



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

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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

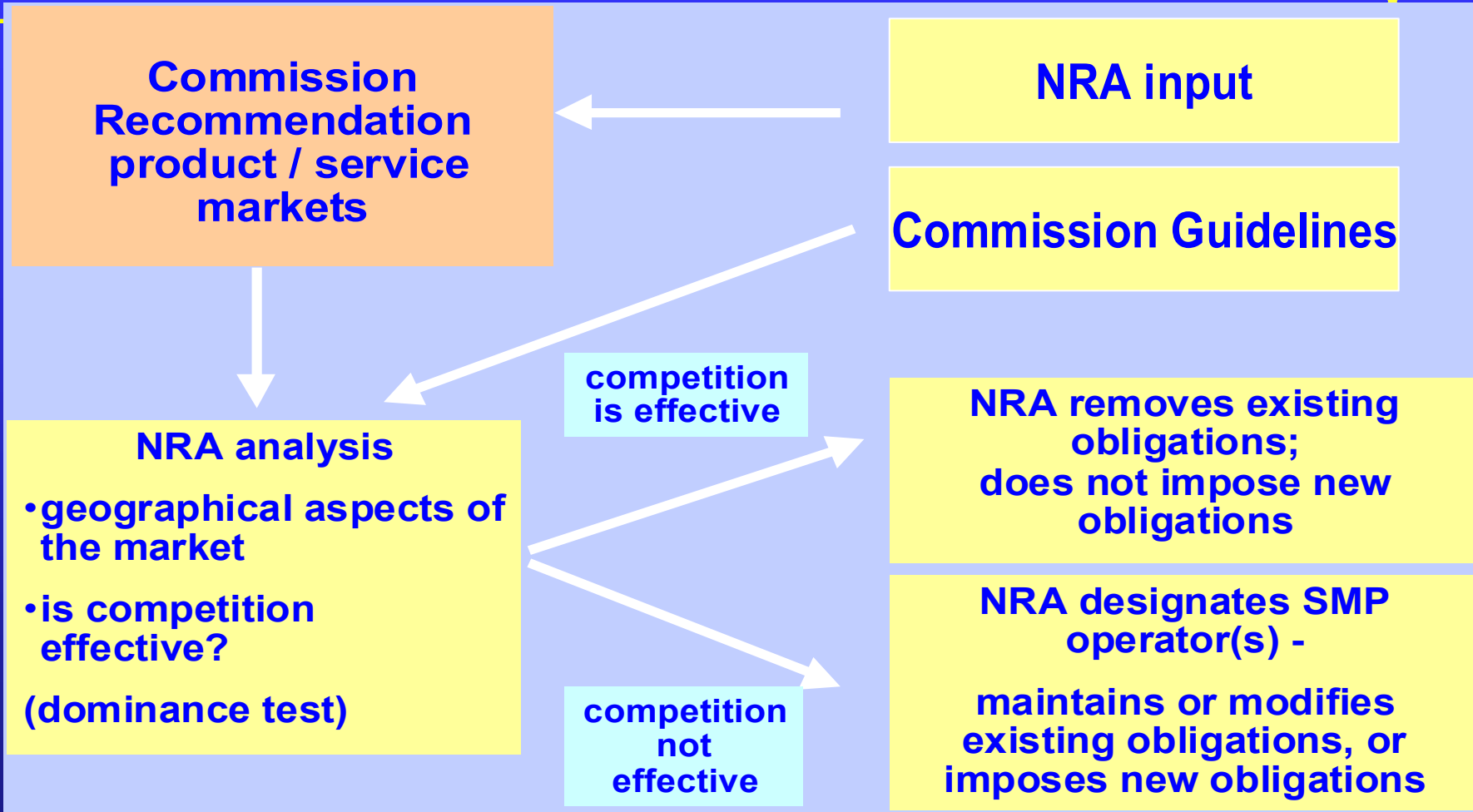
◆ (e.g. Article 6, 7, 14, 15 & 16)

◆ 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)



