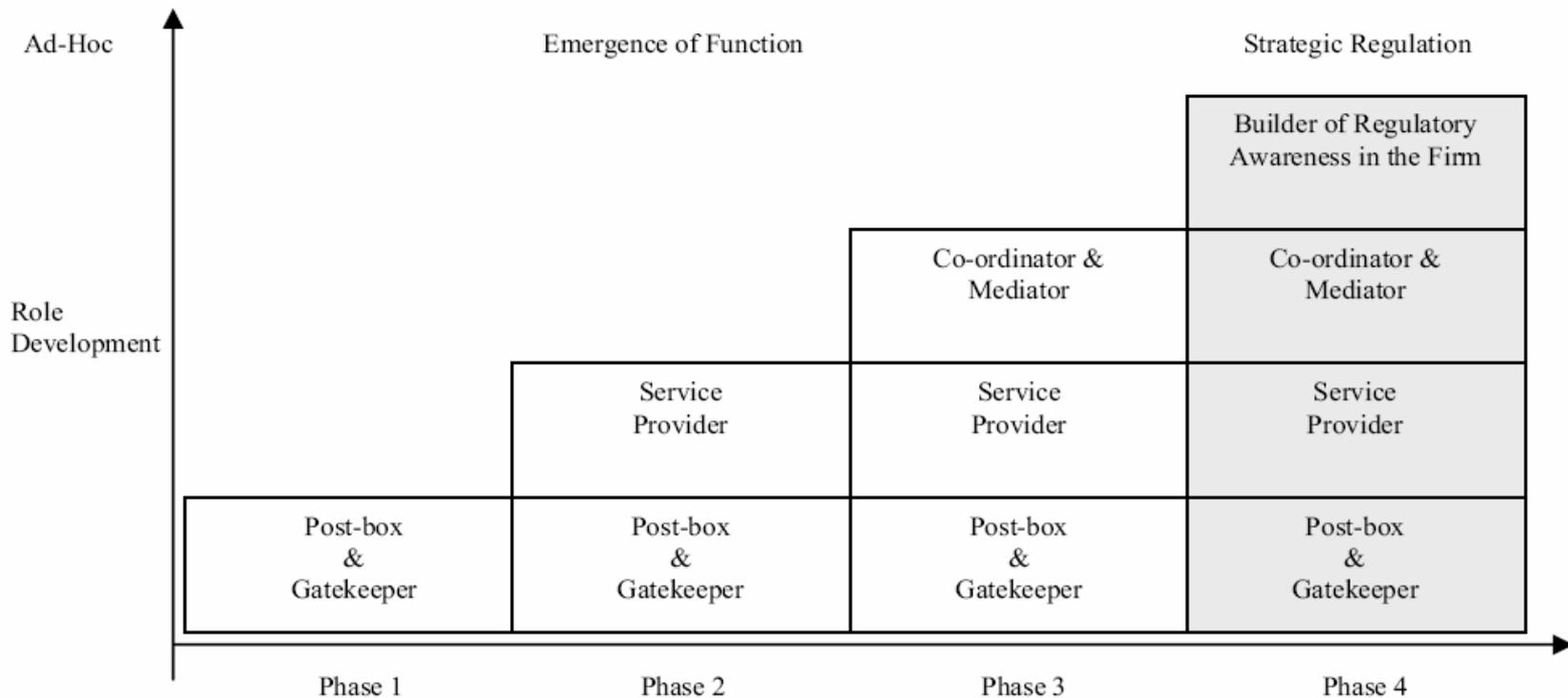
The activities of regulatory authorities affect telecommunication operators in many different ways.

- Competition regulation
- Technical regulation
- Consumer complaints

The Importance of a Strategic Perception on Regulation

The Evolution of the Role of the Regulatory Department

Most market participants have realized the impact of the regulatory environment on market success.



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What is Network Neutrality?

Network Neutrality is a catch-all phrase that emerged in the United States over the past decade to reflect a number of potential behaviours that some consider to be anticompetitive.

