

# Independence of NRA

In the context of the EU regulatory framework for  
electronic communications

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# Outline

- NRA independence
- Appointment and dismissal of NRA management
- NRA resources
- NRA powers
- Accountability

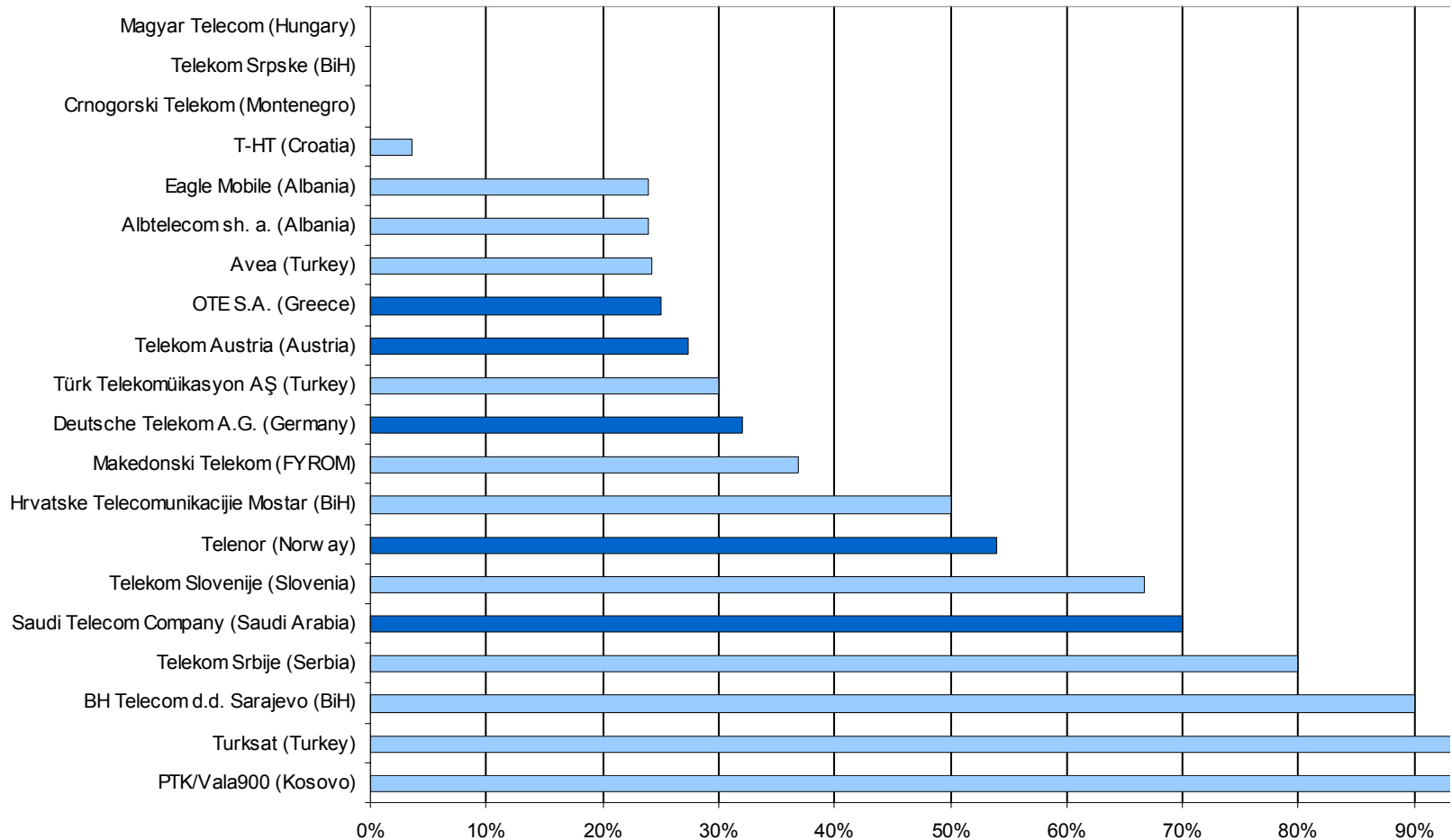
# Independence from whom?

