



## Relevant markets and market analysis process under the new framework for electronic communications networks and services

Eunike Prokop Elkettani

Information Society and Media Directorate-General -  
Communications services: Policy and regulatory  
Framework

Screening chapter 10

Brussels 12 June 2006

DG Information Society

# Legal basis and instruments

---



## ◆ Framework Directive 2002/21/EC

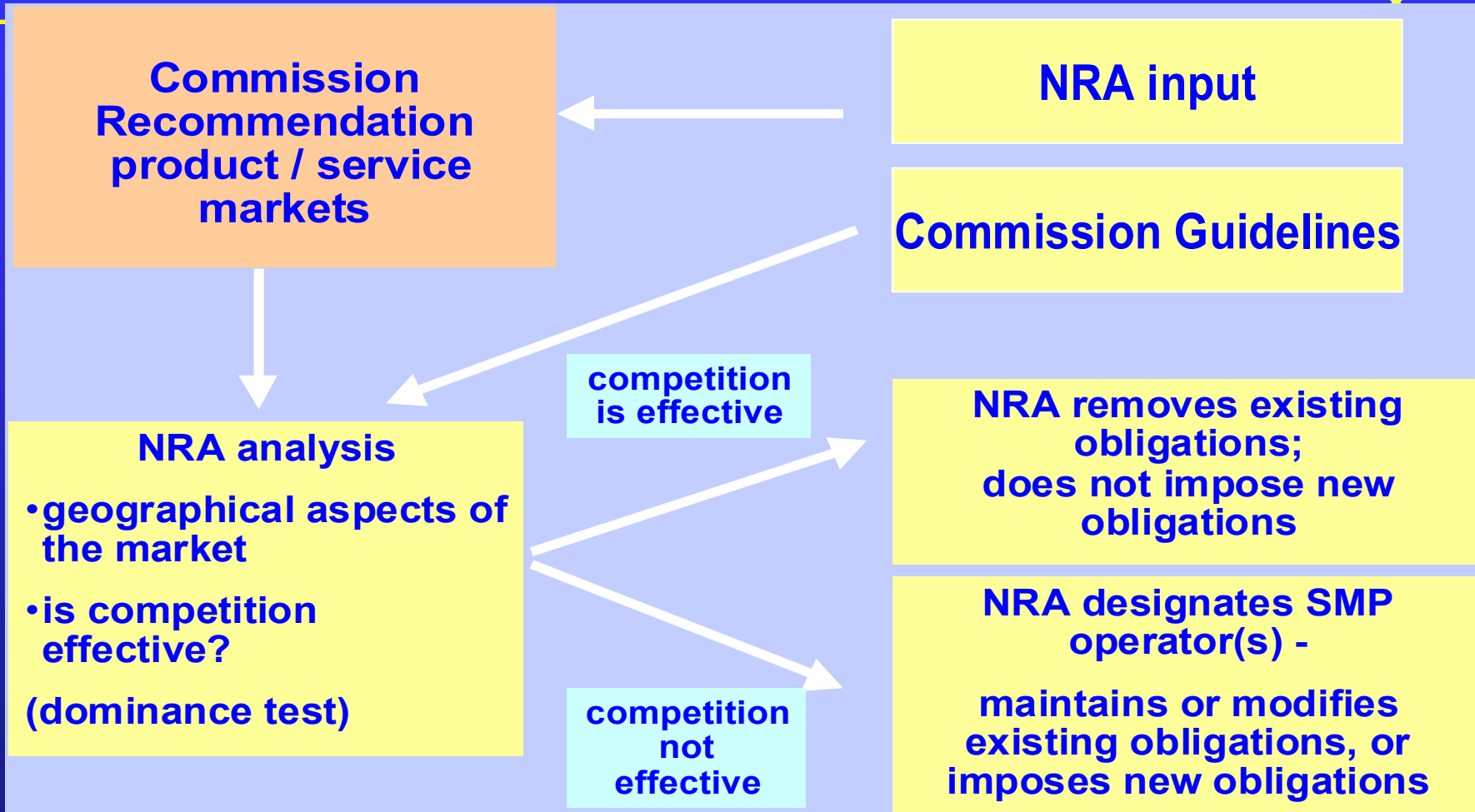
◆ (e.g. Article 6, 7, 14, 15 & 16)

