

ANACOM Conference 2010 - Net Neutrality

## **Consumer choice and the open Internet: Chicken or egg?**

6 October 2010, Lisbon



# Introducing ECTA

- ECTA represents more than 100 of the leading telecoms challengers across Europe delivering broadband, mobile and business services
- ECTA's members pioneered dial-up Internet, affordable broadband and “triple play” bundles (TV, voice, BB) e.g. Fastweb first with widespread FttH & Free pioneered €29.99 triple-play bundle on ADSL2+, then extended to fibre
- ECTA's business providers serve SMEs and multinationals with secure seamless communications across the single market

# Net neutrality and traffic management

- Competition in telecoms services is key to mitigating concerns
- Traffic management exists today and is needed going forward at the retail level (e.g. avoid network congestion, improve quality of service), but wholesale inputs must remain unaffected to enable competition and hence facilitate consumer choice
- Differentiated treatment of network traffic is not necessarily indicative of anti-competitive behaviour
- ECTA strongly opposes any traffic management practices that might be employed for anti-competitive purposes in fixed or mobile networks
- Transparency is crucial for consumers and business users to fully understand traffic management principles

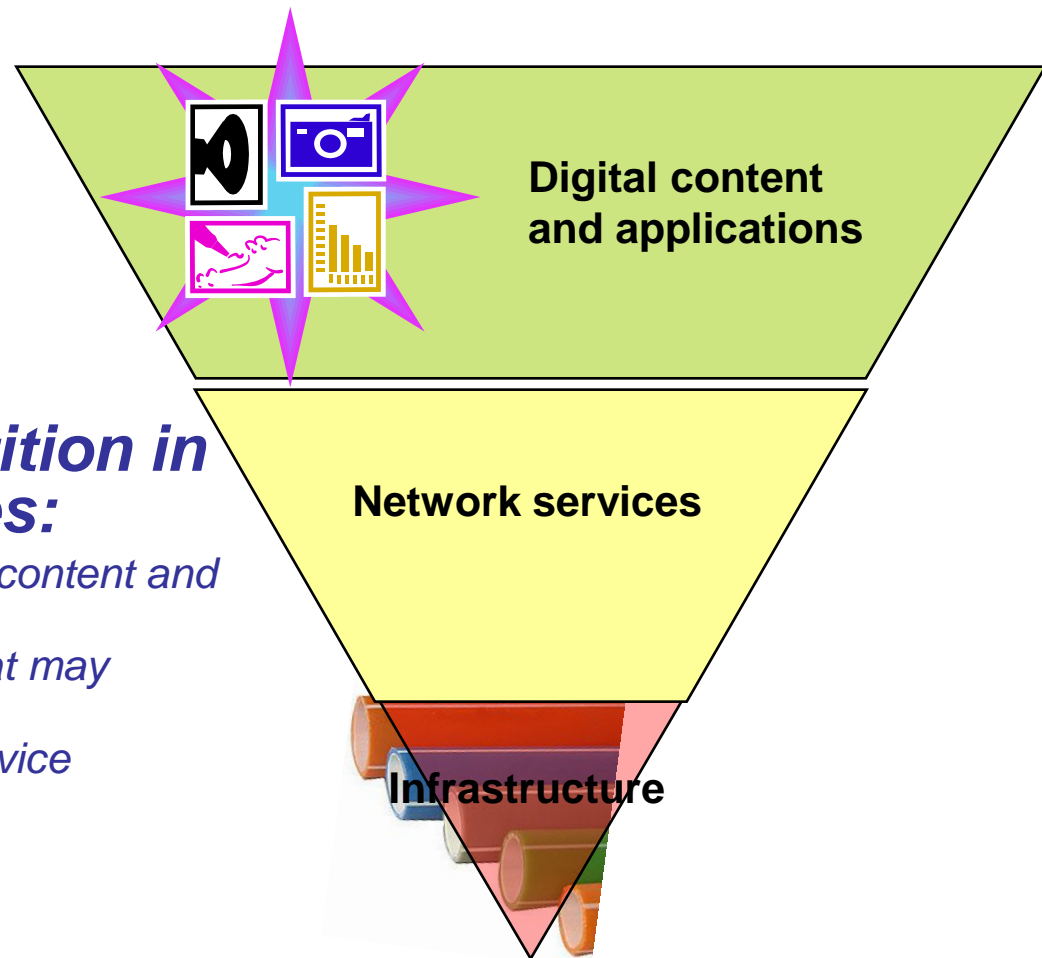
# Ensuring Quality of Service

- Competition among broadband providers should alleviate quality of service problems
