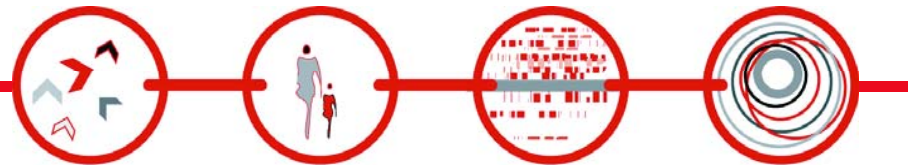


# Consultation of interested parties in the SMP-model

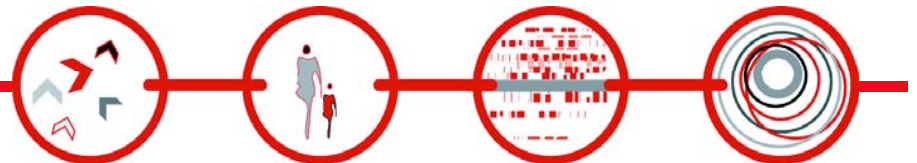
5th October 2007

Sara Andersson, Deputy head  
Competition Department, PTS



# Major features - Sweden

- Sweden part of the European Union and EU internal market
- High penetration of fixed and mobile telephony (over 100%), broadband 61% (sept 07).
- Independent regulator PTS in charge of spectrum management, competition measures (SMP), dispute resolution, consumer protection, Internet security (vast delegation from ministry)

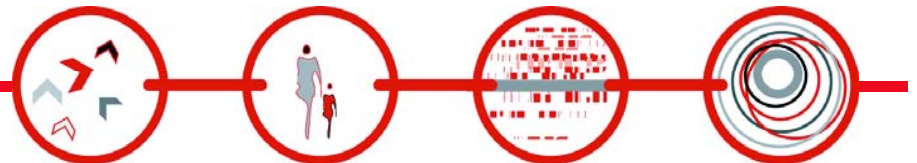


# The Swedish telecoms market

- liberalised in 1993, previously de facto monopoly
- competition was created via various "ONP" reforms:
  - CPS, carrier pre-selection (1999)
  - number portability (1999)
  - rental of the copper network (ULL) for ADSL services (2001)

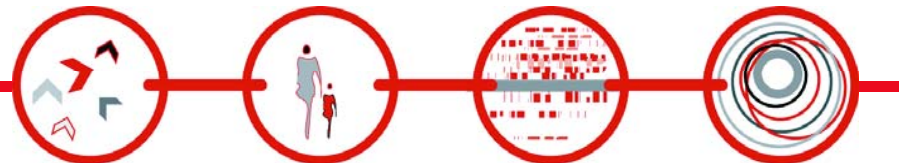
>>> effect: appr. 400 notified operators, 50 established carriers in fixed telephony, many more in broadband services (ADSL, cable-TV and LAN)

- licenses for mobile telephony, first 3 GSM-MNOs, now 5 GSM/3G-MNOs with national licenses, 1 national NMT license



