

A satellite-style map of Europe and the Mediterranean region, showing green landmasses and dark blue oceans. The map is the background for the entire slide.

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Reflections on the Future of Postal Regulation in the European Union

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1. Origins of Postal Regulation in Europe

Breakdown of the Old Order

- 1980s EU accepts international couriers
- 1986 US permits international remail
- 1987 Post offices act to restrict remail
- 1988 Competition complaint against Posts
- 1991 5 Posts-TNT joint venture
- 1992 Postal Green Paper
- 1993 EU condemns anti-remail efforts
- 1994 Sweden repeals monopoly

Creation of New Legal Order

- 1997 Postal Directive
 - 2002 amendment sets 2009 as target date for full liberalization
- 1998 Competition Notice
- 1999 REIMS II Decision

Observations

- New Order resulted from institutional reactions and counter-reactions following the rise of **international couriers**
 - Courier threat was exaggerated and misunderstood
- Since 2000, **electronic communications** has been and will be the primary driver of change in the postal sector

2. New Legal Framework

Elements of Postal Directive

- Preeminent role of Posts as **USPs** recognized
 - **USO defined** and harmonized
 - Member States required to **improve quality** of the services of the USP
 - Member States may **regulate all operators** within universal service area
- Express services recognized
 - Postal monopoly limited, express excluded
- **Independent regulators** required
 - Protect private operators and users abuses by USPs

Elements of Reims II

- Terminal dues accepted as special rate between USPs
 - Exempt from competition rules
 - Set to 70 percent of domestic postage
 - Incentives for quality of service
 - Cross border access to domestic postage rates (“level 3”)
- Posts to refrain from anti-remail activities
- 4-year transition period

Charter for Postal Regulators

“Each Member State shall designate one or more national regulatory authorities for the postal sector that are **legally separate from and operationally independent of the postal operators.**” Article 22

- National Regulatory Authorities are mentioned **27 times** in the Directive

Tasks of the Regulator

- **Price** regulation
 - Ensure universal service prices are affordable, cost-based, non-discriminatory
 - Prohibit cross-subsidy of competitive services
- **Accounting** regulation
- **Quality of service** regulation
- **Entry** regulation
 - Authorization of postal operators
 - May define monopoly/require downstream entry
- **Consumer protection**

Observations

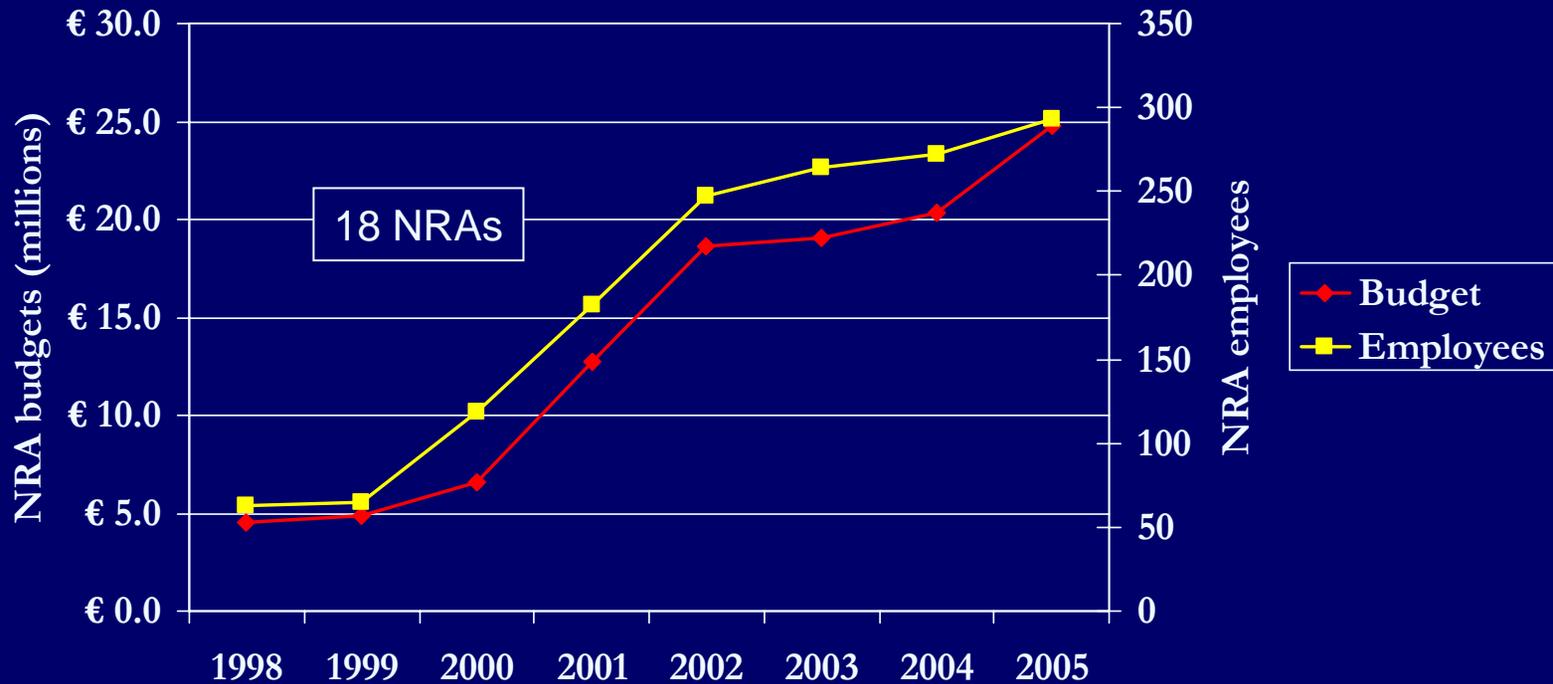
- New Legal Order formalized a “truce” in Posts/express dispute
 - Markets clarified and separated
 - Impartial Regulators were established
- Less obvious consequences
 - Directive froze the concept of universal service at the 1990s level
 - Governmental role begin to shift from operator to regulator of postal services
 - Risk: governments may become separated from direct exposure to changing market conditions