## ◆ Commission Recommendation on Relevant markets; Explanatory Memorandum

## ◆ Commission Guidelines on market analysis (“SMP Guidelines”)

## ◆ Commission Recommendation on Article 7 notifications

# Market analysis procedure



# MARKET ANALYSIS: Market definition and SMP-analysis



## (Revised) concept of significant market power (“SMP”):

- ♦ SMP is based on (antitrust) concept of dominance (Art. 82 EC Treaty)
- ♦ Old “ONP” threshold of 25% market shares no more relevant



## No predefined markets

# Fundamentals of the market analysis



## ◆ Deviations from the Recommendation are possible:

- ◆ Taking into account national circumstances/market structures
  - ☎ substitutability test is required
- ◆ However:
  - ☎ Degree of deviation
  - ☎ “3 criteria test” (based on economic analysis) to be provided

## ◆ A new type of ex ante regulation:

- ◆ Strong enforcement mechanism to ensure that existing regulation is reassessed market by market
- ◆ However: “*not more, not less, but appropriate regulation*” 5

# Tasks of the National Regulatory Authorities

---



## ◆ National regulators (“NRAs”) are required to:

- ◆ carry out market definition and analyses (at least for the 18 markets)
  - ☎ *start with the respective wholesale market*
- ◆ impose appropriate obligations on SMP operators, if identified:
  - ☎ *at least 1 remedy*
  - ☎ *regulatory intervention as “light” as possible*

# Recommendation on relevant Markets: wholesale markets (1)



Fixed	Market 8	Call origination on the public telephone network provided at a fixed location
Fixed	Market 9	Call termination on individual public telephone networks provided at a fixed location
Fixed	Market 10	Transit services in the fixed public telephone network
Fixed	Market 11	Wholesale local access, for the purpose of providing broadband and voice service
Fixed	Market 12	Wholesale broadband access

# **Recommendation on relevant Markets: wholesale markets (2)**



<b>Fixed</b>	<b>Market 13</b>	<b>Wholesale terminating segments of leased lines</b>
<b>Fixed</b>	<b>Market 14</b>	<b>Wholesale trunk segments leased lines</b>
<b>Mobile</b>	<b>Market 15</b>	<b>Access and call origination on public telephone networks</b>
<b>Mobile</b>	<b>Market 16</b>	<b>Call termination on individual mobile networks (To be revised in March 2003)</b>
<b>Mobile</b>	<b>Market 17</b>	<b>International roaming on public mobile networks</b>
<b>Broadcasting</b>	<b>Market 18</b>	<b>Broadcasting transmission services and distribution networks to deliver broadcast content to end-users <sup>8</sup></b>



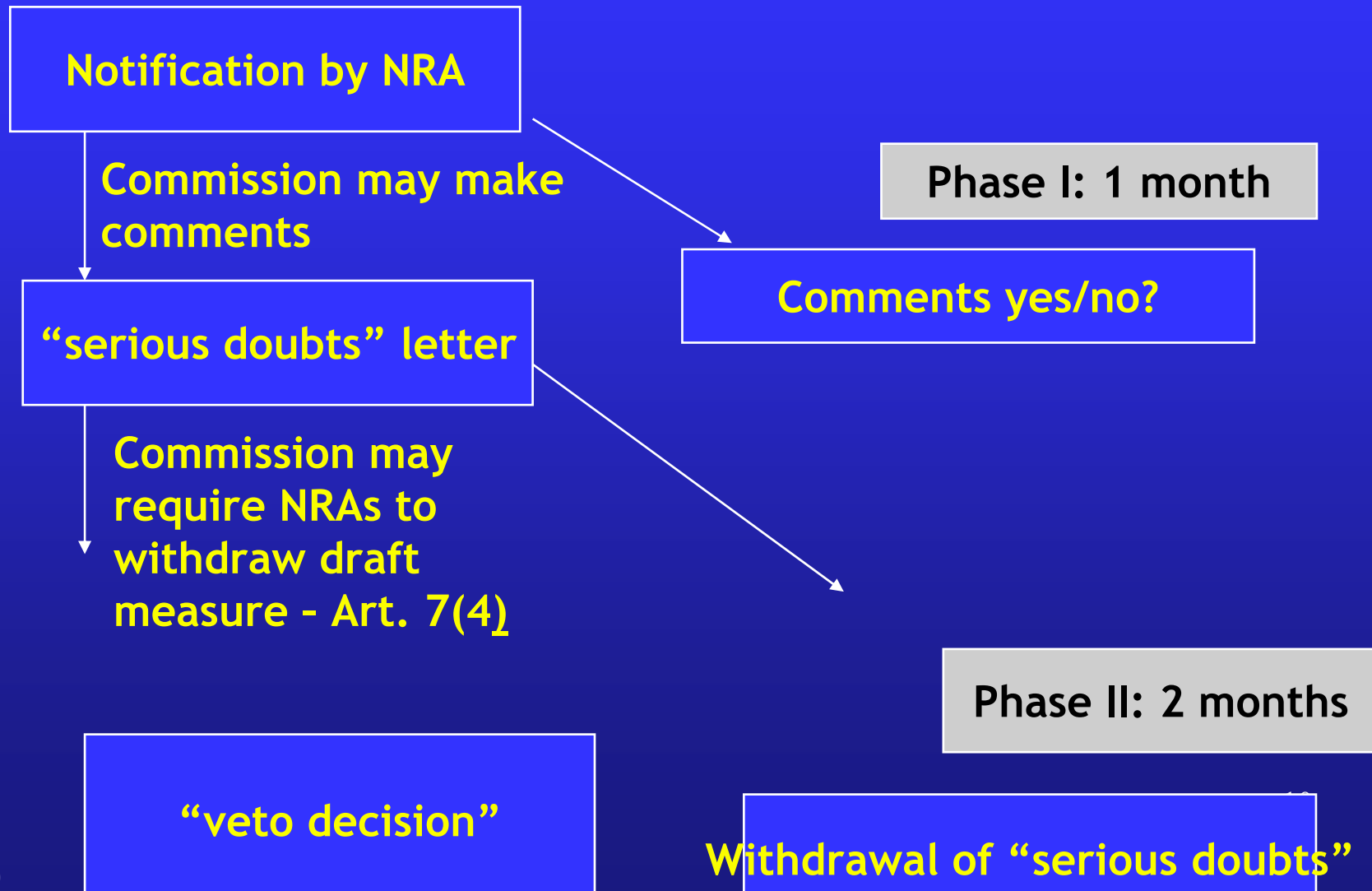
# **Recommendation on relevant Markets: retail markets**