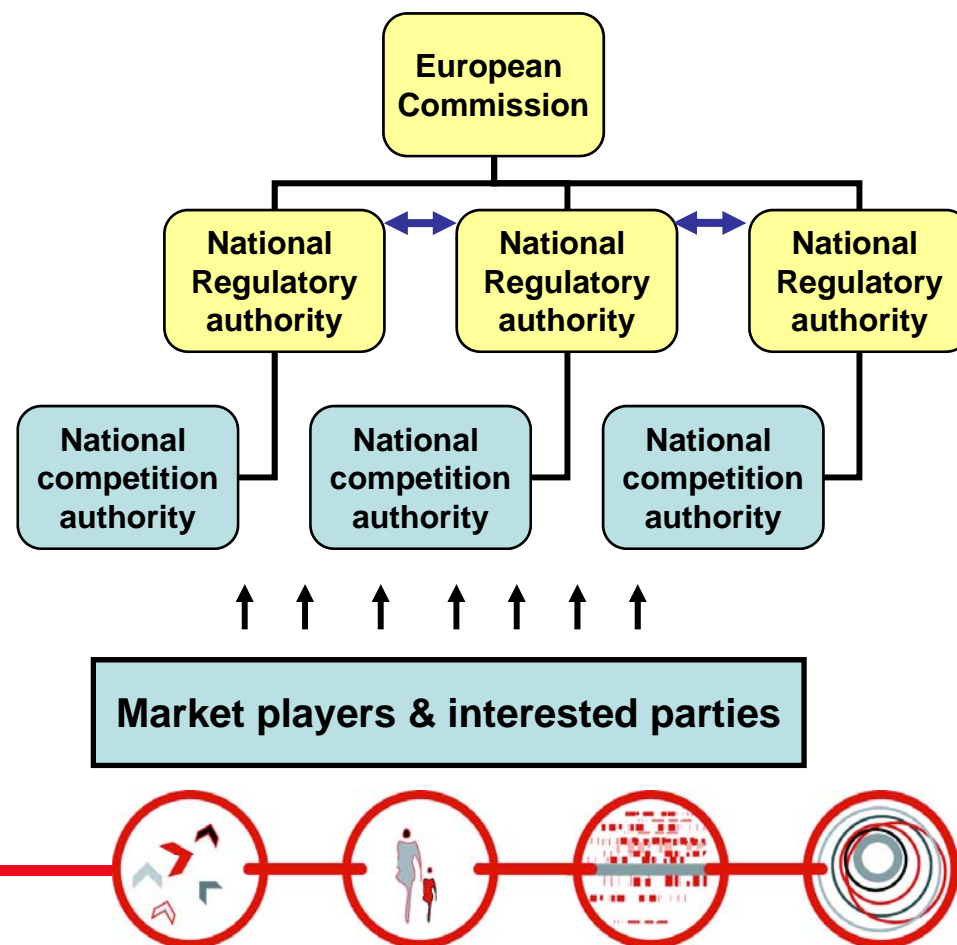
# 2002 regulatory framework implied increased responsibility for the Swedish regulator

- From supervising authority to "regulatory authority" (responsible for market analyses and ex ante regulation)
- Strengthened exchange with academics in economics and law
- Recruitment of chief economist, experts in competition law and economics
- Also technical expertise needed – especially for the design of access remedies
- Now 40 people involved in competition enhancing measures



# The European decision-making model for harmonised ex ante regulation

- NRAs decide on harmonised practice among themselves in close cooperation (ERG). Principally remedies.
- NRAs draft decisions consulted upon by market players and NCAs
- NRAs report directly to European Commission (art. 7 procedure). Ensure consistent regulation and a true internal market.



# The veto power of the European Commission

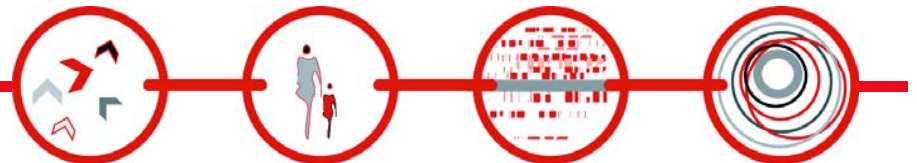
The Commission is empowered to “veto” draft measures, where such measures seek:

- to define markets deviating from the Recommendation;  
or
- to designate or not operators with SMP

and such draft measures would affect trade between Member States,

and the Commission considers that

- the draft measure would create a barrier to the single European market, or
- has serious doubts as to its compatibility with Community law.