- Blockage of ability to use certain devices (e.g. SIM locks)
- Blockage of access, QoS degradation, or unreasonable surcharges to access certain sites or content (e.g. Comcast's treatment of P2P traffic)
- Extraction/extortion of payments from third parties (e.g. AT&T)

"What they would like to do is use my pipes free, but I ain't going to let them do that because we have spent this capital and we have to have a return on it," Edward Whitacre CEO AT&T, in NY Times, March 8, 2006

Network Neutrality Economic Implications

The danger of violations against network neutrality is closely connected to questions of market power.

- Some of the concerns raised in regard to network neutrality relate to behaviors that, in the absence of market power, would tend to *enhance* consumer welfare.
 - Some would appear to represent legitimate *price discrimination*.
 - Others enforce the economic property of *excludability* in support of price discrimination.
- Other violations of network neutrality, however, could imply some form of economic *foreclosure* which should be viewed as being anticompetitive.

Why in the U.S., why now?

Problems in the U.S. result from three simultaneous developments: A “perfect storm”.

- Collapse of the U.S. wholesale broadband internet access market; consolidation into a series of non-overlapping geographically distinct duopolies.
- A series of mega-mergers, with no meaningful undertakings imposed on the parties:
 - SBC/AT&T
 - Verizon/MCI
 - AT&T/Bellsouth
- FCC withdrawal of regulation, including traditional obligations of nondiscrimination.

Network Neutrality Implications for Europe

European markets seem better prepared to prevent potential anticompetitive behaviors.

- Policymakers should avoid the problem altogether by maintaining the competitiveness of the underlying markets.
- Occasional or sporadic problems related to network neutrality might be addressed *ex post* by competition law.
- Moreover, addressing network neutrality challenges through *ex ante* regulation is likely to prove extremely difficult.

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Regulation of NGA Networks

The Debate on Regulatory Holidays

The debate on regulatory holidays led to serious trouble between the German government and the EU-Commission.

- In September 2005, DT announced to spend 3 bn. Euro for the roll-out of fibre infrastructure in 50 German cities. This undertaking was connected to the postulation of regulatory holidays for the new VDSL network.
- The German government responded with an amendment of the German Telecommunications Act, increasing barriers associated with regulatory intervention in new markets.
- Due to serious concerns about its accordance with Community Law, the European Commission opened an infringement procedure against Germany.

Regulation of NGA Networks

Investment Decisions and Regulation

The debate on regulatory holidays sheds light on the interplay between regulation and investment decisions.

- Empirical research suggests that regulation is not the decisive factor in favour or against particular investment decisions.
- Nevertheless, 3 aspects have to be taken into consideration:
 1. The impact of regulation on the profitability of certain business models and thus on the amortisation of infrastructure investments;
 2. The regulatory handling of emerging markets and NGNs; and
 3. The consistency of wholesale charges.

The Regulation of NGA Infrastructure

The rollout of NGA infrastructure implies large challenges for existing regulatory regimes.

- Regulators have to stimulate investments in NGA networks AND maintain and foster effective competition at the same time. This particularly affects:
 - The definition of access prices
 - The handling of regulatory uncertainty
- Changes in the network topology of NGA networks challenge the existing regime of wholesale regulation in Europe.

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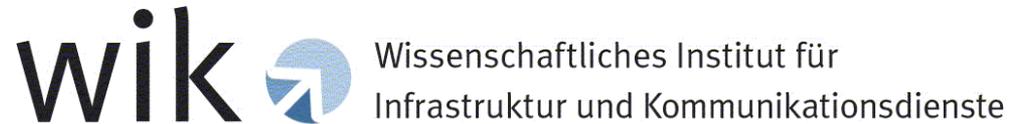
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4. Conclusions

- Regulation continues to be an important topic for the telecommunications industry.
- The work of regulatory departments limits operators' uncertainty about regulatory outcomes and eases their contact to the institutional environment.
- There is no need for additional *ex-ante* regulation regarding network neutrality in Europe.
- The regulation of NGA networks represents the core challenge for regulators with large impact on the future of the whole sector.



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