

# Strategy and Regulation on Telecommunication Markets

Dr. Christian Wernick

LMU München

June 12th 2009



## 1. Introduction

## 2. The Importance of a Strategic Perception on Regulation

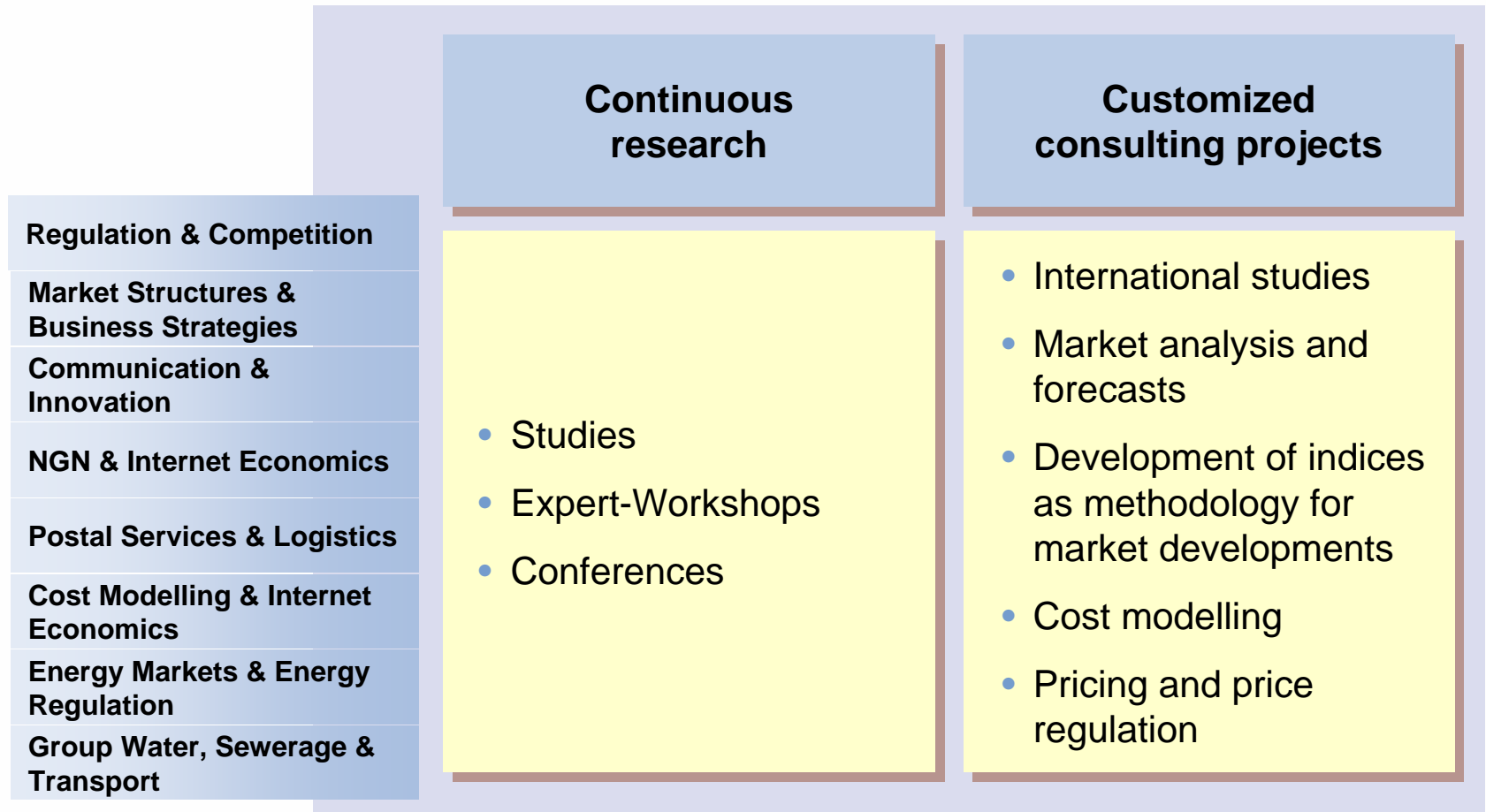
## 3. Recent Case Studies

- Network Neutrality
- Regulation of NGA Networks