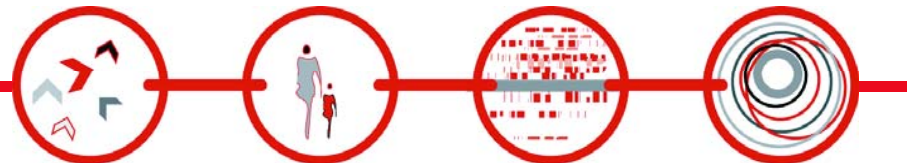
# Competition/Regulation overview

## COMPETITION / REGULATION - FIRST ROUND

3 September 2007

	AT	BE	BU	CY	CZ	DK	EE	ES	FI	FR	DE	EL	HU	IRL	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI
1	a	a		a	a	a	a	a	a	a	a	a	a		a	a	a	a	a	a	a	a		a	a
2	a	a		a	a	a	a	a	a	a	a	a	a		a	a	a	a	a	a	a	a		a	a
3	a	a		a	a	a	a	a	a/v*	a	a	a	a		a	a	a	a	a	a	a	a		a	a
4	a	a		a	a	a	a	a	a	a	a	a	a		a	a	a	a	a	a	a	a		a	a
5	a	a		a	a	a	a	a	a/v*	a	a	a	a		a	a	a	a	a	a	a	a		a	a
6	a	a		a	a	a	a	a	a	a	a	a	a		a	a	a	a	a	a	a	a		a	a
7	a	a		a	a	a	a	a	a	a	a	a	a		a	a	a	a	a	a	a	a		a	a
8	a	a		a	a	a	a	a	a	a	a	a	a		a	a	a	a	a	a	a	a		a	a
9	a	a		a	a	a	a	a	a	a	a	v	a		a	a	a	a	a	a	a	a		a	a
10	a/v*	a		a	a	w	a	a	a	a	a	a	a		a	a	a	a	a	a	a	a		a	a
11	a			a	a	a	a	a	a	a	a	a	a		a	a	a	a	a	a	a	a		a	a
12	a			a	a	a	a	a	a	a	a	a	a		a	a	a	a	a	w	a	a		a	a
13	a	a		a	a		a	a	a	a	w	a	a		a	a	a	a	a	a	a	a		a	a
14	a	a		a	a	w	a	a	a	a	w	a	a		a	a	a	a	a	a	a	w		a	a
15	a	a		a	a	a	a	a	a/v	w	a	a	a		a	a	a	a	a	a	a	a		a	a
16	a	a		a	a	a	a	a	a	a	a	a	a		a	a	a	a	a	a	a	a		a	a
17	a			a	a	a	a	a	a			a			a						a	a		a	a
18	a	w		a	a	a	a	a	a	a	a				a				w	a	a	a		a	a

- Effective competition - no ex ante regulation
- No effective competition - ex ante regulation
- Partial competition - partial ex ante regulation
- W Withdrawal (totally or partially) not yet re-notified
- 3 The market does not meet the three criteria test
- v Veto
- v\* Veto - measure corrected by a new notification
- / Separated notification for remedies
- a Final measure adopted

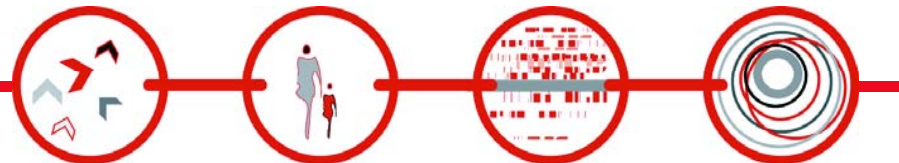


# Commission actions – first five years 2002 - 2007

- 683 notifications from 26 MS resulted in 433 Decisions
- 5 “veto” decisions (7 markets)
- 29 notifications withdrawn by NRAs

See latest Commission Decisions: [http://ec.europa.eu/information\\_society/policy/ecom/article\\_7/commission\\_decisions/index\\_en.htm](http://ec.europa.eu/information_society/policy/ecom/article_7/commission_decisions/index_en.htm)

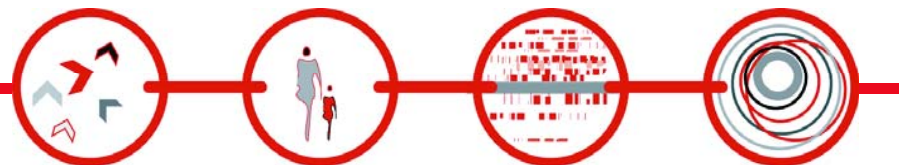
See Commission Decisions on the notifications:  
<http://circa.europa.eu/Public/irc/infso/ecctf/library?l=/commissionsdecisions&vm=detailed&sb=Title>





# Co-operation with Competition Authority

- Mandatory under national legislation
- All EU members consult NCA
- European Commission asks for the NCA's opinion in art. 7 notifications
- NCAs bring expertise in general competition law, methodology
- Quality control
- Diverging opinions – ex ante and ex post regulation
- Helpful to have MoU or guidelines for the co-operation  
NRA-NCA