- Internet service providers should not be restricted from developing innovative and efficient new business models
- Operators should be free to offer different levels of service to their customers, respectively priced at different price levels
- Any measures to improve transparency and QoS for consumers are inappropriate, if not harmful, in business communications markets
- NRAs should be able to apply a remedy that introduces a minimum level of service to act as a consumer safety net

# Competition among broadband services is the best way to address net neutrality concerns

## ***Effective competition in telecoms services:***

- ✓ *provides a gateway to content and applications*
- ✓ *avoids a bottleneck that may threaten openness*
- ✓ *improves quality of service*



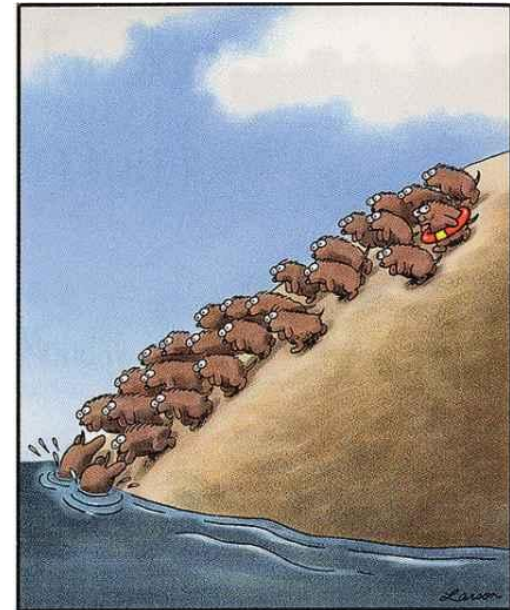
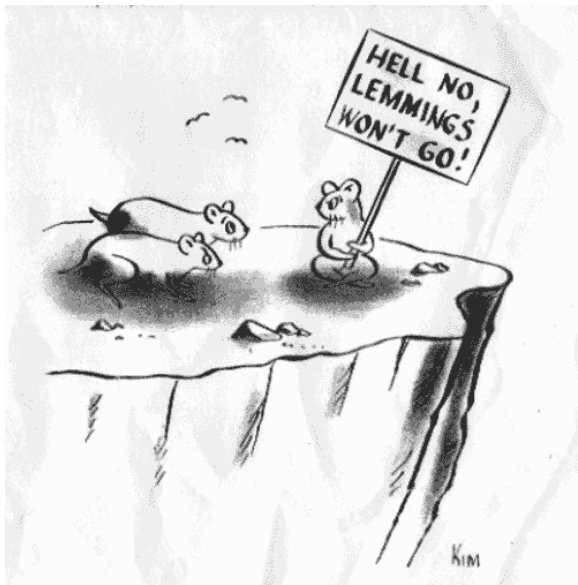
## In the words of Commissioner Kroes

*“Competition at the network level, combined with appropriate transparency measures, gives customers the ability to choose among different providers for their internet connections, making any potential danger to net neutrality less clear and present. After all, if consumers are dissatisfied with the quality of the internet connection offered by their provider, competition enables them to switch.”*

*Address at Annual Conference of ETNO, Brussels, 23  
September 2010,*

# Consumers will desert service providers that attempt to restrict access

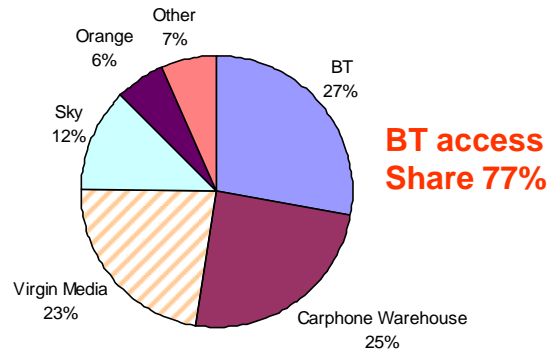
- *However, to vote with their feet consumers must have a choice ...*



