

The governance of networks using the example of consumer protection in Germany

Workshop on

The new role of regulators in the era of the new ecosystem of telecommunications and the new challenges of telecom regulation

Stefano Lucidi

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EU consumers' protection to be reinforced

- Nov. 2019: The European Council adopted a directive that modernizes EU law on consumer protection and facilitates the enforcement of consumers' rights
- *“Consumer protection is an essential part of the internal market. The Directive guarantees higher standards of protection for EU consumers when they buy products or services online. It also provides for more robust measures against unfair or misleading trade practices across the EU.”*



Questions of the study

- Specific questions
 - Who are the players in sector-specific consumer protection?
 - How do the players work together?
 - How do the legal standards work?
 - How meaningful are empirical facts (e.g. about consumer complaints)?
 - How can consumer protection be improved without further legal requirements?
 - How can stakeholders address the "rational disinterest" of consumers?

Economic aspects of consumer protection

- Theorem of consumer sovereignty -> State intervention is justified only if market errors exist.
- Theory of asymmetric information
- Options that can compensate for the market imbalance between producers and consumers:
 1. Information to improve transparency
 2. Specification of standards or standardisation systems to improve transparency
 3. Enforcement powers to stop abusive conduct



Information and transparency requirements (option 1)

- **Starting point:**

- A sovereign decision of the end customer presupposes that the characteristics or features of products are sufficiently transparent.

- **Basic idea:**

- If the consumer has more knowledge, then he will also select the best products for him.
- External effects: Purchase decisions could reflect the experiences of other consumers.

- **Effect:**

- Information and transparency obligations strengthen the demand side and are to be regarded as consumer-protecting regulations.

- Legal requirements for the provision of information on product characteristics

Produktinformationsblatt gem. § 1 TK-Transparenzverordnung

Telekom Deutschland GmbH

MagentaMobil M Happy (Mobilfunk)

Internet Telefonie TV

Vermarktung seit 01.03.2016

Das Produkt MagentaMobil M Happy beinhaltet einen Mobilfunk-Anschluss für Telefonie, SMS sowie Zugang zu Internet-Diensten. Einzelheiten zum Produkt und zu buchbaren Leistungen ergeben sich aus der Leistungsbeschreibung, Preisliste und AGB (www.telekom.de/agb).

Datenübertragungsraten*	im Download	im Upload
Geschätzter Maximalwert	300 Mbit/s	50 Mbit/s
Ab Verbrauch von 3 GB reduziert auf:	64 kbit/s	16 kbit/s

* im inländischen Datenverkehr

Weitere Produktinformationen

Vertragslaufzeiten	<ul style="list-style-type: none">• 24 Monate• Verlängerung um jeweils 12 Monate, wenn nicht mit einer Frist von drei Monaten zum jeweiligen Laufzeitende gekündigt wird.
Entgelt für das Komplettprodukt (Listenpreis) zzgl. Einmalpreis Hardware	mit Top-Handy, alle 12 Monate neues Top-Handy bei Vertragsverlängerung
pro Monat:	69,95 EUR

Specifications of standards and norms (option 2)

- **Starting point:**

- The "information model" reaches its limits when consumers receive false or incomplete information about the characteristics of products.

- **Basic idea:**

- Development of standardization systems and standards (processes) can close gaps.

- **Effect:**

- Consumers can (ex-post) objectively check the quality of products better.
- Market processes can be structured on the basis of specifications so that transaction costs on the part of suppliers and consumers can be reduced.

- Quality studies on broadband access
- Development of measurement software
- Structuring of the process for the change of supplier
- Technical specifications

Market interventions to stop abusive behaviour (option 3)

- **Starting point:**

- Suppliers deliberately or unconsciously violate legal requirements with their actions or products.

- **Basic idea:**

- Direct intervention in market processes to eliminate market errors/abuses.
- Prerequisite: Consumer protection player gains knowledge of abusive market conditions.

- **Effect:**

- Option with reactive character. Termination of the abusive conduct, if corresponding legal authorization bases/legal action powers exist.