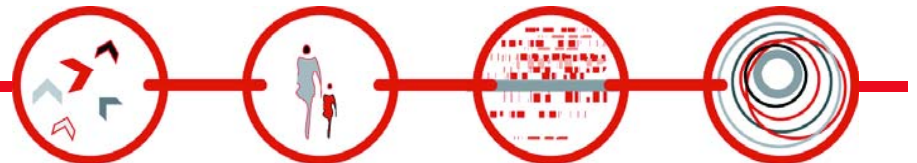
# Sector specific regulation vs. general competition law

## Sector specific regulation

- Applies competition law methodology
- Remedy to potential (or real) competition problems in absence of regulation, impose obligations ("ex ante")
- Doctrine on "essential facilities" not binding, regulation can go further to create competition
- Specify prices and conditions on detailed level
- Allocate use of radio spectrum

## General competition law

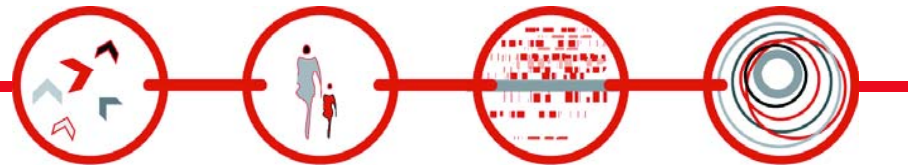
- Applies competition law methodology
- Reaction to abuse of dominance, can impose sanctions ("ex post")
- Can impose access to "essential facilities"
- Ensure merger controls



# Extensive consultation brings quality control and harmonisation

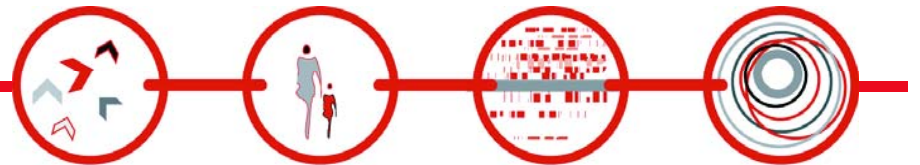
Consultation with

- Market players and interested parties
  - Competition authority
  - European Commission
  - Other European regulatory authorities
- 
- Positive! Enhances decision-making, checks and balances, quality control
  - But! Introduces new lead times - 7 months (time for analyses excluded)

