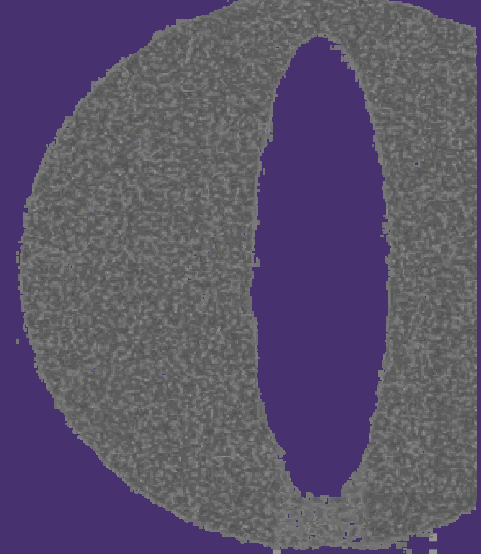


European Commission Hearing 8 July 2002

Local Loop Unbundling
The principle of non-discrimination
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“...BT is set to dominate the UK broadband landscape The majority of the unbundlers have disappeared and ... with all operators (other than cable) relying on BT wholesale for access, BT has almost complete control over the type and specification of products that are introduced to market”.

Source: Investec Securities, 2002

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Summary Slide

- The LLU saga:

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The LLU saga:

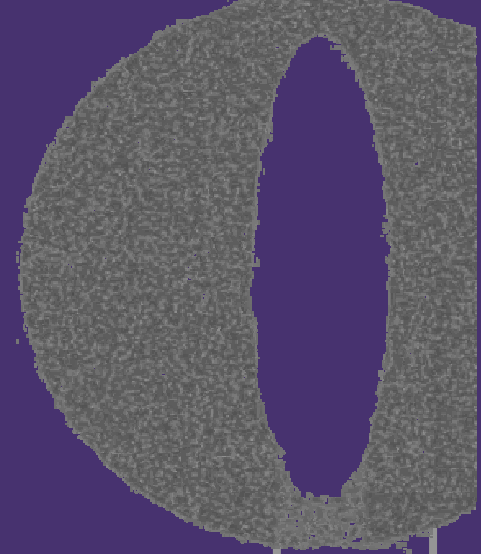
Not so much a case of

‘too little, too late’,

more a case of

‘too much, too soon’

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Non-discrimination: a bedrock principle

- Firmly enshrined in LLU Regulation and domestic regulation
- Important focus where incumbent's outputs are competitors' inputs
- LLU as classic rationale for application of discrimination rule
- Rule not working as envisaged

Discriminatory tactics

- Pricing, including cost allocation
- Order administration/CRM
- Accommodation and physical access
- Information access

Practical Experience

- Impossible evidential burden for competitors
- Real anxiety over costs, uncertainty, regarding private litigation
- Heavy dependency on regulator to investigate and unearth the facts
- Concern that regulators more interested to promote immediate broadband roll-out than to assist nascent competition

What could be done?

- More rigorous regulatory enforcement: the legal weaponry is there
- Force incumbent's retail operations into same procedures as apply to competitors
- Greater dissemination and transparency of information regarding loop, exchanges
- Fast track procedures for dispute resolution
- Structural remedies