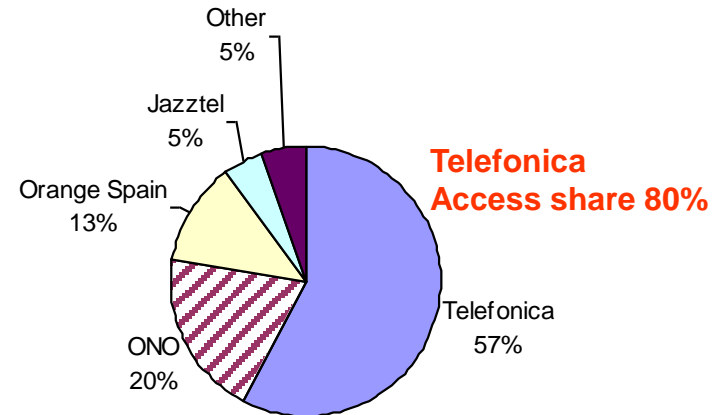
*... and barriers to switching must not be too high!*

# Do consumers have choice today?

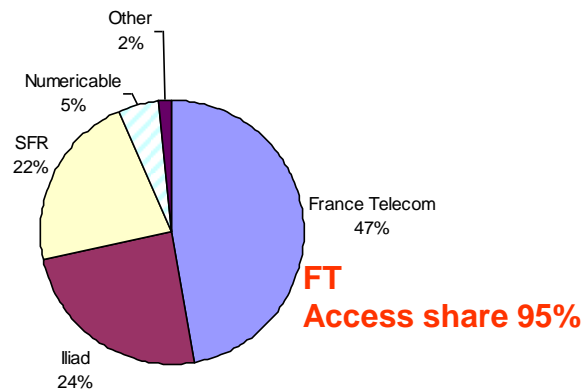
## The most competitive: UK



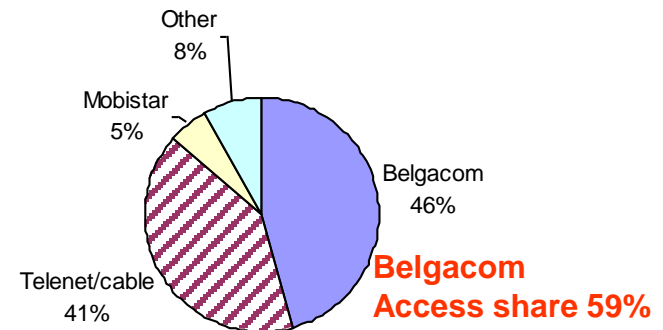
## The incumbent squeeze: Spain



## The stalemate: France



## The duopoly: Belgium

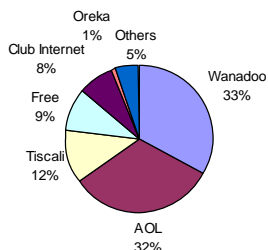


Shaded sections show duplicate infrastructure

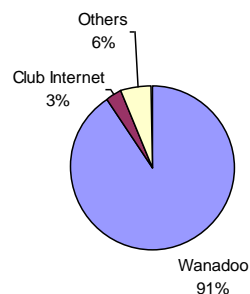


# Technological change creates further threat of foreclosure

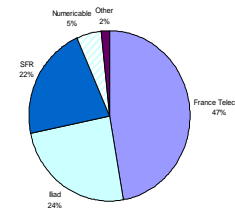
France: Dial-up market share end 2000  
(Source Arcep)



France: DSL market share end 2001  
(Source IDATE)