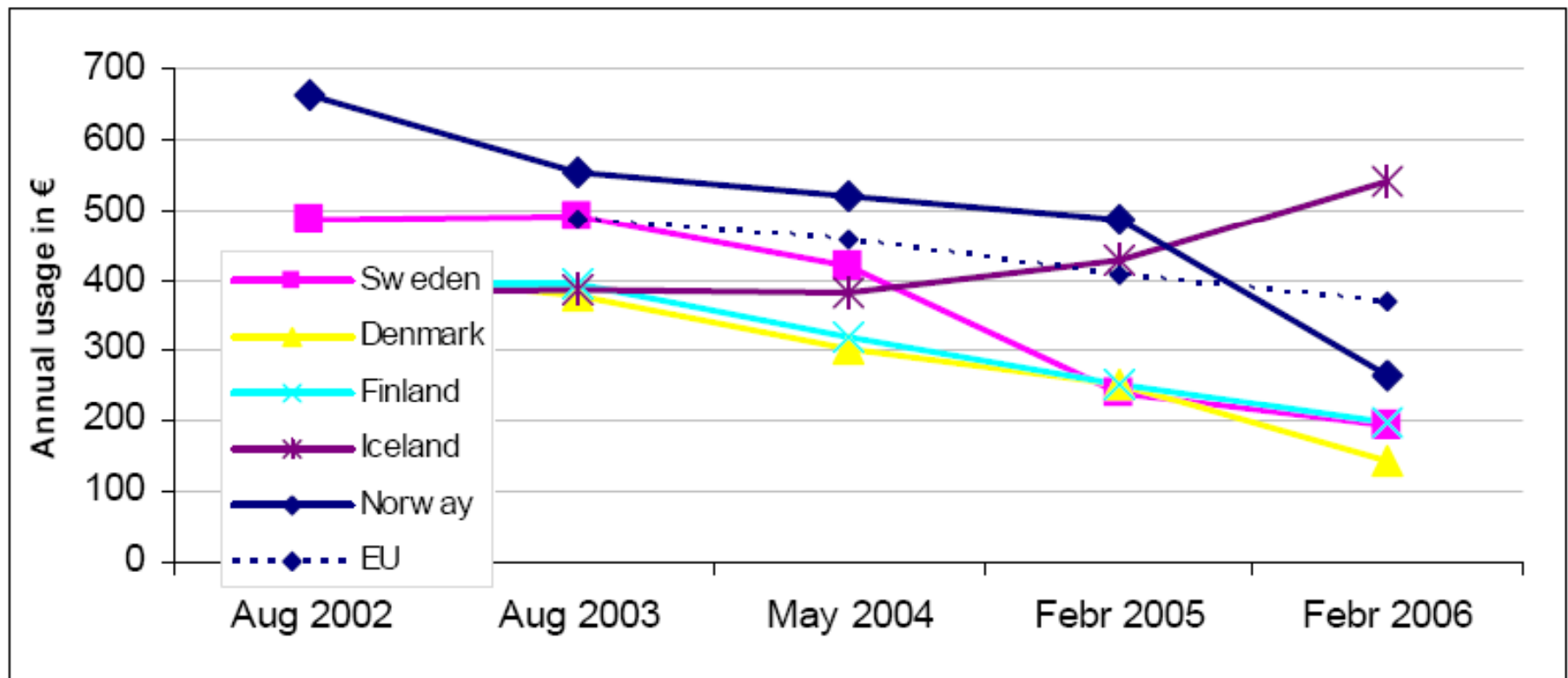


# The outcome – first round of SMP- analyses

- Sweden first in EU to deregulate the highest number of markets (7 markets)
  - Sweden liberalised quite early (1993)
  - High degree of infrastructure competition in mobile access and core networks (trunk segments)
  - Carrier-pre-selection enhanced retail competition
- In remaining wholesale markets – still persisting competition problems that need to be solved



# Retail prices mobile – changes (typical usage), Nordic countries



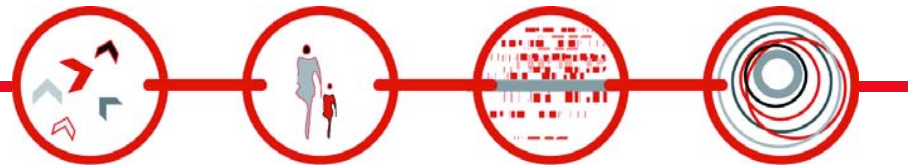
Significant price decrease with break up of "oligopolistic situation" starting 2003.

# Stability and predictability

- Market players need long-term predictability and stability
- Market players need to know the rules of the game in order to invest

Besides the market reviews, necessary to have

- clear policies (2 policies adopted by PTS, access and termination)
  - long-term strategies (broadband strategy)
- Serve as a policy basis for decision-making in individual markets

