

# Regulating NGAs: Encouraging investment while fostering competition

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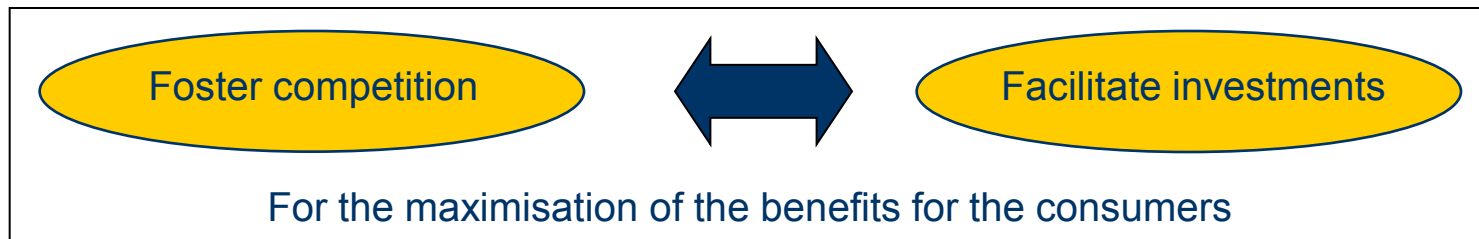
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**EETT 5th International Conference | NGAs - Unleashing the Potential for the Citizen and the Economy**  
**Athens, June 17th & 18th 2010**

## Regulating NGAs: encouraging investment while fostering competition

Investment and competition

Aims of regulation



### NRAs' objectives:

- Regulation that fosters both competition and investment, to the benefit of the consumer
- Regulation that is technologically neutral (homogeneous for fibre /copper)
- Proportionality of remedies (degree of regulation limited to the necessary)
- Promotion of sustainable competition

## Regulating NGAs: encouraging investment while fostering competition

Investment and competition

Opportunities and challenges of NGA deployment (I)

- ❑ NGA deployment – since liberalisation, an unprecedented opportunity for innovation and investments ...
- ❑ ... but also a risk of disruption in the competitive situation

From the regulatory perspective, NRAs face today the challenge of:

- ❑ acting as enablers of investment (by the highest possible number of market players) ... in a context of financial difficulties ...
- ❑ and ensuring that there is no disruption in the competitive evolution of markets (ensuring a smooth transition towards the new NGA environment)

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Investment and competition

Opportunities and challenges of NGA deployment (II)

And ...need for NRAs not to overlook the objectives of regulation:

❑ Technological neutrality

- homogeneous regulation should apply between copper and fibre

❑ Proportionality of remedies

- formulation of measures adjusted as much as possible to the concrete competition problem identified

❑ Promotion of sustainable competition

- climb up of the investment ladder towards an infrastructure-based competition



➤ **How to promote/facilitate that the alnets step up rungs in a NGA context?**

➤ **Is investment by alternatives possible?**

**Regulating NGAs: encouraging investment while fostering competition**

Investment and competition

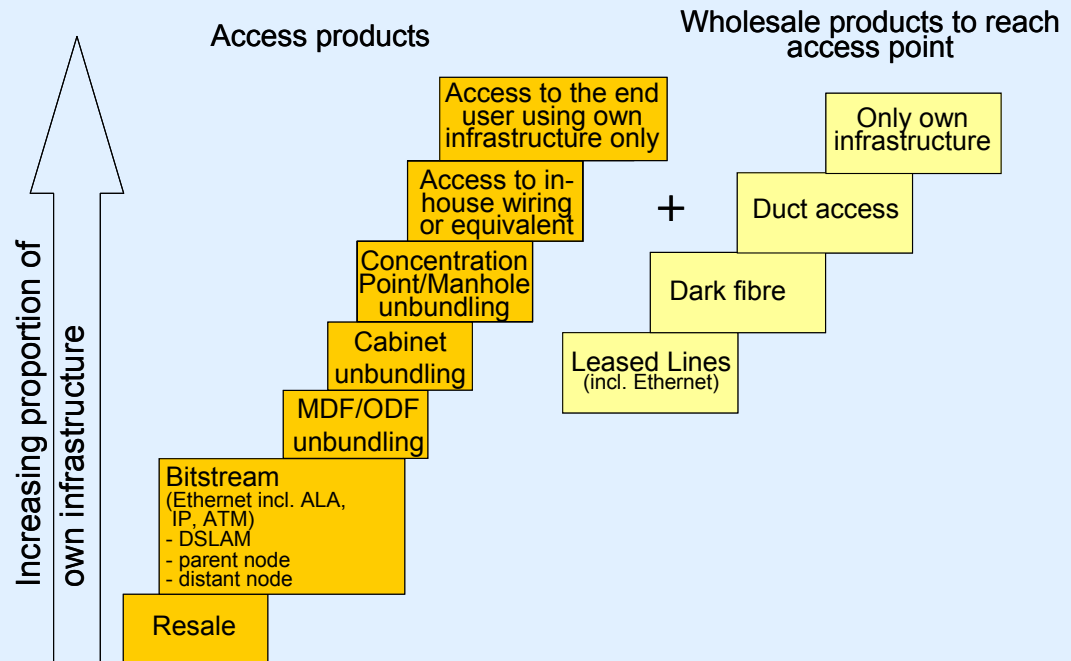
**How to promote/facilitate that the alnets climb up the investment ladder in a NGA context?**