France: BB status 2009

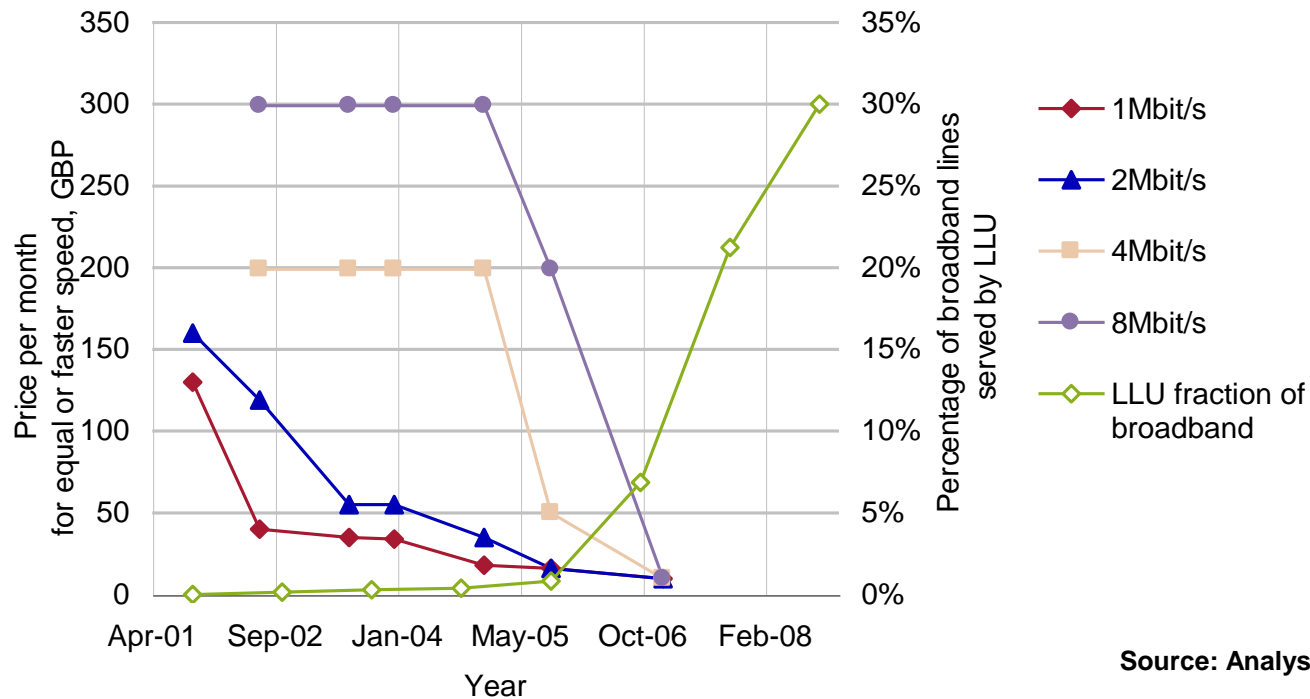


2001 incumbent market shares (IDATE)	Germany	France	UK
Dial-up	43%	35%	15%
DSL	95%	90%	95%

- NRAs must quickly respond to technological upgrades to ensure choice in affordable services
- NRAs must strictly enforce the Regulatory Framework to avoid foreclosure

# Implementing the Framework: Setting the right access price

## UK: impact of unbundling on broadband prices and speeds



Source: Analysys mason

- Cutting the cost of LLU in UK, combined with functional separation, reduced the price of 8MBit/s from 300GBP to 20GBP

# Implementing the Framework: ensuring non-discrimination

- Need for EU guidance on the key elements of non-discrimination, including the proper implementation of functional separation
- NRAs should ensure that number portability takes place in one day at a wholesale charge that is cost-oriented and retail charges should not give rise to a disincentive to switching
- NRAs should ensure that appropriate Chinese walls obligations are put in place to prevent the misuse of privileged information from wholesale

## The complementary role of Competition Authorities

- Ex-ante regulation is the most important tool to prevent market foreclosure and abuse of dominant positions in access and backhaul networks
- Need exists to revert to ex-post enforcement when ex-ante regulation fails or loop holes exist that allow regulation to be circumvented
- EU Framework provides for simultaneous application of ex-ante rules and ex-post competition law – as confirmed by case law, ex-ante rules cannot preclude competition law action where appropriate

# Choice breeds choice

- Applying and enforcing regulation that supports strong competition in broadband markets (the real bottleneck) should allow end users to access and employ the content, services and applications of their choice and mitigate the need to expand on the net neutrality safeguards already provided for in the new telecoms package

**Consumer  
choice of  
broadband  
service  
provider**



**Open  
and  
neutral  
Internet**



**Consumer  
choice in  
content and  
applications**

**Thank you for your attention!**

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