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Commission for
Communications Regulation

**I/ERG Response to Call for Input on revision to
Regulatory Framework**

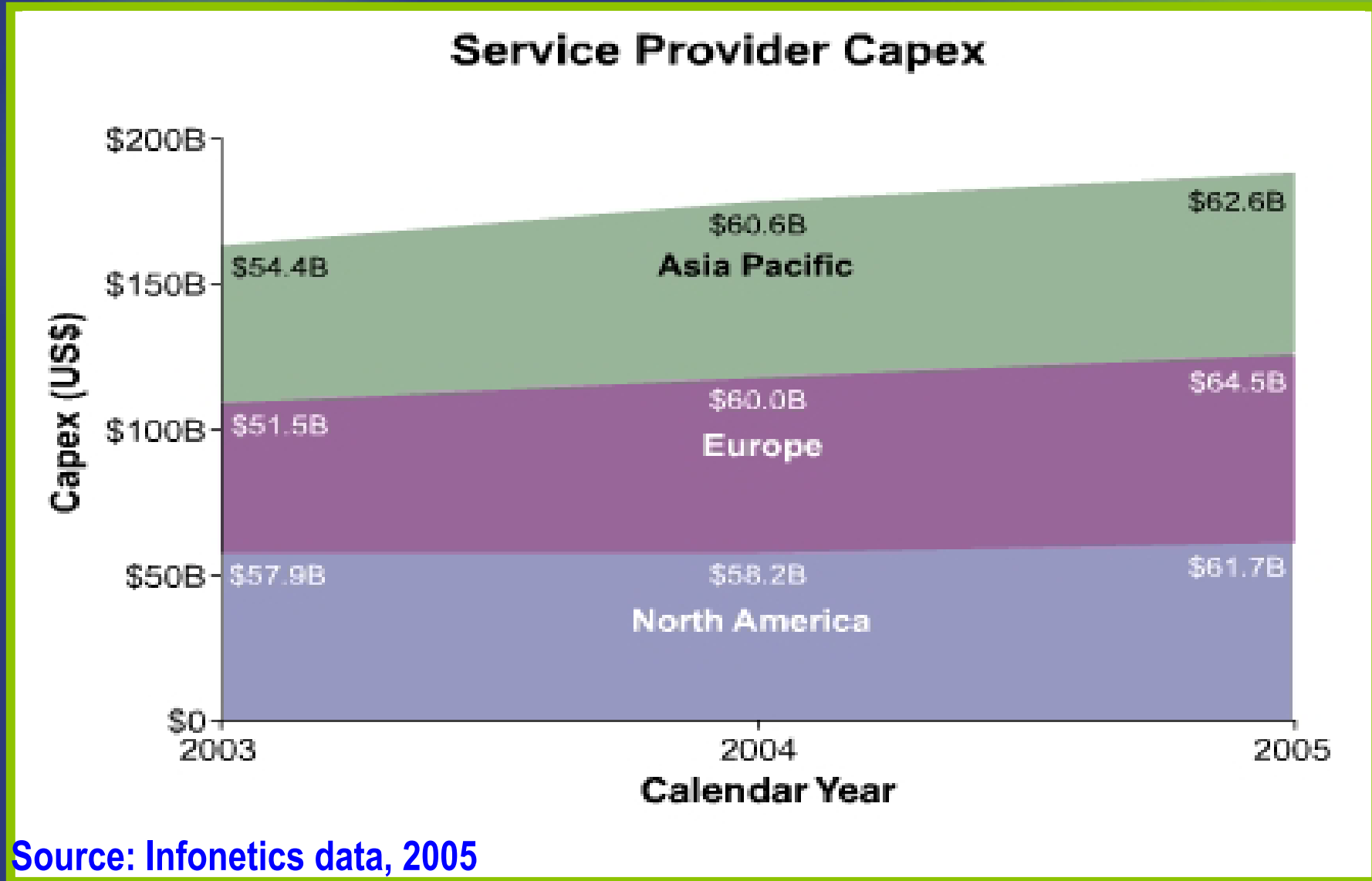
**Gary Healy, Director Market Development,
ComReg, chair of '2006' Working Group**