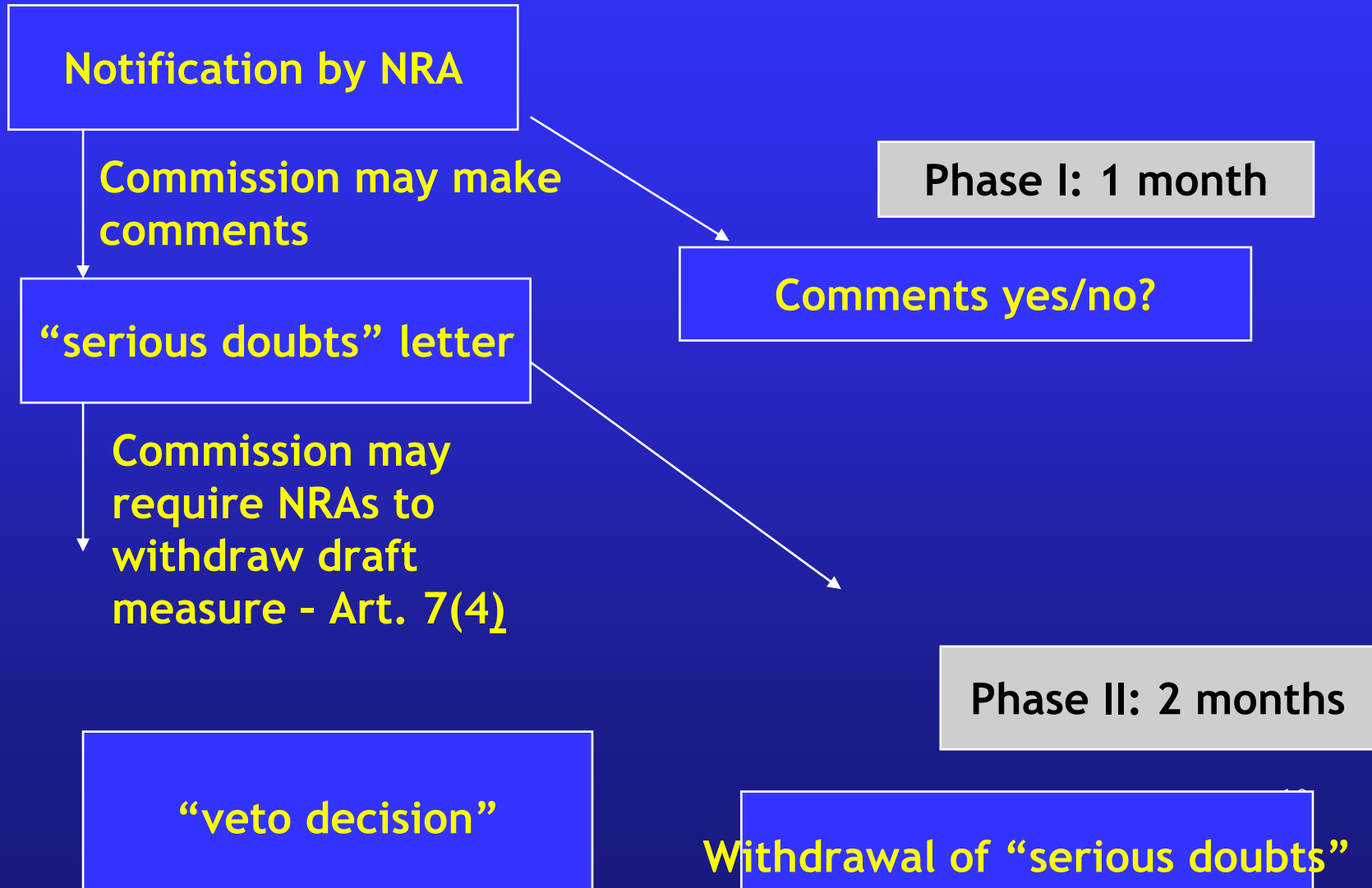
Fixed	Market 13	Wholesale terminating segments of leased lines
Fixed	Market 14	Wholesale trunk segments leased lines
Mobile	Market 15	Access and call origination on public telephone networks
Mobile	Market 16	Call termination on individual mobile networks (To be revised in March 2003)
Mobile	Market 17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

Recommendation on relevant Markets: retail markets



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

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:

- **Article 7 procedures:**
 - **Search by country**
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