

Source: ETSI

Title: ETSI and the new European regulatory framework : presentation to 3GPP PCG / OP

Agenda item: 9

Document for:

Decision	
Discussion	
Information	X

A new European regulatory framework

A new regulatory framework for electronic communications networks and services entered into force on 24 April 2002. The main objectives of this framework are to create a set of rules that are sufficiently flexible to deal with changing electronic communications markets and their degree of competition. The framework further sets out well-defined tasks and procedures for National Regulatory Authorities and harmonisation mechanisms to contribute to a consistent application of the provisions in all Member States. The goals of the new framework are to encourage competition in the electronic communications markets, to improve the functioning of the internal market and to guarantee basic user interests that would not be guaranteed by market forces.

The new regulatory framework consists of five Directives: the Framework Directive, the Authorisation Directive, the Universal service Directive, the Access Directive and the Directive on privacy and electronic communications¹, complemented by a Spectrum Decision. Member States must have transposed the Directives into national law by 25 July 2003².

The new framework covers all electronic communications networks and services but excludes content of services. It provides regulators (NRAs) with tools to cope with evolving technology and market changes, within a defined framework of objectives and tools.

The Commission has defined markets that are susceptible to ex ante regulation in the Recommendation on Relevant Product and Service Markets (see ECN&S (2003)7). The Commission has further published guidelines for market analysis and the assessment of significant market power (SMP). NRA's shall take the utmost account of this recommendation and the guidelines to define relevant markets appropriate to national conditions and to carry out a market analysis. Where a market is not effectively competitive, the NRA shall identify undertakings with SMP on that market and impose appropriate specific regulatory obligations. Where a market is effectively competitive, the NRA shall withdraw any existing obligations placed on undertakings in that market.

¹ The Directive on privacy and electronic communications entered into force on 31 July 2002.

² The Directive on privacy and electronic communications will have to be transposed by Member States no later than 31 October 2003.

Obligations regarding access and interconnection that may be imposed on undertakings with SMP in a specific market are defined in the Access Directive: transparency, non-discrimination, accounting separation, access to and use of specific network facilities, price controls and cost accounting. When imposing access to and use of specific network facilities, NRA's may lay down technical or operational conditions where necessary to ensure normal operation of the network. Conditions that refer to specific technical standards or specifications shall respect Article 17 of the Framework Directive.

The Universal Service Directive ensures a minimum level of availability and affordability of basic electronic communications services and guarantees a set of basic rights for users and consumers of electronic communications services.

The Authorisation Directive introduces a system of general authorisation, instead of individual or class licences, to facilitate entry in the market and reduce administrative burdens on operators. Special provisions apply for granting of rights to use radio frequencies and numbers.

Article 17 of the Framework Directive requires the Commission to publish a list of standards and/or specifications. This list, published by the Commission, is a selective list that serves as a basis for encouraging the harmonised provision of networks and services.

In absence of standards /specifications in this list, Member States must encourage the implementation of standards/specifications adopted by the ESO's and in absence of such standards and specifications, encourage the implementation of international standards and/or specifications adopted by ITU, ISO or the IEC.

Electronic communications network and service markets and their underlying technologies evolve rapidly. Standardisation has become a market-driven process with a scope that is larger than the one covered by ETSI, CEN and CENELEC. Assessment of the impact of competing standards and/or proprietary, non-open specifications on interoperability and freedom of choice of end-users seems needed to give visibility to policy makers and NRA's on the further evolution of European markets of electronic communications networks and services. It should be reminded that, according to Article 8 of the Framework Directive, NRA's are required to contribute to the development of internal market by, among others, ensuring interoperability of pan-European services and end-to-end connectivity. Standards, especially ETSI standards, are needed to achieve this objective.

ETSI has a role to play

The Commission services published an interim list of standards (see ECOJ 331 - 31.12.2002), which replaces the former ONP list of standards published on November 7, 1998 under the ONP Directive. The obligations under the current European regulatory framework remain applicable until the new regulatory framework is applied from July 25, 2003 (article 28 of the Framework Directive). The Commission services will take relevant measures before the List of Standards will be re-visited after ETSI has delivered its report on possible changes to the List of Standards.