The same regulatory principles are still valid, the regulatory tools applied by NRAs being adjusted/modified to adapt to the new competitive scenario

**ERG (09) 17 Report on NGA - Economic Analysis and Regulatory Principle**

*“the principle of the ladder of investment remains valid in an NGA environment, but is expected to be a more sophisticated ladder, with changes in the relative importance of their rungs and, in general, different dynamics, as a consequence of a shift in the economic bottlenecks.*

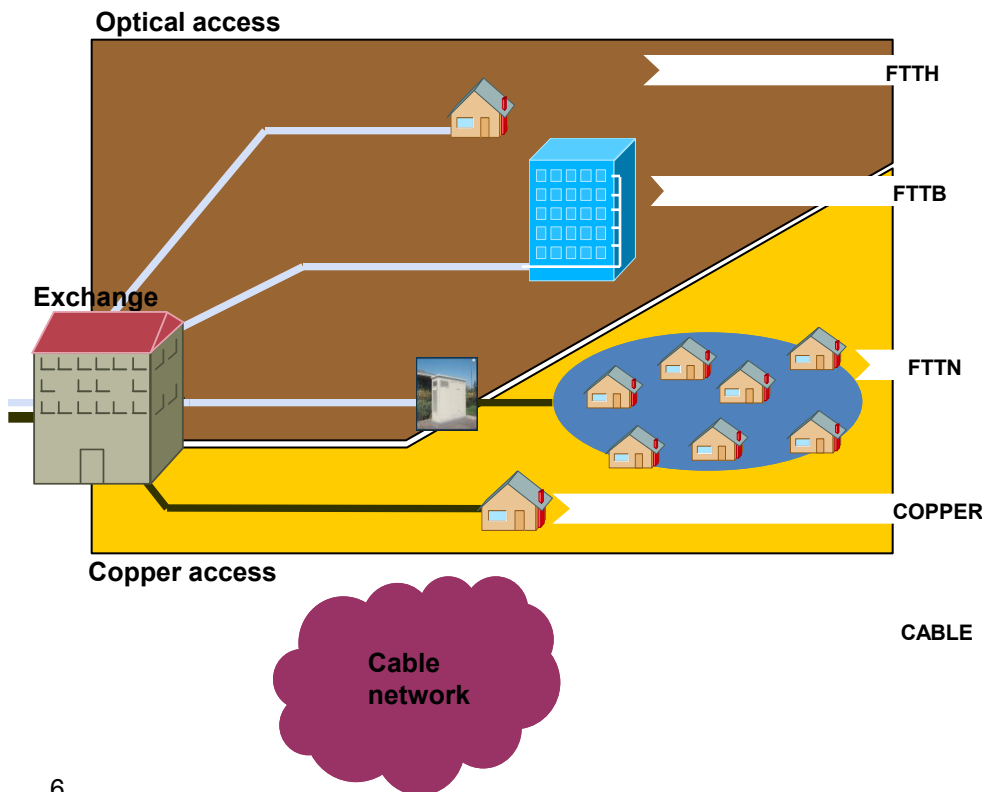
*In any case the principle of promoting competition to the deepest level possible is still appropriate.”*



Regulating NGAs: encouraging investment while fostering competition

Investment and competition | The Spanish solution

Ensure that all the rungs in the investment ladder are available to alnets for all technologies to the extent viable.