## 4. Conclusions

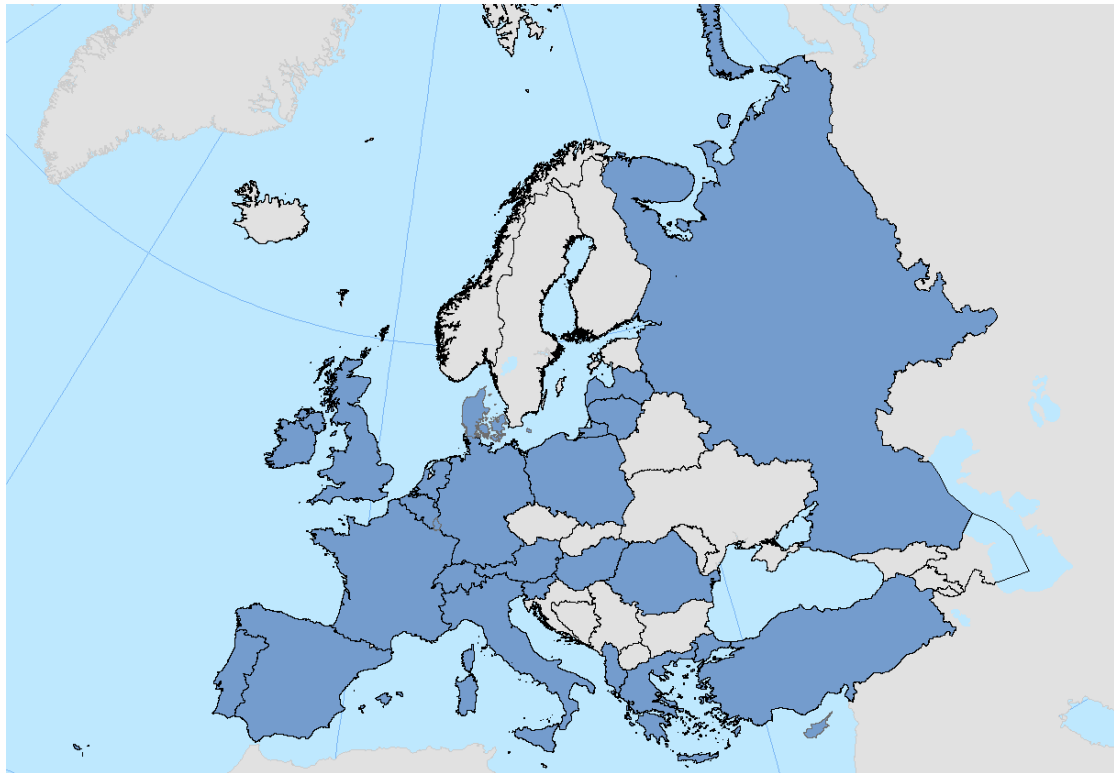
# Introduction

## 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

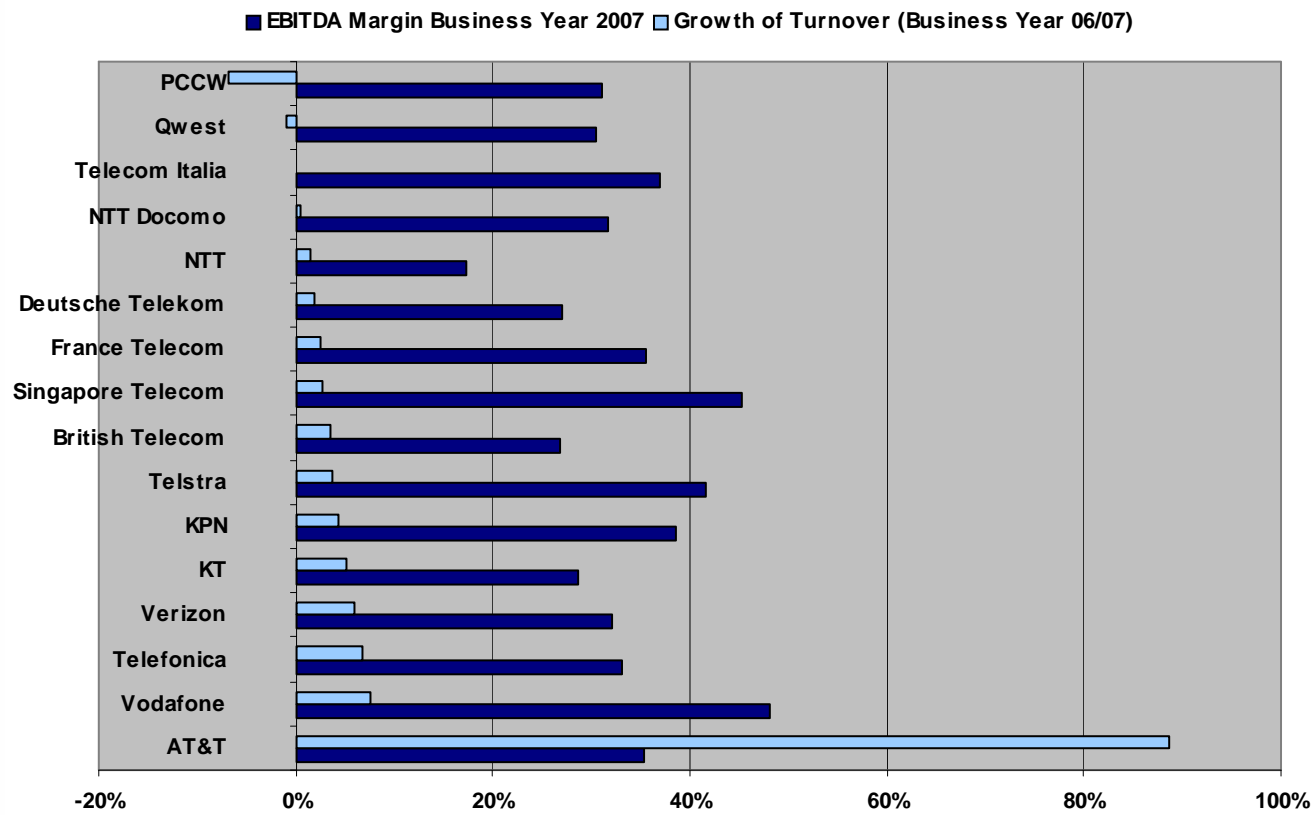
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# The Importance of a Strategic Perception on Regulation