ETSI approved mandate M/328 which invites the ESOs to analyse the existing list of standards/specifications published in the OJEC at the end of 2002 in support of Article 17 of the Framework Directive [1] and to propose how and if it should be adapted to encourage the harmonised provision of networks and services, to the extent strictly necessary to ensure interoperability of services and to improve freedom of choice for users under the new regulatory framework for electronic communications services and networks and associated facilities and services. The task also requests that ETSI takes account of the technology neutral definitions of electronic communications services and network that determine the scope of the new regulatory framework.

The new regulatory framework implies a number of changes (see above). All electronic communications networks, services and associated services are now covered. The list of standards needed to be changed accordingly.

According to ETSI strategic guidelines, ETSI should support the European regulatory framework.

ETSI established a committee, OCG ECN&S (electronic communications networks and services), to provide an horizontal coordination structure for issues related to the ETSI support for the implementation of European Directives and related documents and co-ordinate ETSI activities covered by any associated mandates relating to this topic.

A combined effort from ETSI TB/SC and a funded STF

The mandate M/238 includes a challenging schedule, and the outcome of the evaluation of the standards to be included in the list by OCG/ECN&S needs to be provided by the end of year 2003. It is required for the timely implementation of the Directive by the Member States, as foreseen in the legislation.

The previous list was established for the ONP regime, and the new framework is introducing a new approach for the use of the list. The list therefore needs a profound revision and re-structuring to be valuable, and the sections covering mobile networks and services in particular are to be added. ETSI should contribute to this list and provide contributions to support the new regulatory framework and an economic growth within a competitive environment. A good quality list available in time is necessary as an efficient tool for encouraging the harmonized provision of network and services, and should this voluntary approach for harmonization fail, it may result in mandatory measures decided by the Commission.

By accepting the mandate, ETSI committed itself to achieve the work within the targeted schedule. This will be done with a combined effort from the ETSI TB/SC and a funded STF : STF 254.

According to the draft structure of the list approved by OCG ECN&S, the STF will prepare in accordance with OCG ECN&S proposals for the assessment of the standards from the interim list to be maintain or withdrawn, as well as for the addition of existing standards that should be added to the new list. For new standardization needs, the scope of the new standards/specifications to be developed will be described. The proposals will be submitted to the relevant TBs and to OCG/ECN&S for approval.

The 3GPP partners should be informed about the ETSI process

The list of standards will be revised and a section on mobile networks and services will be added.

The attached presentation informs the others 3GPP partners about the goals of new European regulatory framework and the role of ETSI in the process. The ETSI STF 254 experts plan to attend few 3GPP SA, CN, RAN TSG meetings before the end of this year in order to inform TSG delegates about the work in progress in ETSI and receive comments, if any.

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Agenda item: 9
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**ETSI
and
the new European regulatory framework**