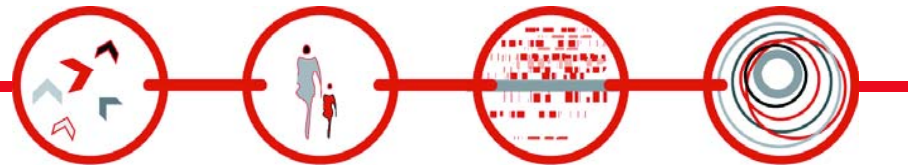
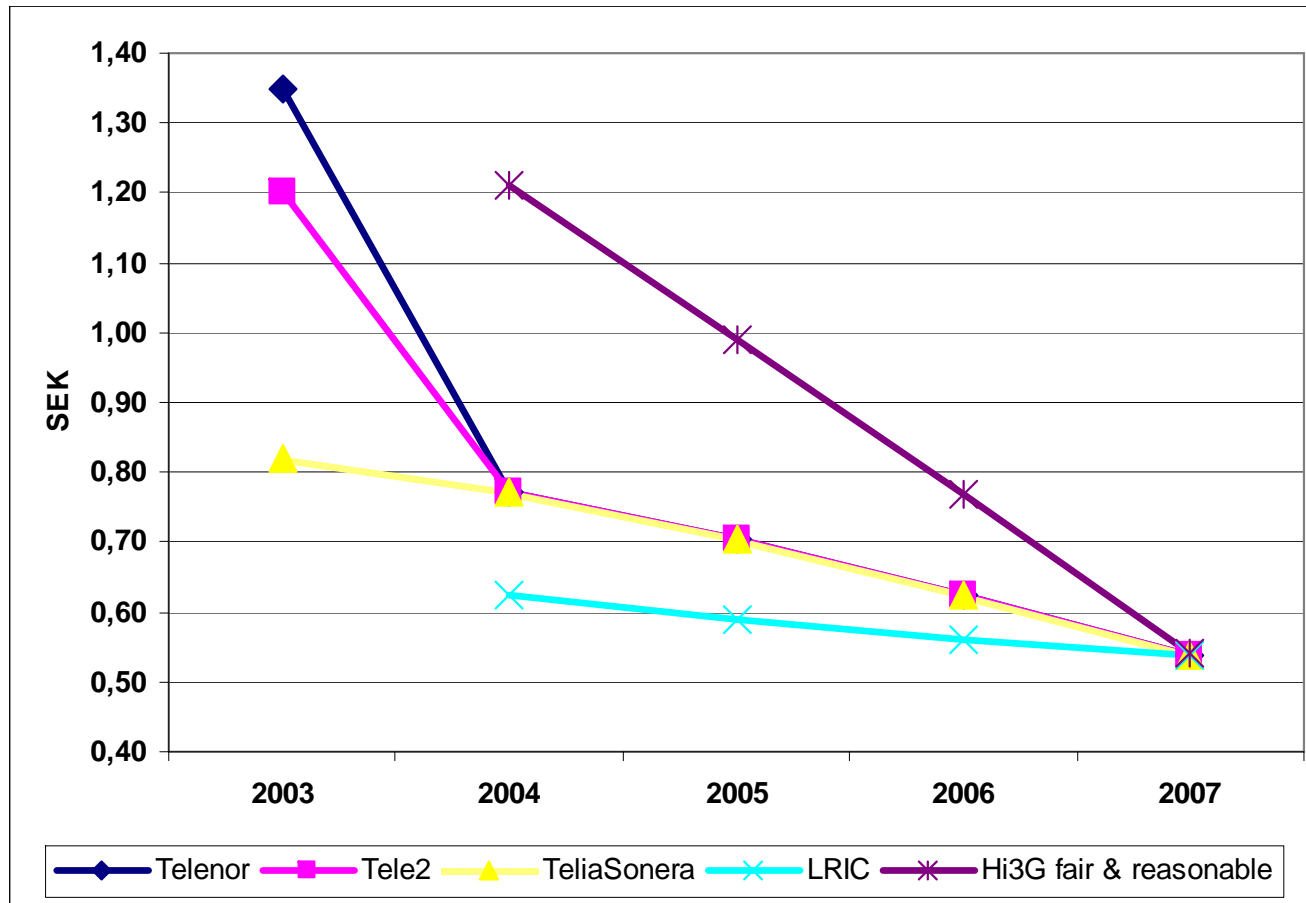


# Sweden European champion in court appeals...

- High increase in appeals with 2003 regulatory framework (around 80 cases pending)
- Long proceedings (mobile termination since aug. 2004 in first instance)
- Sweden only country with three instances with full right to review
- A number of important cases subject to suspension



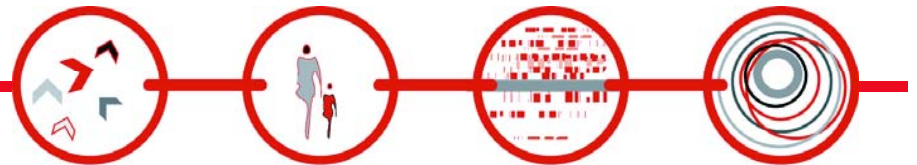
# Termination tariffs in Sweden





# Conclusions

- EU Commission strong role in harmonisation, checks and balances in the art. 7 procedure
- Strong endeavours among European regulatory authorities (ERG) to harmonise the application of the regulatory framework
- Important ERG instrument – common position on remedies (SMP obligations)
- ERG members must justify deviation from ERG common position
- Still room for improvement to reach objective of an internal market, some divergencies in application of remedies



Thank you for your attention!

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