

# The abuse of dominant position and the impact of competition enforcement in the EU telecommunication markets: an ex post evaluation

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In competitive telecom markets, newcomers have two alternatives to hit the market: investing in their own infrastructure or accessing that of the incumbents. The effort required to build own access infrastructure presents several obstacles and is practically unfeasible for most companies. Access to the incumbent's infrastructure is granted by regulation in order to allow prospective rivals' competitiveness within the industry.

This work is based on two antitrust infringements occurred in Poland and Slovakia between 2005 and 2010, sanctioned by the European Commission with two decisions issued in 2011 and 2014 respectively. In both countries, the incumbent operators abused of their dominant position ex art.102 TFEU by refusing to supply access to their own wholesale fixed broadband network under non-discriminatory conditions, and by margin squeezing their competitors on the upstream market for fixed broadband access products (in the case of Slovakia only).

The aim of this analysis is to evaluate the economic effects of these infringements in the relevant national markets, which are the wholesale markets for bitstream access and local loop unbundling, and the retail market for fixed broadband products. Marginal penetration of fixed broadband products has been modeled within both countries between 2006 and 2014, with the help of a Difference-in-Differences regression. The analysis is based on a panel database containing information on the broadband markets of 28 European countries with a breakdown per operator and technology. The effects in Poland and Slovakia have been controlled with respect to the European countries that did not witness the same kind of abuse in the abuse period and in this case, contrary to the usual application of the Diff-in-Diff regression, the control period occurs ex-post, due to lack of data availability before the abuse and poor technological comparison with the time following the abuse.

The baseline version has two extensions, accounting for a smaller control group (Central-Eastern European countries only) and a shorter control period (lingering period). A further version of the model explores the heterogeneous effects comparing different technological segments of fixed broadband products.

Findings show that both countries experienced a reduction in penetration rates due to the abuse of dominance that would not have been observed in the absence of the infringement and an increase in penetration rates after the intervention. Therefore, the abusive conduct of the incumbent operators had a negative impact on broadband coverage in the two countries. The intervention of the Commission helped broadband markets to recover towards higher levels of penetration, supposedly restoring more competitive relations among broadband providers.