3. Regulation in Practice

EU Leads World in Postal Reform

- EU has addressed issues of postal modernization more thoughtfully and creatively than any comparable jurisdiction
- Many EU USPs have become more forward-looking and efficient
- Regulators have emerged as important checks on Posts in many Member States
- Overall price/quality mix of postal services appears to have improved.

Recent Establishment of Regulators



- In 2005, EU spent €37 million on postal regulation and employed more than 300 persons
- 6 times as much as US (which has twice the mail)

Resources and Independence Vary

- **6 largest Member States**
 - 50% of regulators; 80% of EU letter post
 - UK Postcomm accounts for 1/2 of EU reg. budget
- **6 smallest Member States**
 - 28% of regulators; 4% of EU letter post
- **Independence of Regulators may be incomplete** in some cases
 - E.g. in 3 MS, the Regulator is an office in Ministry

Unclear Effects on Univ. Service

- **Limited effect on scope** of national USOs
 - In some Member States USO does not include delivery of newspapers or parcels
- Norms of USO may be **too broad or inflexible**
 - Some Member States are withdrawing some bulk mail services from universal service
 - Some Member States may prefer slower or less frequent universal service
- **Improved quality of service** due to standards and transparency, esp. in cross-border

Imperfect Regulation of Rates/Accounts

- Many Regulators **do not control the rates of all universal services**
 - Especially special tariffs and individual agreements accounting for 40 to 80% of universal services
 - Formal rate cases rare in many Member States
- Most Regulators **lack detailed, objective accounting data**. Few Regulators—
 - Have reviewed cost allocation and data quality
 - Can specify percent of unallocated costs
 - Require separate accounts for each univ serv.

Mixed Effects on Market Entry

- Limits on postal monopoly have had **little practical effect**
- Authorization procedures may be positive or negative
 - **Replace reserved area** with more flexible controls
 - **Restrain competition** in formerly free markets

But Regulatory Effects Are Important

- Promotion of competition: UK v. Germany
- Worksharing: EU v. US
- Commercial freedom of USP: NL v Spain
- Quality of service: cross border mail

Observations

- The Directive successfully initiated a **creative and innovative period** in EU postal policy
- **Regulation is far from “full strength”**
 - Effective regulation **takes time** to develop, esp. regulatory accounts
 - Regulation has **definite effects** on sector
 - Regulators' **institutional “weight”** is growing
- Directive has **not prevented multi-speed EU**