Bitstream	LLU	Sub-loop unbundling	Access to passive infrastr.	Own infrastr.
✓ Up to 30 Mbps			✓ Dark fibre Access to in-house wiring	✓
✓ Up to 30 Mbps		✓	✓ Dark fibre	✓
✓ Up to 30 Mbps		✓	✓ Dark fibre	✓
✓ Up to 30 Mbps	✓	✓	✓	✓
			Dark fibre	✓

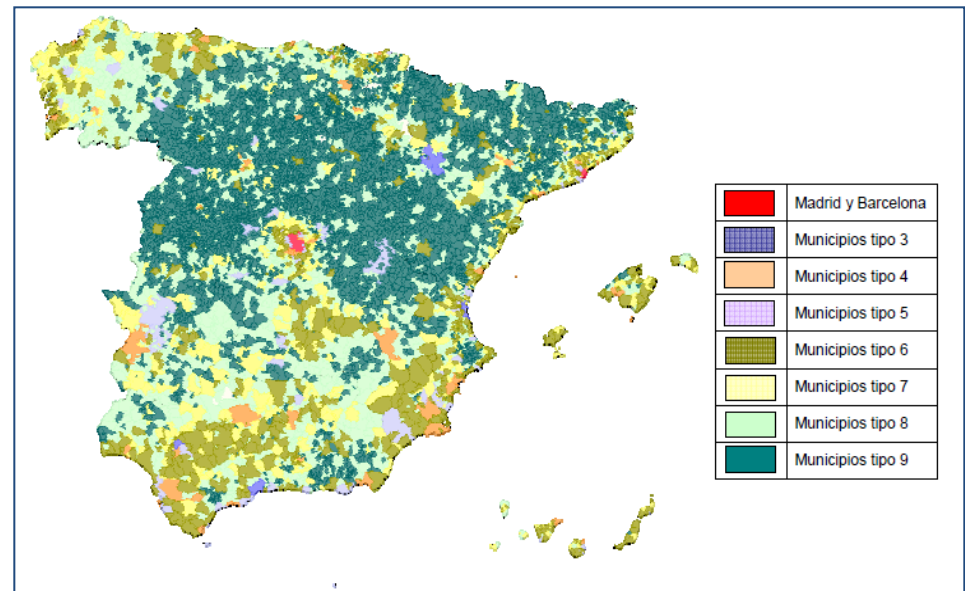
Market 5                      Market 4

## Regulating NGAs: encouraging investment while fostering competition

### Investment | Is investment in NGAs viable in Spain?

**CMT has elaborated a report on the viability of the fibre deployment by Telefónica and the alternative operators**

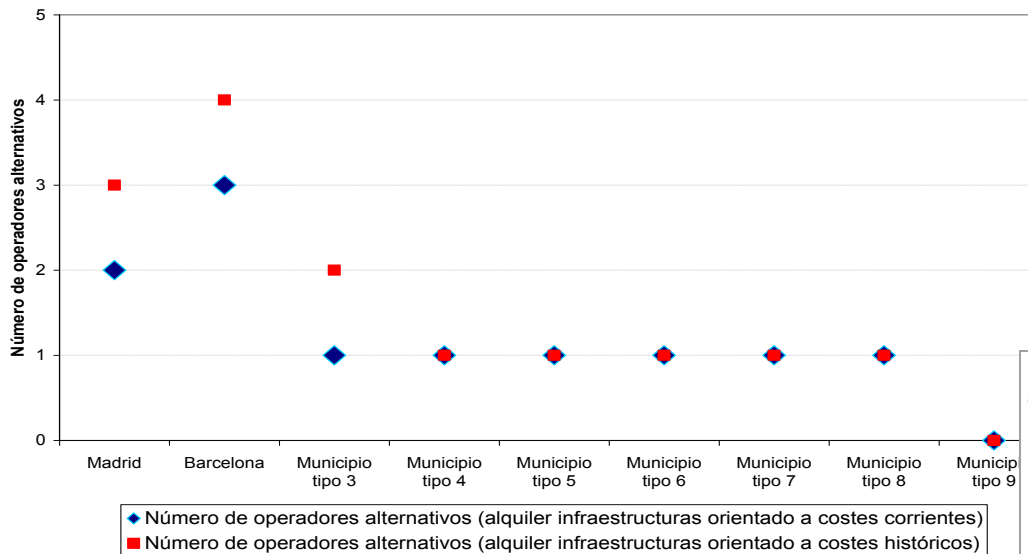
- Cost model:
  - Investment in FTTH per geographical area (9 areas defined)
  - Recurrent cost, backbone and services, other costs.
  - Uso compartido de obra civil: conductos, arquetas, etc.
- Calculation of revenues: prediction of demand and ARPU
- VAN of the investment: 15 years