3GPP OP

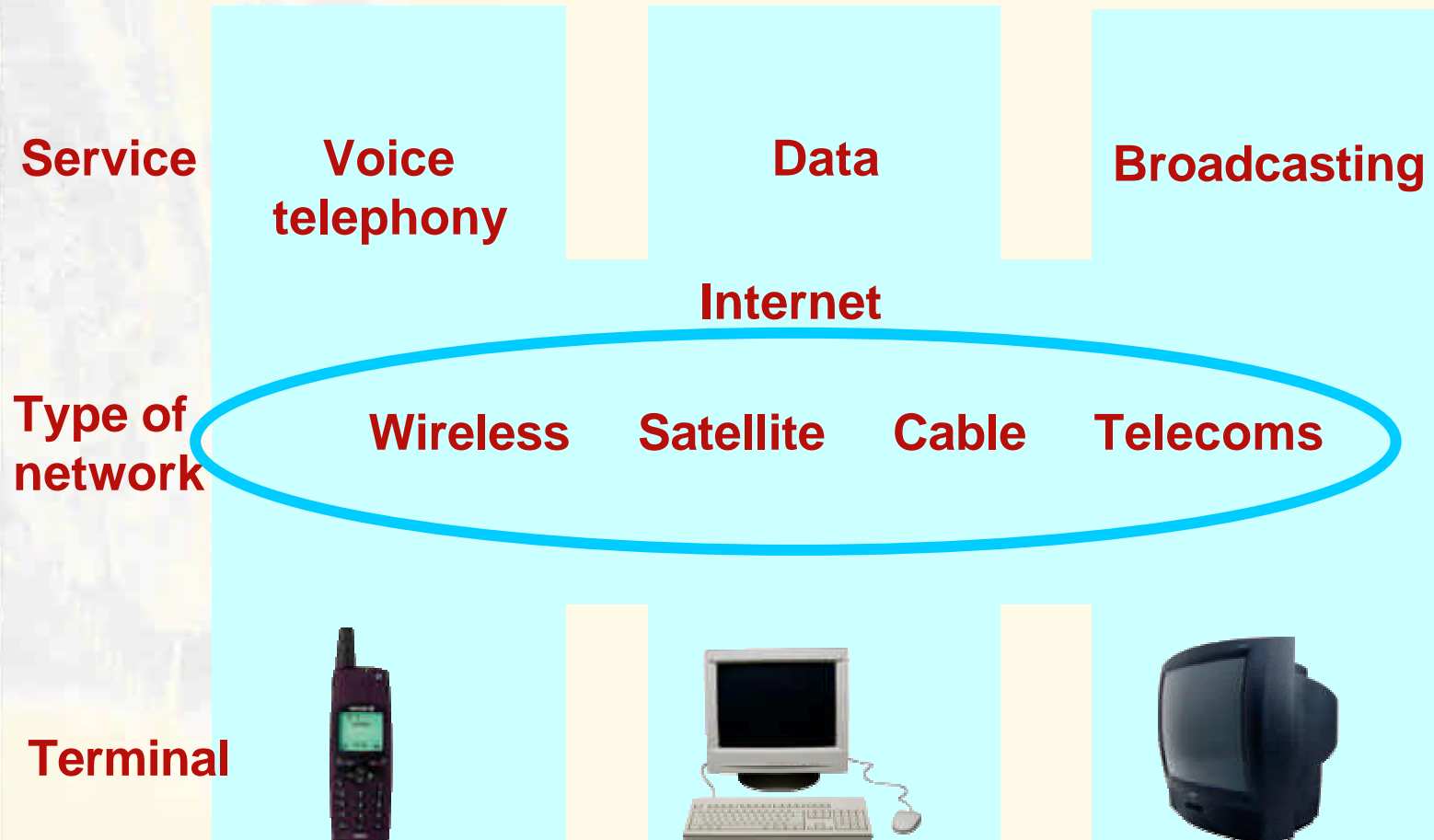
The new European regulatory framework entered into force the 25 July 2003.

ETSI and 3GPP will play a role within this new regulatory framework :

- What about this new European regulatory framework ?
- What about standardisation ?
 - What about ETSI ?
 - What about 3GPP ?

Convergence removes sector boundaries.

A unique regulatory framework for electronic communications networks and services.



Source: European Commission

The scope covers all electronic communications networks and services but excludes content.