---



<b>Fixed</b>	<b>Markets 1 and 2</b>	<b>Access to the PSTN for residential and non residential</b>
<b>Fixed</b>	<b>Markets 3 and</b>	<b>Local and national calls for residential/non-residential</b>
<b>fixed</b>	<b>Markets 4 and 6</b>	<b>International calls for residential /non-residential</b>
<b>fixed</b>	<b>Market 7</b>	<b>Minimum Set of leased lines (compulsory set of remedies)</b>

# The Article 7 transparency process



# **Experience with the application of the Recommendation on relevant markets**

---



## **◆ Communication of the Commission of 7 February 2006 –**

**"Communication on Market Reviews under the EU Regulatory Framework - Consolidating the internal market for electronic communications"  
COM(2006) 28 final**

# **Update on Article 7 procedures (1)**

## **406 notifications received(until 30 May 2006)**



- 
- ◆ **54 from Oftel/Ofcom (United Kingdom)**
  - ◆ **42 from KommAustria/TKK (Austria)**
  - ◆ **24 from Ficora (Finland)**
  - ◆ **18 from Anacom (Portugal)**
  - ◆ **25 from ComReg (Ireland)**
  - ◆ **18 from NCAH (Hungary)**
  - ◆ **22 from PTS (Sweden)**
  - ◆ **13 from TÚSR (Slovakia)**
  - ◆ **19 from ARCEP (France)**
  - ◆ **31 from OPTA and the Dutch Ministry for Economic Affairs (Netherlands)**
  - ◆ **5 from EETT (Greece)**

# **Update on Article 7 procedures (2)**

## **406 notifications received(until 30 May 2006)**



- ◆ **21 from BNetzA (Germany)**

---

- ◆ **8 from RRT (Lithuania)**
- ◆ **19 from NITA (Denmark)**
- ◆ **19 from APEK (Slovenia)**
- ◆ **11 from MCA (Malta)**
- ◆ **16 from AGCOM (Italy)**
- ◆ **15 from CMT (Spain)**
- ◆ **8 from CTU (Czech Republic)**
- ◆ **4 from OCTPR (Cyprus)**
- ◆ **3 from ILR (Luxemburg)**
- ◆ **2 from IBPT (Belgium)**
- ◆ **1 from SIDEAMET (Estonia)**
- ◆ **3 from SPRK (Latvia)**

# Further information



## Directorate General INFSO portal:

[http://europa.eu.int/information\\_society/policy/economy/index\\_en.htm](http://europa.eu.int/information_society/policy/economy/index_en.htm):

- **Article 7 procedures:**
  - **Search by country**
  - **Search Commission decision**
  - **Search recent Commission decisions**