

3rd European Rail Transport Regulation Forum

Railways – between sector specific and competition regulation

Issues and introduction to the Forum

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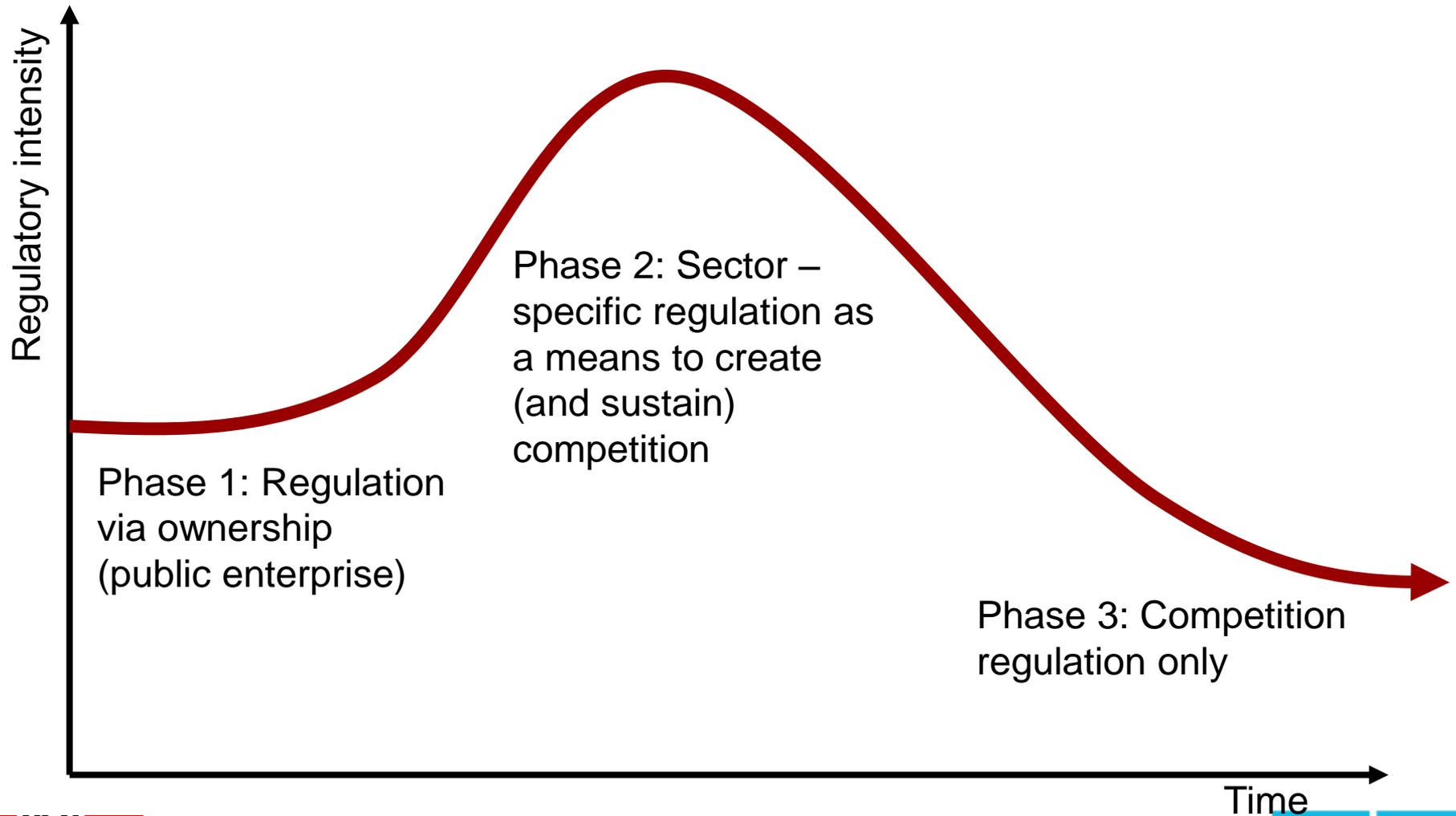
Questions