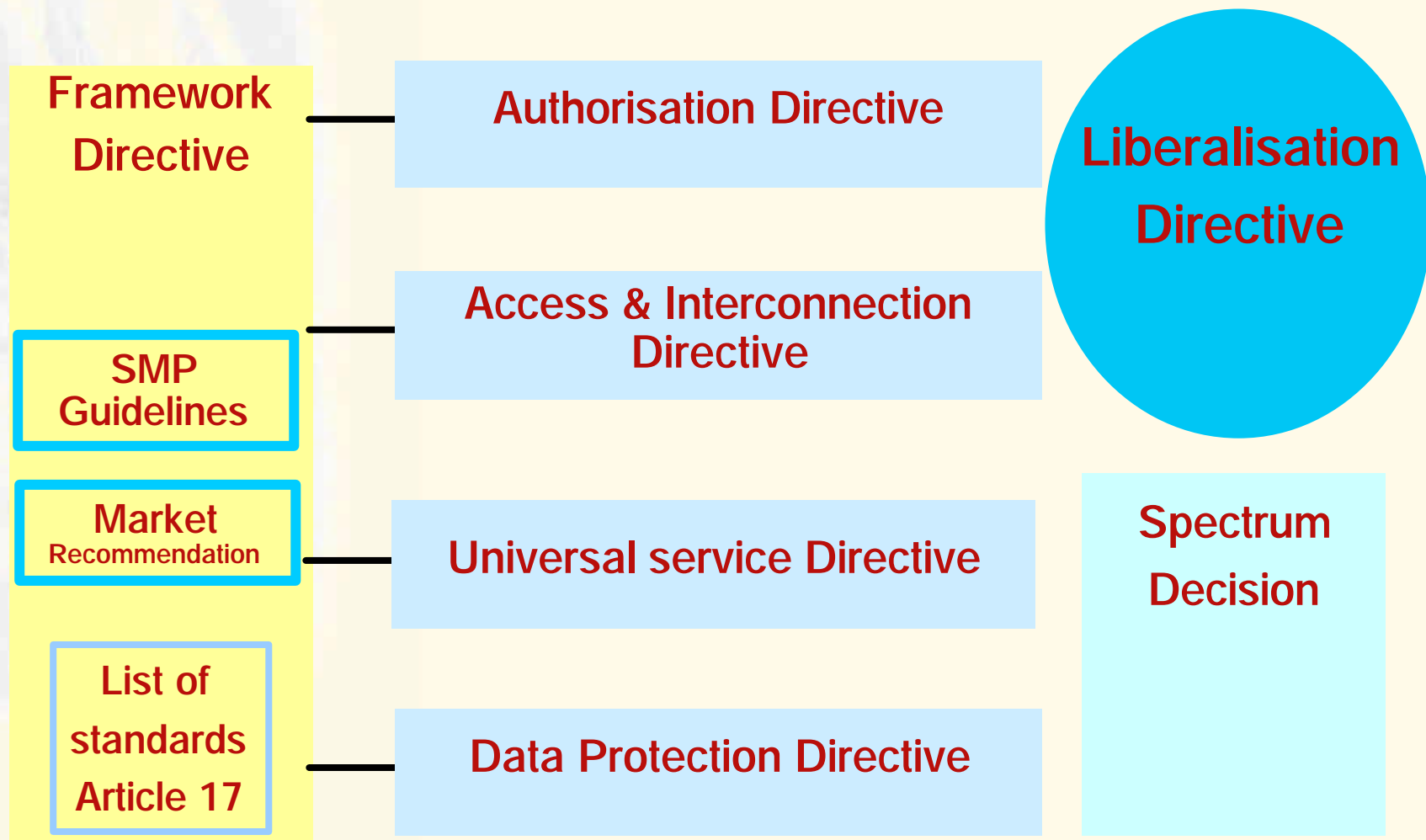
Content Services
- outside scope of new framework
(e.g. broadcast content, e-commerce services)

Communications services
(e.g. telephone, fax, e-mail)

Communications networks
(fixed, mobile, wireless, satellite, cable TV, power-line systems, networks used for radio and television broadcasting)