4. Regulatory Alternatives at Member State Level

The Basic Tradeoff: Policy Objectives v. Regulation

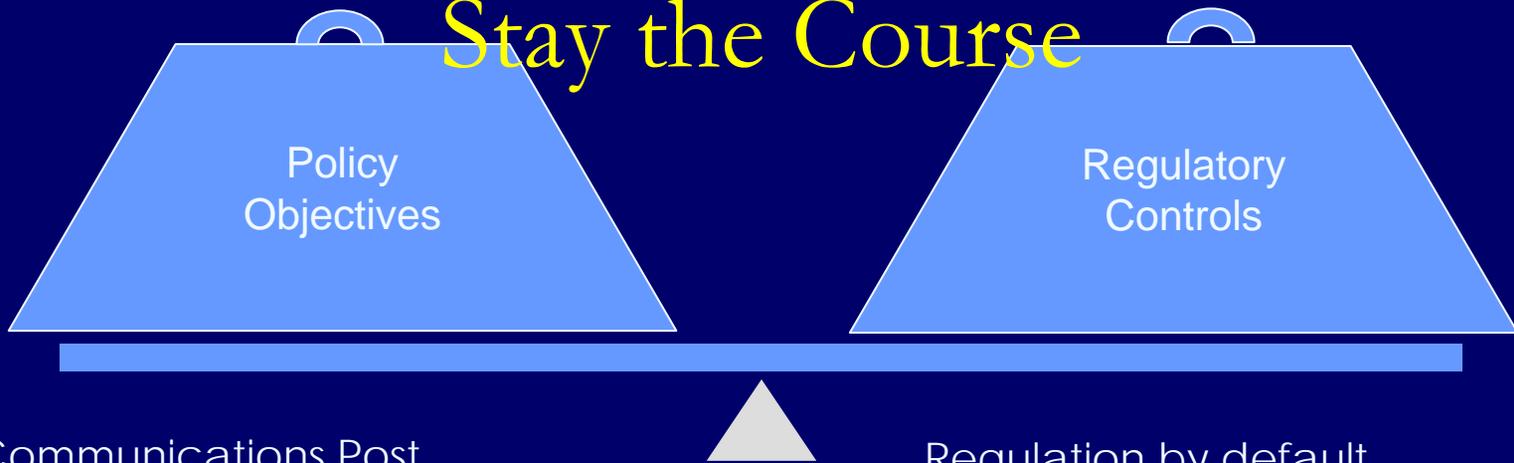
The more postal services are required to achieve **political objectives** rather than market outcomes,

. . . the more **regulatory controls** are needed to provide the disciplines that “the market” would otherwise provide

Regulatory Options of Member States

1. Stay the Course
2. Regulation Light
3. Normal Market Regulation

Stay the Course



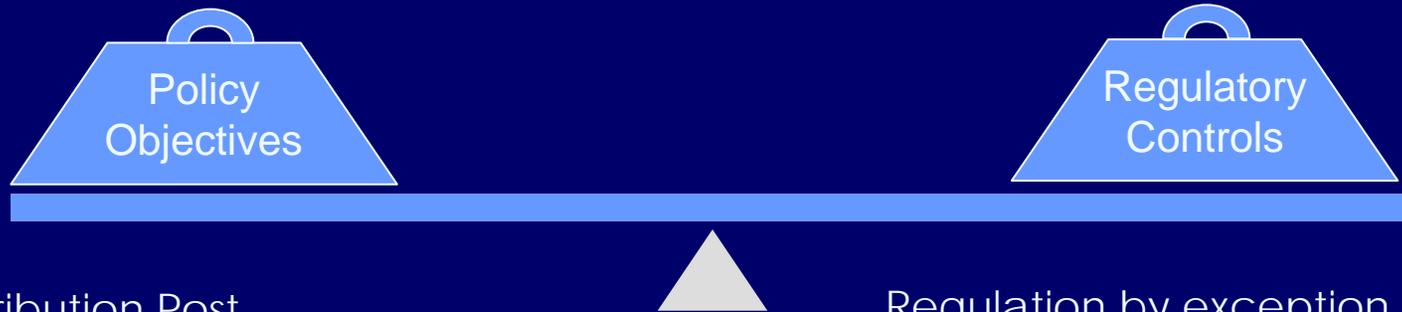
Communications Post

- High quality of service
- Uniform service to all points
- 5-6 days per week
- All items up to 10-20 kg
- Bulk and single piece
- Uniform rates that are affordable, cost-based, non-discriminatory, transparent