24/02/2006

Response

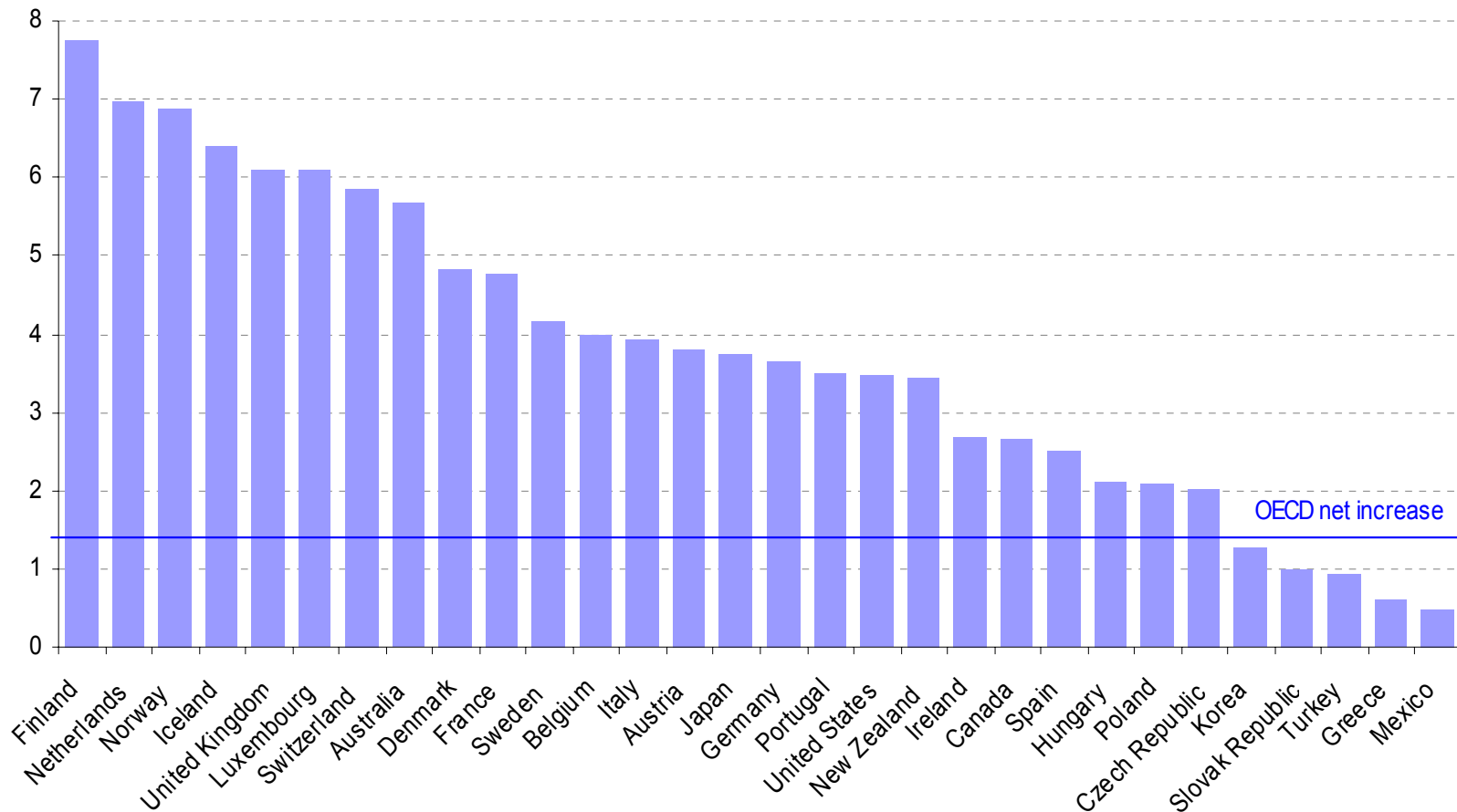
- **Consensus view of 33 Independent Regulators**
- **Consensus view reflects experience of regulators implementing the Framework and contributions to ERG Workshop in Paris**
- **Need to ensure review is based on market evidence, on investment and growth in the sector, and on the appropriate level of ex-ante regulation to address competitive issues**

Investment is returning after 'dot com' crash



Where Platform, Facilities & Service based competition exist Broadband penetration increases

OECD Broadband penetration (per 100 inhabitants) net increase Q2 2004-Q2 2005, by country



Source : OECD

Broadband choice promotes take up

	2001	2002	2003	2004	2005
FRANCE	1.0	2.8	5.5	10.6	12.8
UK	0.6	2.3	5.4	10.5	13.5
US	4.5	6.9	9.7	13.0	14.5

‘Competition in as many areas of the value chain as possible provides the strongest basis for ensuring maximum innovation in products and prices And for driving efficiency’ ITU

Approximately half of the art 7 notifications have been finished across the EU.