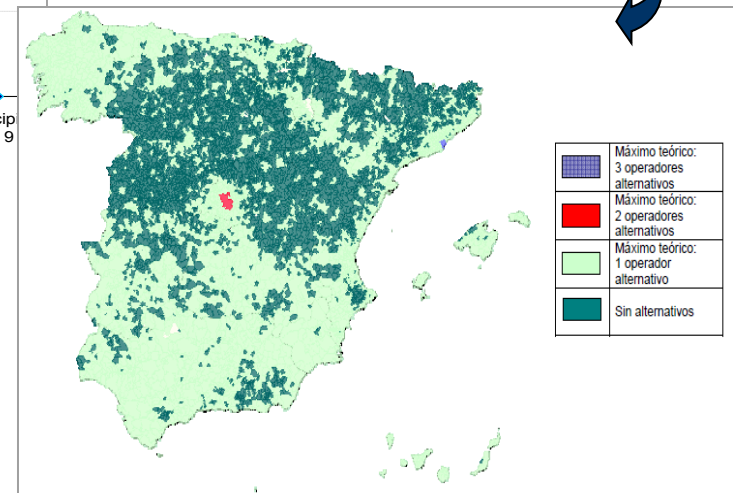
## Regulating NGAs: encouraging investment while fostering competition

Investment | Is investment in NGAs viable in Spain?

**RESULTS:** Maximum number of alternative operators to Telefónica \*



Theoretical maximum number of operators per area, in a scenario of prices oriented to current costs



\* It is assumed that, apart from Telefónica, cable operators will be present in every geographical type (the current case).



## Regulating NGAs: encouraging investment while fostering competition

### Investment and competition

### The EU response to the NGA challenges (I)

#### □ Review of the EU Regulatory Framework (November 2009)

*Recital (8) Amending Directive: “(...) it is necessary to give appropriate incentives for investment in new high-speed networks that will support innovation in content-rich Internet services (...). It is therefore vital to promote sustainable investment in the development of these new networks, while safeguarding competition and boosting consumer choice through regulatory predictability and consistency.”*

#### □ Draft EC Recommendation on NGA. Regulatory tools proposed

Access to civil engineering infrastructure (ducts)	always
Access to terminating segment (wiring inside buildings)	always
Unbundled access to the fibre loop (FTTH)	in principle
Unbundled access to the copper sub-loop (FTTN)	always
Bitstream access	in principle

#### □ Digital Agenda (May 2010): Universal BB & NGA deployment, a EU political objective

In 2020 “fast” BB (> 30 Mbps) for all Europeans; “ultra-fast” BB (> 100 Mbps) for 50% of all European households

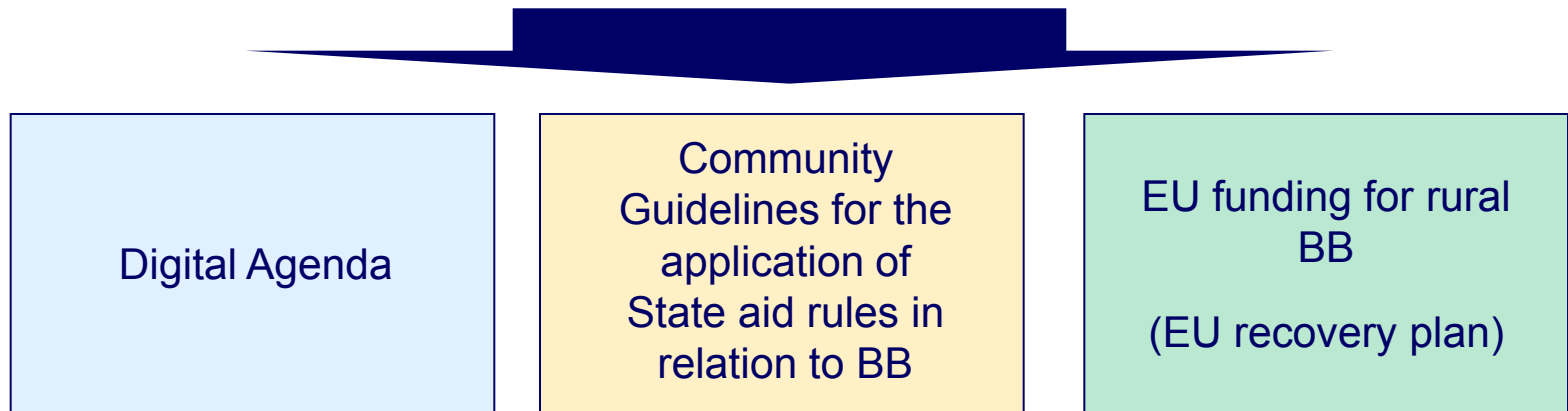
## Regulating NGAs: encouraging investment while fostering competition