Regulation by default

- Quality of service standards
- Access standards
- Rate controls
- Accounting controls
- Regulation focused on USPs
- Entry/tax controls
- Controls on cross subsidy controls and downstream access

Regulation Light



Distribution Post

- Quality of service suited to basic needs of users
- Flexible service to all points
- Flexible delivery frequency
- Different rules for documents and parcels
- USO limited to single piece
- Non-uniform rates: affordable, cost-based, non-discriminatory, transparent rates

Regulation by exception

- Regulation limited to market-dominant single-piece
- Service/access set to basic needs
- Control or contract in case of inadequate service
- Limited rate/accounts controls
- Regulation focused on market
- No entry/maybe tax controls
- Controls on cross subsidy (and downstream access)

Normal Market Regulation

Policy
Objectives

Regulatory
Controls



Commercial Service Post

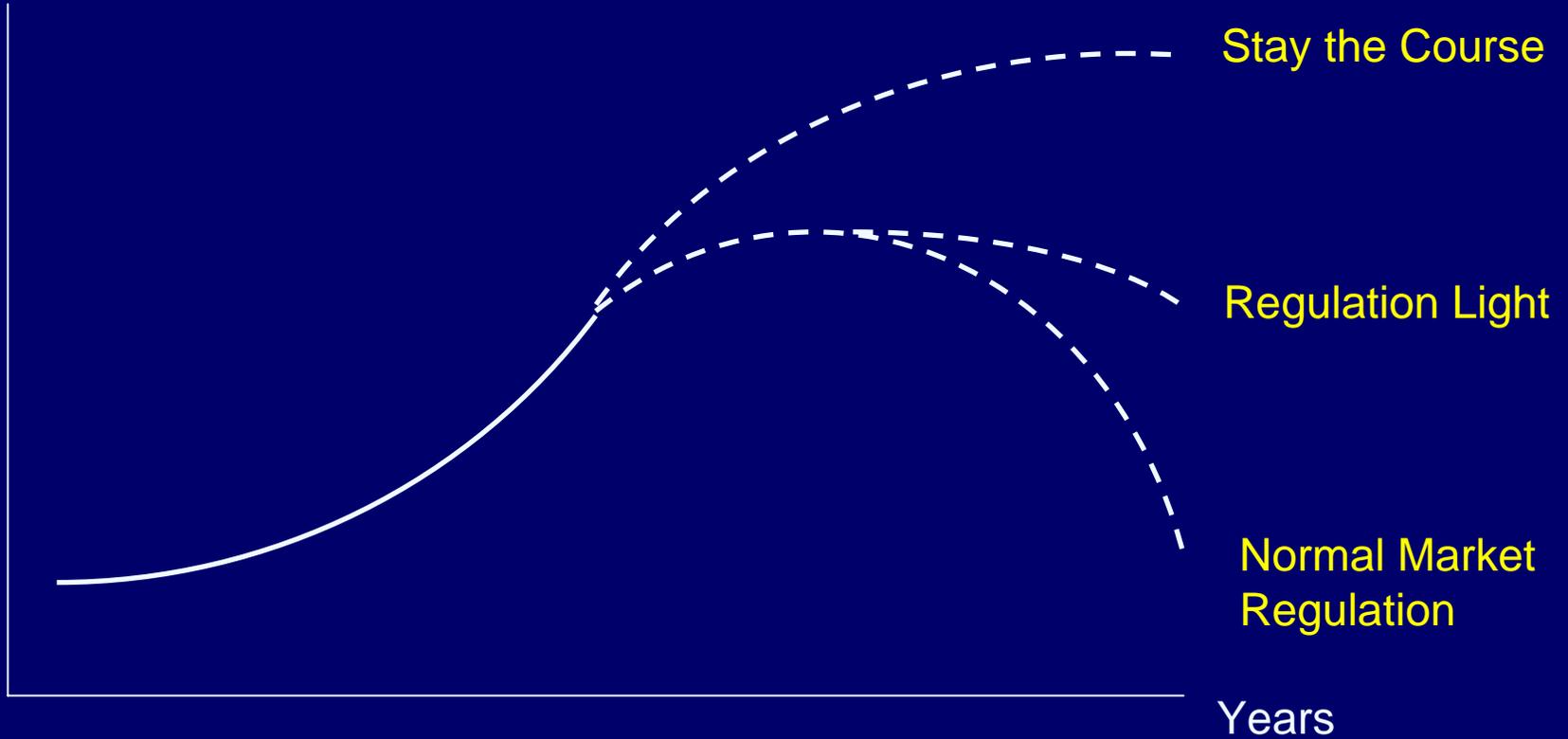
- Protect users, national security, etc.
- Safety net assured by government contracts