- NRA independence
  - Cornerstone of the EU regulatory framework
- What is independence?
  - Structural: separation from the regulated firms
  - Political: isolation from the political intervention

# Structural independence

- *Member States shall guarantee the independence of national regulatory authorities by ensuring that they are **legally distinct** from and **functionally independent** of all organisations providing electronic communications networks, equipment or services.*
- *Member States that retain ownership or control of undertakings providing electronic communications networks and/or services shall ensure effective **structural separation** of the regulatory function from activities associated with ownership or control.*
  - Article 3 (2), Framework Directive (2002/21/EC)

# Independence from industry...



- State ownership from 24% to 100% except Croatia and Montenegro
- Golden shares: Macedonia, Turkey and Serbia

# Political independence?

- *National regulatory authorities responsible for **ex-ante market regulation** or for the **resolution of disputes** between undertakings shall act independently and shall not seek or take instructions from any other body in relation to the exercise of these tasks assigned to them under national law implementing Community law.*
- *This shall not prevent supervision in accordance with national constitutional law.*
  - Article 3 (3a), Framework Directive (2002/21/EC), amended November 2009

# Appointment and dismissal of NRA management

- Eligibility criteria
- Appointment procedures and government bodies involved
- Term in office
- Procedures for removal
- Right of reappointment

# Dismissal rules

- *Member States shall ensure that the head of an NRA (or members of the collegiate body fulfilling that function within an NRA) may be dismissed **only** if they no longer fulfil the conditions required for the performance of their duties*
- *The decision to dismiss the head of the NRA (or members of the collegiate body) shall be made public at the time of dismissal.*
- *The dismissed head of the NRA shall receive a statement of reasons and shall have the right to request its publication.*
  - Article 3 (3a), Framework Directive (2002/21/EC), amended November 2009

# NRA resources

- *Member States shall ensure that NRAs have adequate financial and human resources to carry out the task assigned to them.*
- *Member States shall ensure that NRAs have separate annual budgets.*
- *The budgets shall be made public.*
  - Article 3 (3 and 3a), Framework Directive (2002/21/EC), amended November 2009

# NRA financial resources

	2007	2008	2009	Revenue based	One-off	Spectrum	Numbers	Other
HR	9,376	11,141	12,727	40%	-	51%	5%	4%
MK	7,420	7,213	7,375	12%		70%	11%	7%
TR	46,827	41,194	117,522	7%	-	89%	-	4%
AL	1,219	1,620	1,486	-	-	96%	0.5%	3.5%
BA	3,706	4,218	4,467	59%	-	5%	36%	-
ME	2,800	3,500	5,182	53%	0.3%	36%	7.7%	3%
RS	9,020	15,058	9,435	37%	7%	39%	14%	3%

- Turkey stands out with €117m budget in 2009
- Other countries: from €12m to €1.5m
- Reliance on spectrum fees: Albania and Turkey

# NRA human resources

	Total	Regulatory	Frequency	Salary restrictions
HR	159	51	18	Government approval
MK	105	21	19	Government approval
TR	656	340	20	Yes
AL	60	32	8	Yes
BA	100	32	24	Civil servant
ME	60	15	13	Yes
RS	98	28	22	Yes

- New restrictions introduced in Montenegro and Serbia
- **Comparable to private sector?**

# NRA powers

- Ex ante market regulation
  - Powers to collect information (Article 5 FWD)
  - Define and analyse relevant markets
  - Impose regulatory obligations on SMP operators
- Enforcement powers and sanctions available
- Dispute resolution (Article 20 FWD)
  - Binding decisions
  - Shortest possible time frame – no longer than 4 months

# NRA accountability

- Independence needs to be balanced with measures to ensure that the NRAs are accountable for their actions
  - publication of an action plan
  - financial and regulatory reporting and
  - review of the NRA performance
- Appeal mechanisms
- Transparency and participation

# Appeal mechanisms

- Independent appeal body
  - Appropriate expertise
  - Efficient proceedings
  - Powers to consider merits of the case
- No automatic suspension of the appealed decisions

**Thank you for your attention!**

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