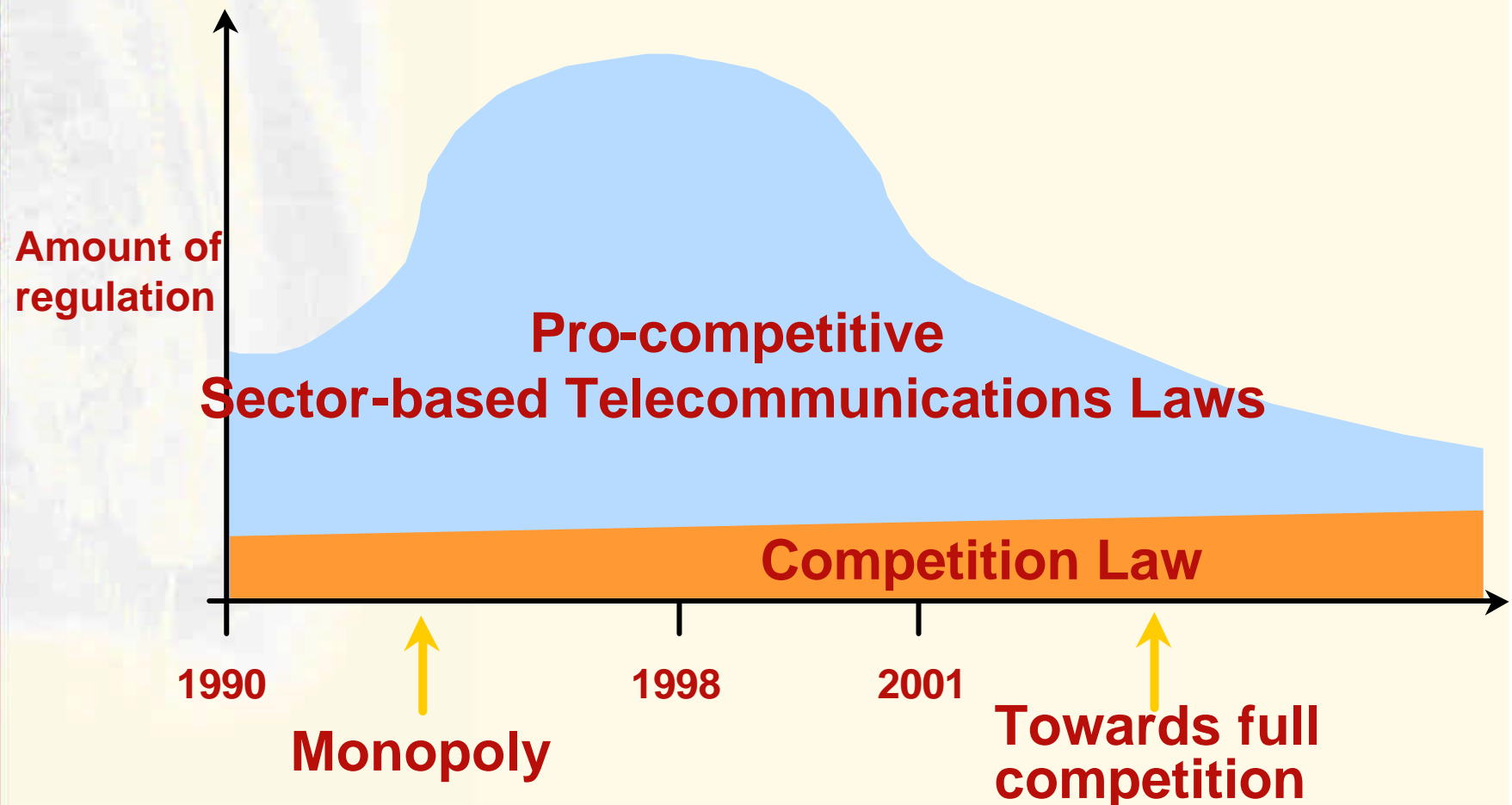
Scope

The new regulatory package offers new tools for regulation.