- Is there any room for competition regulation in the railway sector?
- What should fall into competition regulation? What into sector-specific regulation?
- What problems can arise from the unclear delimitation between competition regulation and sector specific regulation?
- What are the advantages and disadvantages of competition and of sector specific regulation respectively?
- Advantages and disadvantages for whom?
- *How do competition and sector specific regulation relate to the overall performance of a national railway system?*

Introductory remarks

- The initial view
- The broad idea
- The theory: “regulatory economics”
- Other arguments for regulators
- The reality
- The organizational dimensions
- A functional approach (railways)

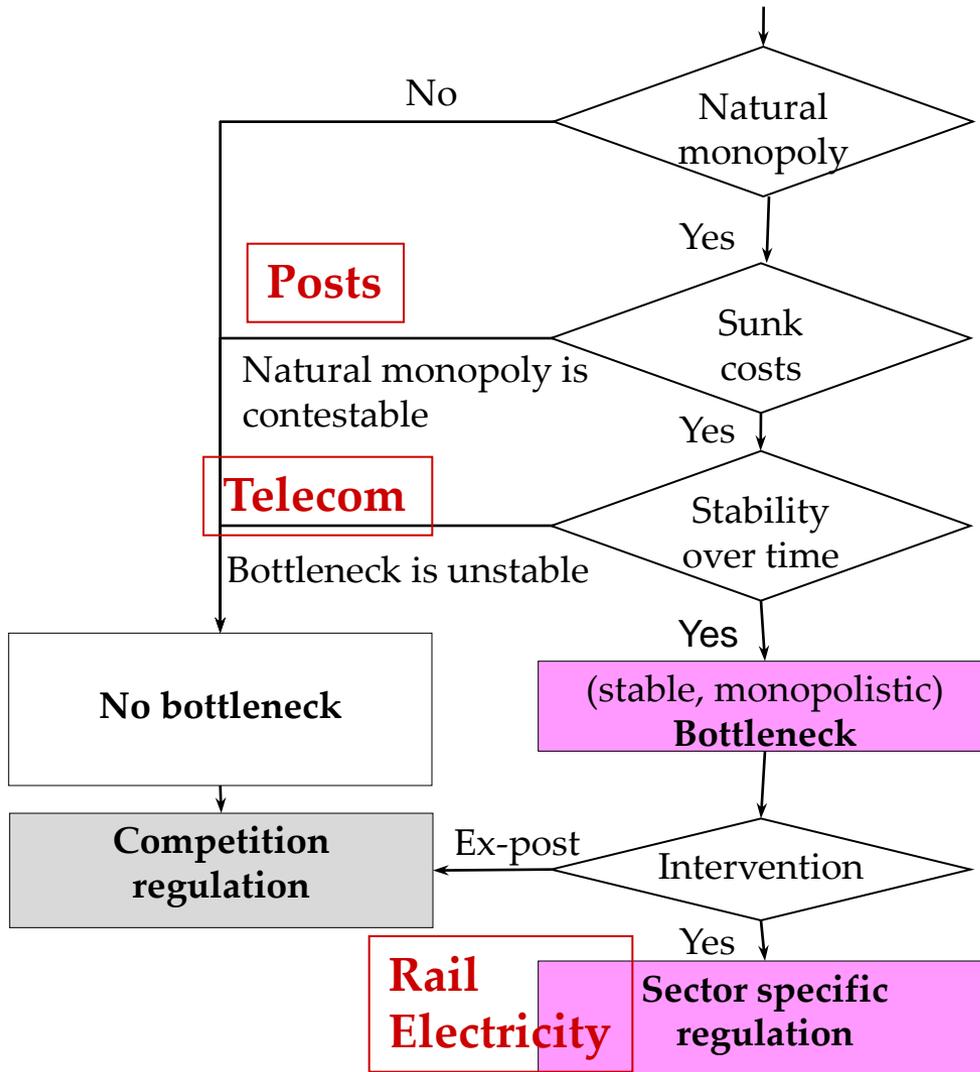
The initial view (all network industries)