Normal Business Regulation

- No sector-specific regulator
- Same laws as other business + limited specific duties (e.g. registration, accounts, transparency, postal marking)
- Competition and capital markets work
- Government contracts in case of inadequate service

Summary of Paths

Level of USO/
Regulatory Controls

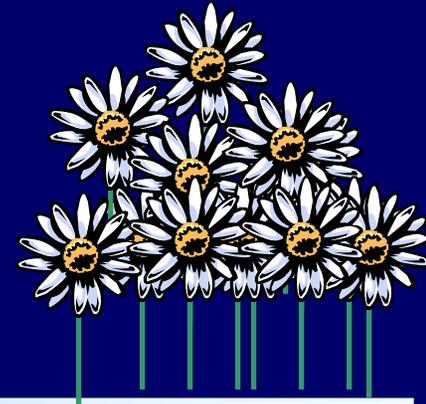


Observations

- A strong USO comes at the price of strong regulation
 - In early 1990s, Posts asked, “How much USO do you want”?
 - Today, the better question might be, “How much regulatory burden are you willing to bear?”
- Lessons of UK Postcomm and US PRC

5. Regulatory Alternatives at EU Level

Regulatory Options at EU Level



Single Market

Agreed in Lisbon
(2000)

Supported by
economic reports

Could be restrictive
as well as liberal

25 Flowers

Promotes subsidiarity

Permits liberal as all
restrictive
approaches

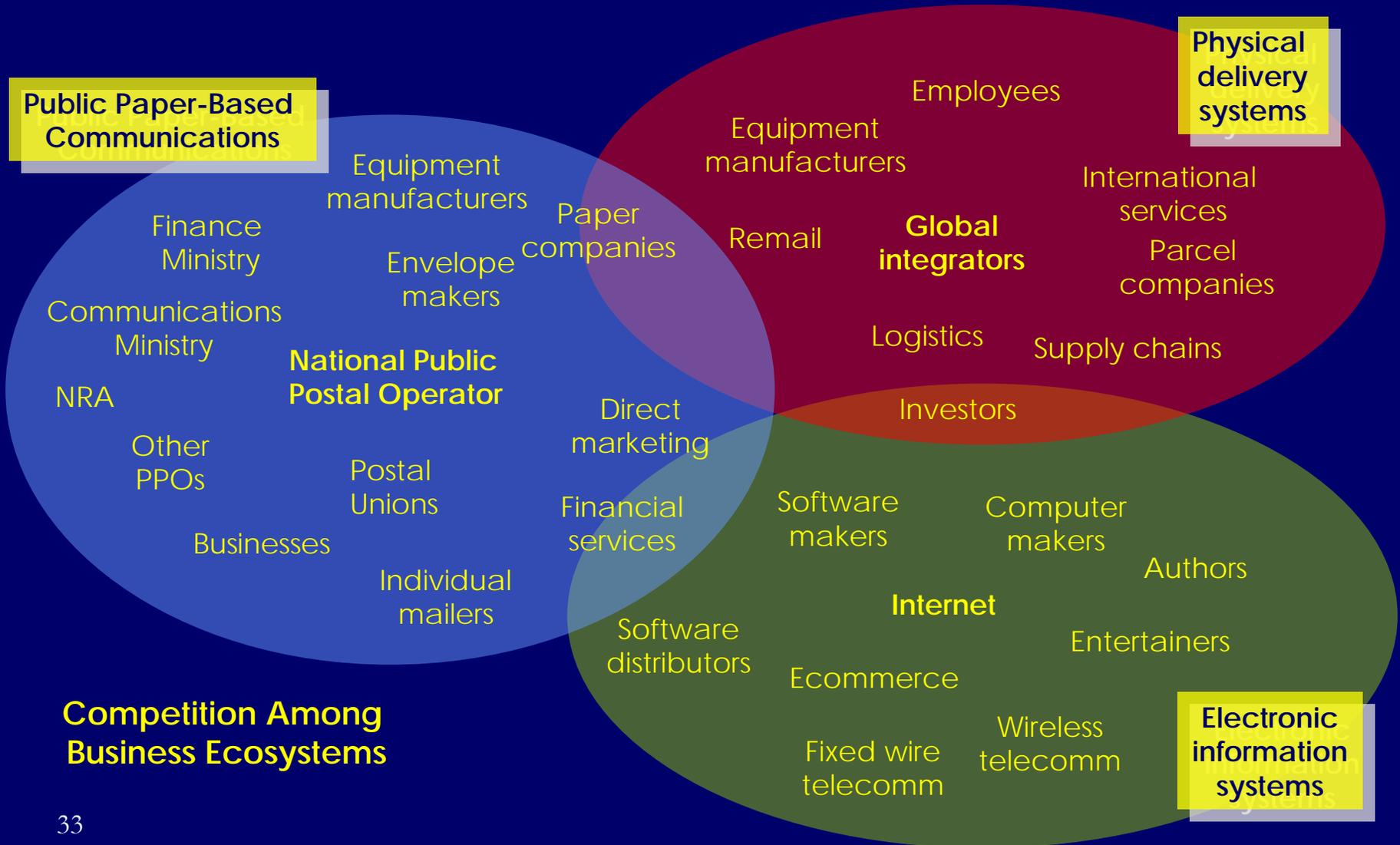
Degrees of Market Unity

Type of Unity	Measures Needed
EU-wide operations	<ul style="list-style-type: none">•End reserved area
EU-wide equity markets	<ul style="list-style-type: none">•End government ownership
EU-wide policy objectives	<ul style="list-style-type: none">•Directive that selects among MS options•EU regulator

Consulting the *Tabula Rasa*

- If there were no postal laws
 - How many Member State would establish a Public Postal Operator? How many would not?
 - What “universal service” is it really necessary to assure (is USO another word for the status quo?)
 - What sort of Postal Directive would the EU adopt?
- What are the most likely answers be in 2010? 2015? 2020?
 - What will be “mail mix”?

Evolution of Competition (I)



Evolution of Competition (II)

- Public Paper-Based Communications ecosystem is competing with other ecosystems
 - Physical delivery systems and electronic info systems have **substantial operational/equity/policy unity at regional and global levels**