Note: simplified for better illustration

Relevant markets according to EC recommendation

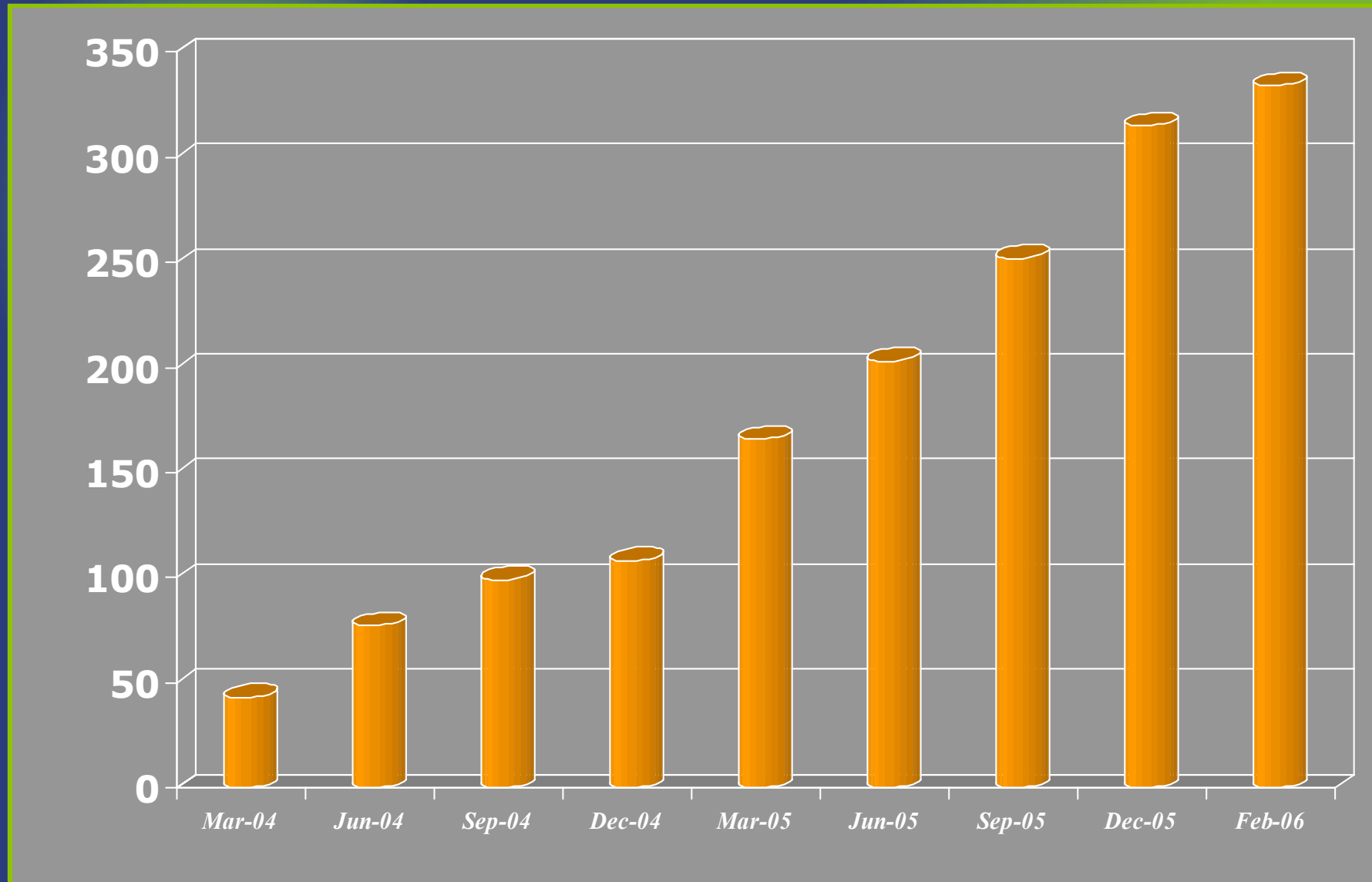
Country	Retail Fixed Voice						Retail Leased Lines	Wholesale Fixed Voice			Wholesale ULL Broadband		Wholesale Leased Lines		Wholesale Mobile			Wholesale Broadcasting
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Austria	█	█	█	█	█	█	█	█	█	⊘	█	█	█	█	█	█	█	█
Belgium																		
Cyprus											█	█			█	█		
Czech Republic																		
Denmark	█	█	█	█	█	█	█	█	█				█		█	█		
Estonia																		
Finland	█	█	█	█	█	⊘	█	█	█	█	█	█	█	█	⊘	█	█	█
France	█	█	█	█	█	█		█	█	█	█	█			█			
Germany	█	█	█	█	█	█		█	⊘	█	█	█			█			
Greece															█	█		
Hungary	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█		
Ireland	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█		█
Italy	█	█									█	█	█	█	█	█		
Latvia																		
Lithuania									█	█	█	█			█	█		
Luxembourg															█	█		
Malta															█	█		
Netherlands	█	█					█	█	█	█	█	█	█	█	█	█		█
Poland																		
Portugal	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█		
Slovakia	█	█						█	█	█	█	█			█	█		
Slovenia	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█		
Spain	█	█	█	█	█	█									█	█		█
Sweden	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█		█
United Kingdom	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█		█