Investment and competition

| **The EU response to the NGA challenges (II)**

### Do these regulatory measures offer the necessary incentives?

- ❑ In a negative economic cycle, growing belief that public intervention will be also necessary to stimulate offer:
  - State aid
  - Direct public intervention in the extension of infrastructure
  - credits
  - Public-private partnership
  
- ❑ Basic principle: only justified where no/limited competition is expected



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Investment and competition

The EU response to the NGA challenges (III)

Digital Agenda

Community Guidelines for the application of State aid rules in relation to BB

EU funding for rural BB (EU recovery plan)

September 2009

Aid for NGA broadband networks		
Description		State aid allowed?
At least two NGA networks are available or should be available within three years.	<b>Black area</b>	No
No NGA network available, no plan by private investors to roll out such an infrastructure within three years and no other traditional broadband infrastructure exists or rolling-out a NGA network would be unprofitable.	White area	Yes
No NGA network available but at least two traditional broadband networks exist, without any plan to invest in NGA.		Need further assessment
Only one NGA network available or planned to be rolled-out within three years and no plan by private investors to roll out an additional infrastructure within three years.	Grey area	Need further assessment

## Regulating NGAs: encouraging investment while fostering competition

### Investment and competition

Digital Agenda

May 2010

#### Commission action by 2014:

- reinforce the funding of high-speed BB by EU instruments.
- explore how to attract capital for BB investments through **credit enhancement (backed by the European Investment Bank and EU funds)**.

#### Member States actions:

- develop **national BB plans**, using public financing in line with EU competition and state aid rules
- **facilitate BB investments**
- <sup>12</sup> use fully the **structural and rural development funds**

### The EU response to the NGA challenges (IV)

Community  
Guidelines for the  
application of  
State aid rules in  
relation to BB

EU funding for rural  
BB

May 2009

- part of the **EU Recovery Plan** (December 2008) as a European response to the global financial crisis
- **1,02€bn** (for rural broadband development and 'new challenges' - climate change, renewable energies...)
- funds injected into the existing **national rural development programmes**

## Regulating NGAs: encouraging investment while fostering competition

Investment and competition

The net neutrality debate in the NGA context

### NGA deployment will bring opportunities for:

- ❑ a unprecedented upgrade in the network capacity and QoS
- ❑ the emergence of new services and applications (bandwidth-hungry and real time)

### However:

- ❑ High investments by telcos necessary (in a context of financial difficulties)
- ❑ high uncertainty of demand for these new services by users

### In this context, the debate about net neutrality arises:

#### Telcos argue that:

- ❑ the current model (best effort) is not valid for the management of traffic needed for these new applications (e.g. real-time video/voice).
- ❑ the high investment required by NGA should be recovered also from those agents availing from the use of the infrastructure (i.e. content/service providers on top of Internet)

#### Content/service providers argue:

- ❑ that they already pay for access to the network
- ❑ that they attract demand for BB access for the benefit of telcos
- ❑ that they bring innovation for the benefit of the whole society

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The net neutrality debate in the NGA context

### **Crux of the matter in the NGA environment:**

- ❑ Entering into scene of services/application of high economic value
- ❑ Opportunities for the telcos of increasing their revenues via the differentiated treatment of applications/contents
- ❑ How NRAs will address the net neutrality issue?

### **EU Regulatory response to the net neutrality debate:**

- ❑ The **revised telecom package** does not solve the question (does not define net neutrality)...  
... although it contains provisions aiming at ensuring net neutrality (citizen rights right to access and distribute information or run any legal applications/services , minimum QoS...)
- ❑ The **European Commission** adopted a (non-binding) declaration saying it will monitor the development surrounding “internet freedoms” and will launch a public consultation on net neutrality before summer.
- ❑ The **Digital Agenda** will report whether further legislation – in addition to the EU 2009 regulatory framework– is needed.
- ❑ BEREC working on a report on net neutrality



**Thank you !**

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**EETT 5th International Conference  
June 17th & 18th 2010**

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