- Within Paper-Based Communications ecosystem there is **increasing regional/globalization in customers and suppliers**

Observations

- Basic tradeoff: **Single Market v. Subsidiarity**
- A new EU Directive should be reasonably related to an **ideal regulatory framework**
- Regulation should be **“ecosystem neutral”**
 - Does the Postal Directive help or hinder the ability of the paper-based communications system to compete for long term survival?

6. Conclusions

Keys to Future Regulatory Policy

- The **necessary tradeoff** between policy objectives and regulatory burden
- The **balance between a Single Market and subsidiarity** that fully reflects the new fundamentals of commerce at regional and global levels
- **Flexibility** will be needed if the future will not be like the past

Commerce is Short, Law is Long

- Law changes slowly
 - Postal Directive derives from express issues of the 1980s not electronic comm. issues of 2000s
 - USO of the Directive dates from 1990s
 - Regulatory institutions established by the Directive are still not fully mature
- Commerce is changing rapidly
 - The main driver of change for PPOs has been and will be the rise of electronic information systems, not the threat of couriers



“The voice of great events
is proclaiming to us, Reform,
that you may preserve.”

-- Thomas Babington Macaulay, 1831

Caveats

- The purpose of this presentation is to suggest general ideas for further consideration. This presentation necessarily makes use of broad – perhaps overly broad and simplistic – generalizations about the development, implementation, and future of postal reform in the European Union. It should be recognized at the outset that such an approach does and cannot reflect all of the complexities presented by the issues raised.
- The views presented in this presentation are the personal views of the author and should not be interpreted as the views of any past or present client or associate.