Symbols

- █ market definition and/or SMP-determination and/or remedies have been notified to European Commission
- ⊘ veto decision by European Commission (EC)
- ⊘ opening of phase 2 by EC

Data source:
European Commission (Circa Server)
Status: 2.2.2006

Notifications under article 7 increasing



What should be the goals of the review?

- **Current Review needs to ensure future proofed**
- **Developments in IP and convergence will change existing market boundaries – in some cases more concentrated markets, more oligopolies**
- **Investment by all players and Competition in all markets will be key to deliver Lisbon goals**
- **Review needs to ensure technological and service provider neutrality**
- **Review needs to ensure legal certainty throughout the process**
- **Need to ensure consumer protection powers are sufficient for evolving market**

ERG Key Messages for the Framework Review(1)

- **Framework is 'sound' – scope of review should be narrow**
- **Market Analysis ongoing and notifications increasing**
- **Significant work completed by NRAs and the Commission**
- **Encouraging evidence on investment and innovation**
- **Evidence of Deregulation in some end user and wholesale markets – pace of deregulation differs across member states**

ERG Key Messages for the Framework Review(2)

- **Article 7 processes are onerous and pose problems for National Regulators (NRAs), particularly for smaller NRAs. Procedures need to be streamlined and simplified.**
- **Framework requires regulators to analyse vertical markets - some problems can only be addressed effectively by applying remedies across several vertical markets - the provisions of the current Framework need to be clarified in order to facilitate this.**
- **Concerns relating to consumer protection and privacy; these have intensified as a consequence of the wider range of services and much greater number of providers resulting from liberalisation of the market**

ERG Key Messages for the Framework Review (3)

- **Recommendation on Relevant Markets requires appropriate flexibility to assist NRAs to formulate robust and objective market definitions. Clear transitional provisions need to be articulated so that the revision does not detract from legal certainty.**
- **In some member states judicial appeals processes vary considerably - variations have the potential to detract from effective implementation of the Framework and of the aim of appropriate harmonisation of regulatory approaches.**
- **There is a need for ever-closer co-operation amongst Regulators and between Regulators and the European Commission to promote formulation and rapid dissemination of best practice**

ERG Key Messages for the Framework Review(4)

- **Framework already permits NRAs to formulate regulatory obligations which promote competition and facilitate innovation. ERG is opposed to measures which would seek to undermine the competition law principles of the Framework, for example, the incorporation of “regulatory holidays” or their equivalent into the Framework.**
- **ERG are firmly opposed to a European Commission right of veto over National Regulatory Authorities choice of remedies. National regulators are best placed to decide on such issues**

Conclusions

- **Call for input published today on ERG website**
- **Reference:**
 - http://www.erg.eu.int/whatsnew/index_en.htm