## 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)

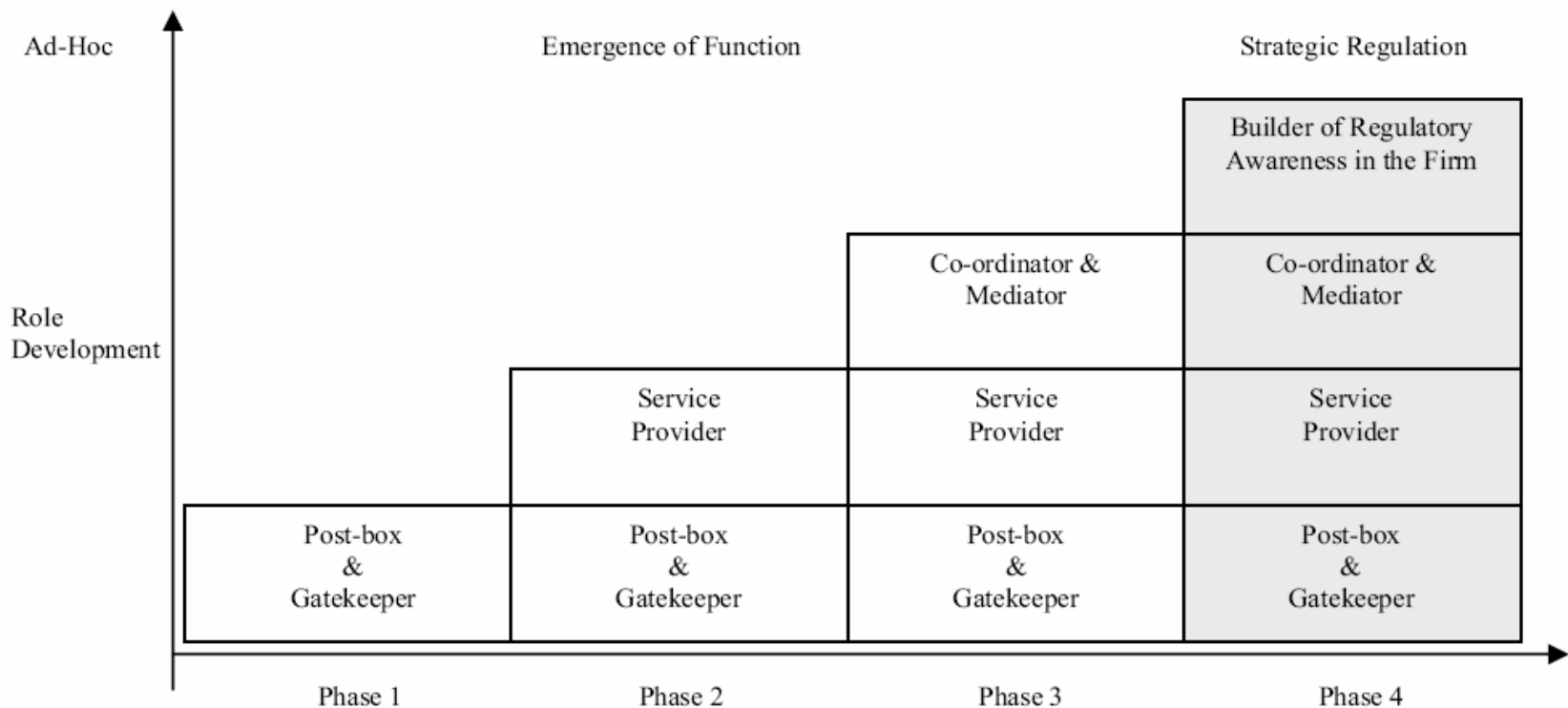
The activities of regulatory authorities affect telecommunication operators in many different ways.

- 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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## 3. Recent Cases Studies

- 
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## 4. Conclusions

# 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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- 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.



**Dr. Christian Wernick**

Senior Consultant

NGN and Internet Economics

WIK-Consult GmbH

Rhöndorfer Str. 68

53604 Bad Honnef, Germany

Tel +49 (0) 2224-9225-91

Fax +49 (0) 2224-9225-69

eMail [c.wernick@wik-consult.com](mailto:c.wernick@wik-consult.com)

[www.wik-consult.com](http://www.wik-consult.com)