The broad idea (all network industries)

	Sector specific regulation	Competition regulation
Object	Non-discriminatory access to monopolistic bottlenecks	Abuse of dominant position Foreclosure
Method	Set access conditions Set access price	Determine abuse of market dominance
Problems	Access price definition The question of regulating investments Determining the technical aspects of discrimination	Market definition Standards (technical barriers to competition)
Timing	Ex-ante	Ex-post

The theory: «regulatory economics»



Criteria

- Cost of competition exceeds the benefits of competition (in a given market)
- High opportunity costs (tied investments)
- Costs of investments
- Substitutes?
- Emerging new technologies
- Costs of regulation exceeds benefits of regulation

Other arguments for regulators (all network ind.)

Reason

**Sector-specific
regulator**

**Competition
regulator**

Complexity requiring expertise

**Independence from politics
(especially in the case of
public enterprises in the
sector)**

**Effectiveness (organizational
autonomy)**

Predictability, stability

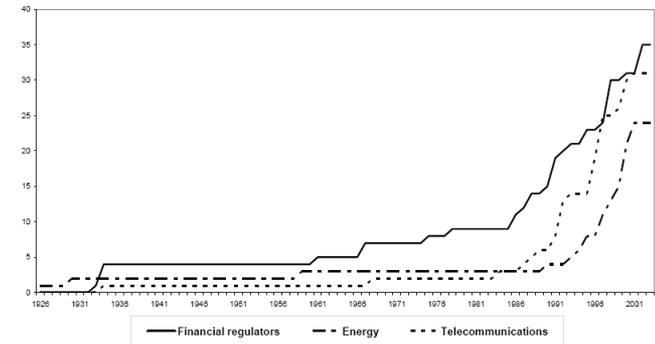
Reality of sector-specific regulation

	Creation of market	Technical problems	Political problems	Scarce resources
Telecom	Last mile (TPA)	Interoperability Interconnection	Universal Service	Spectrum Numbering
Post	Monopolistic bottlenecks		Universal Service	
Electricity	Network usage	Stability of the network	Security of supply	
Rail	TPA (network and last mile)	Interoperability Safety	Public Service Obligations	Slots
Water	Contract tendering		Public Service Obligations	Abstraction Pollution
Air	Network usage Airport slots	Safety		

The organizational dimension

- The exponential growth of sector-specific regulators: numbers, personnel, budgets, powers
 - Sector-specific regulator and competition regulators co-exist → power struggle
 - Sector-specific regulators becoming involved in policy-making
 - Sector-specific regulators becoming involved in other functions (e.g., facilitation, conflict-resolution)
 - Problems:
 - regulatory costs
 - capture
 - conservativeness
- Different for sector-specific and competition regulators?

Figure 1. Independent regulatory authorities (IRA) in OECD member countries



Regulation: a functional approach (railways)

- Supervision of non-discrimination:
 - access to the monopolistic infrastructure
 - other discriminations in the market (on a monopolistic infrastructure)
 - discriminations re the maintenance and development of the infrastr.
 - discriminations in the allocation of scarce network capacity (slots)
 - Pricing of the infrastructure:
 - in regards to an “efficient network” (consumer protection)
 - in regards to “security of supply”: maintaining substance and network development
 - Universal/Public Service:
 - respect of Public Service Obligations
 - protection of “captive customers” re services
 - Safety
- Regulate or not regulate?
- If regulate, by whom: office, competition regulator, sector-specific reg.?

Outline of the day

- Academic contributions (Prof. Devroe, Prof. Monti)
- Sector specific view: European Commission (Mr. Kaufmann, DG Move)
- Competition perspective: Ministry (Dr. Dobler)
- Associations' perspective: CER (Mr. Christie), EIM (Ms. Malheiro)
- Operators' perspectives: DB (Dr. Staebe), ÖBB (Dr. Nagl), SBB (Dr. Kern), Transwaggon (Mr. Nolte)
- Regulators' perspectives: **BNetzA (Dr. Otte)**, NMa (Dr. Meulman), Konkurrencesverket (Dr. Karreskog)