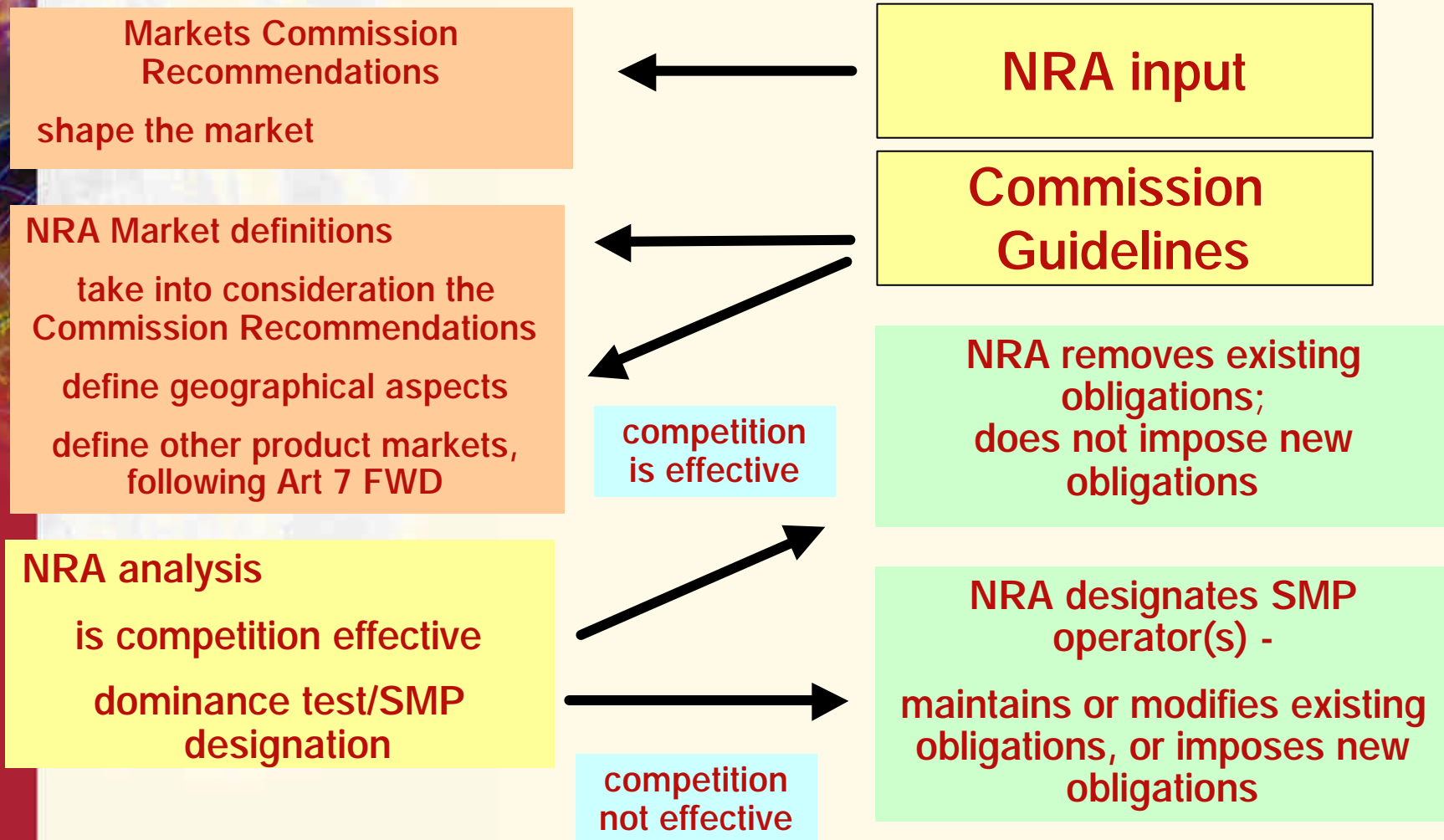


Source: European Commission

The objective is to roll back sector regulation when competition becomes effective.



The framework sets out well-defined tasks and procedures for National Regulatory Authorities

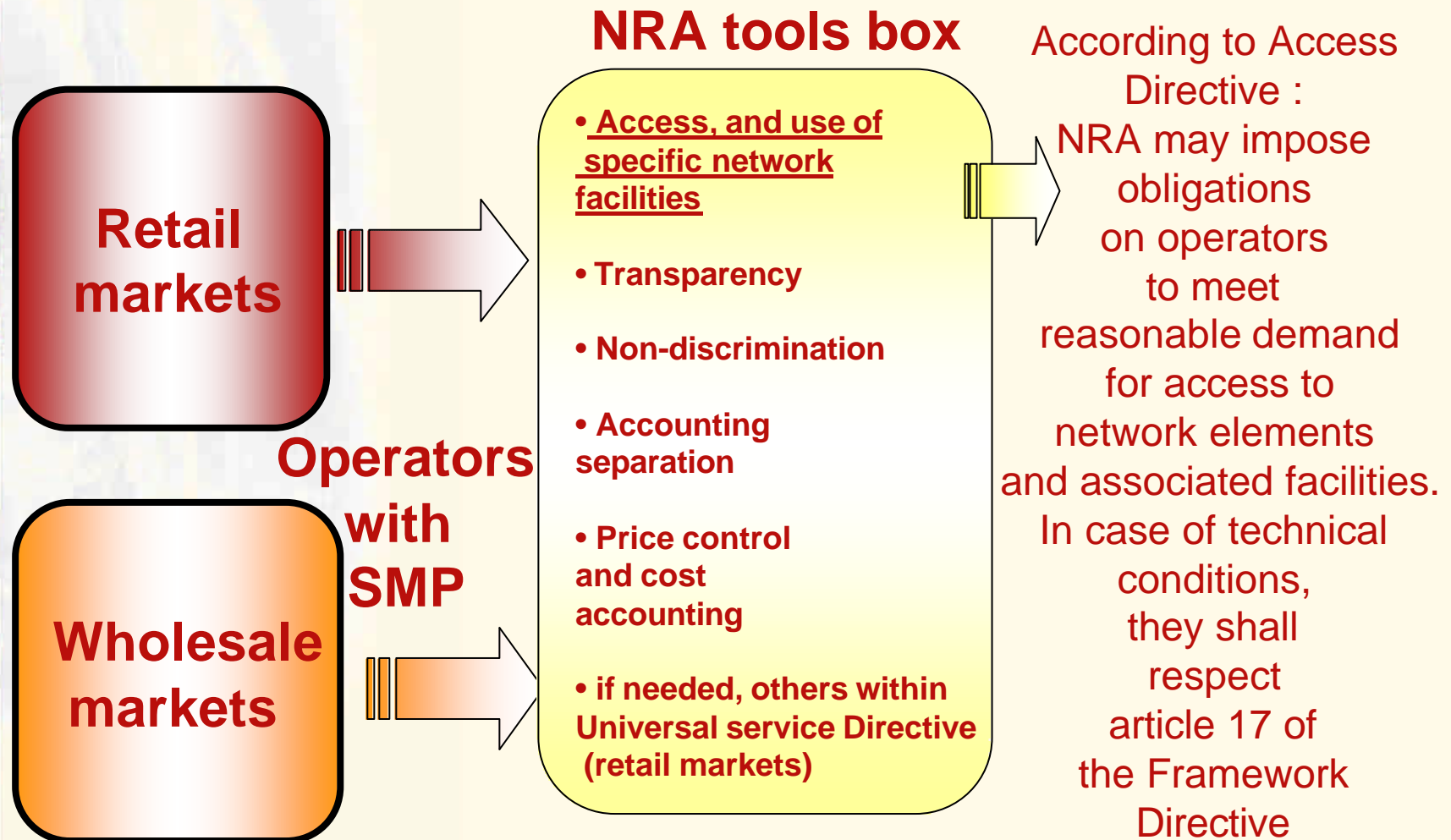


Source: European Commission

What about standardisation ?

- ❑ **An article (article 17) of the Framework Directive covers standardisation issues. According to this article:**
 - The European Commission publishes a selective list of standards to serve as a basis to encourage the harmonised provision of electronic communications networks and services.
 - EU Member States shall encourage the use of standards published by the Commission or in absence adopted by ESOs (ETSI, CEN, CENELEC) or in absence adopted by ITU, ISO or IEC to ensure interoperability of services and freedom of choice of consumers.
 - Implementation of Standards/specifications published by the Commission may be made compulsory.
- ❑ **Moreover, Universal service Directive and few rational of Framework Directive refer also to standards.**

What about market analysis and article 17 ?



What about the new regulatory framework and ETSI ?

- ❑ Further to a public consultation, the European Commission published an interim version of the list of standards and /or specifications (ref.: OJEC 2002/C 331/04 – 31/12/2002) covering the current and the new regulatory framework.
- ❑ Before publication of the next version, a broader consultation of ETSI is launched by a Commission mandate M328 with a challenging schedule (end of 2003).
- ❑ According to the objective of the new European regulatory framework, ETSI will revise the interim list of standards and identify any other potential technical interfaces and/or service features which could be added to the list including standards and/or specifications to be referred to or new standards/specifications to be developed for each of these technical interfaces and/or service features.
- ❑ Further to ETSI proposals, the European Commission intends to publish a revised list of standards by beginning of 2004.

What about 3GPP ?

- ❑ **A draft structure of the list of standards as currently revised by ETSI will serve as a basis to identify potential technical interfaces and/or service features which could be added to the list including standards and/or specifications to be referred to or new standards/specifications to be developed for each of these technical interfaces and/or service features.**
- ❑ **The draft structure of the list covers, among others, mobile items : interconnection and access, number portability for mobile networks, etc.**
- ❑ **The list of standards will refer to ETSI standards and/or specifications resulting from transposition of 3GPP deliverables.**
- ❑ **According to the draft structure of the list of standards, new standards/specifications may need to be developed. A work item may need to be submitted to the 3GPP accordingly.**