- Interventions in case of number abuse
- Interventions with SPAM
- Subscription traps for WAP billing
- Unauthorized telephone advertising

Network governance - Consumer protection players in Germany

Consumer protection in a network

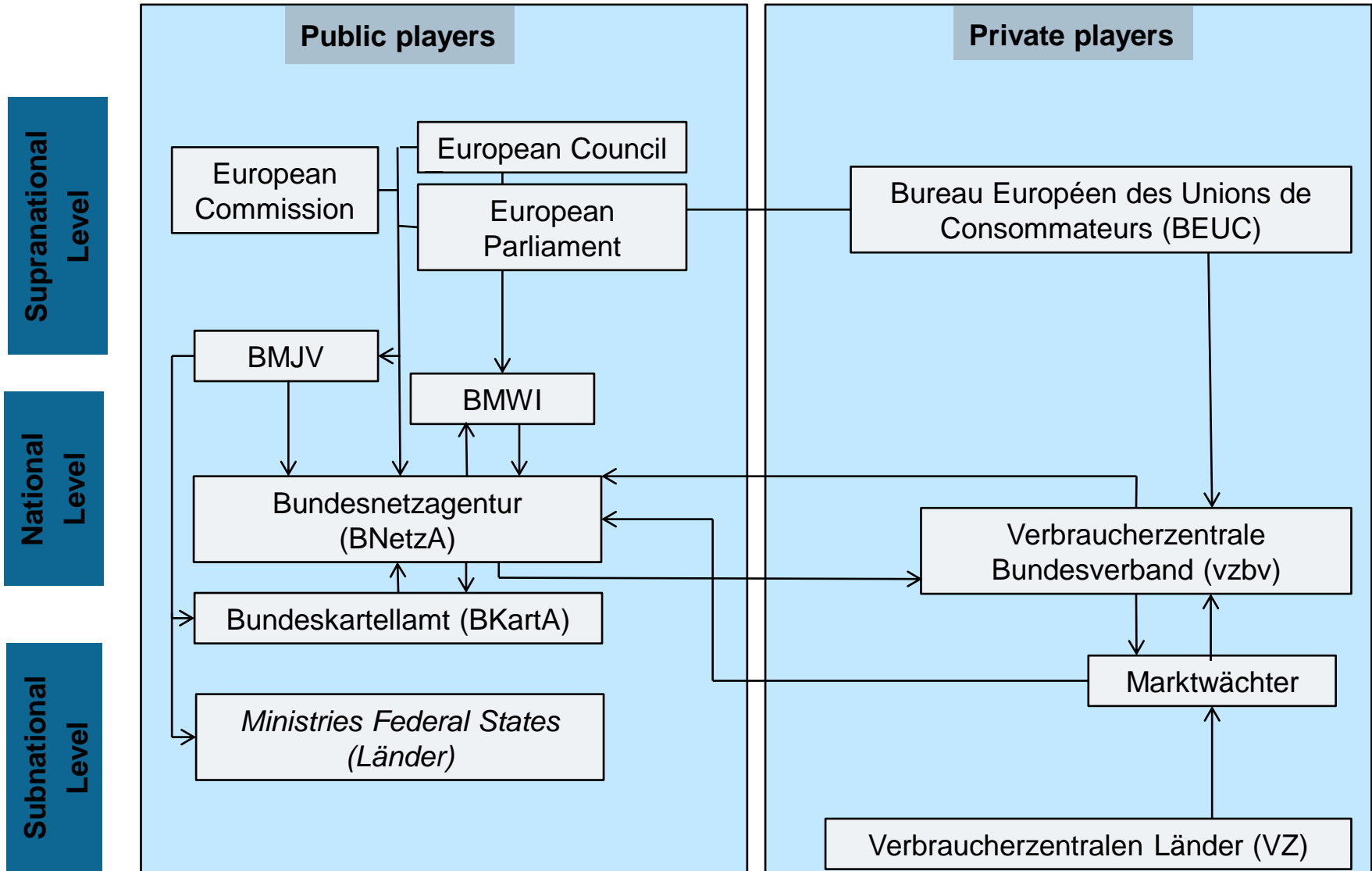
Advantages and disadvantages

Advantages	Description
Access to resources	Possible to access resources that are not directly available to the organization.
Efficiency	Existing resources can be better used (especially when tasks are shared).
Learn effects	Exchange of information (capacity building)
Lobbying	Provided that the players agree on a target in policy formulation
Flexibility	The players are able to react independently and flexibly to situations by means of a "loose coupling"
Service quality	Cooperation can provide better information to consumers.

Challenges	Description
Consensus and support for the objectives of the network	Player-centred perspectives can lead to a situation in which common objectives are no longer pursued.
Different "cultures"	Different organizational cultures can stand in the way of the development of common structures or procedures.
Loss of autonomy	A centralization of responsibilities can jeopardize the sustainability of cooperation through organizational egoisms.
Membership in different networks	If players are members of other networks or have conflicting priorities, this has a negative impact on cooperation.
Trust	Inter-organizational cooperation is based on a trusting exchange of information.
Missing resources	Lack of experience in collaborative work.

Consumer protection players

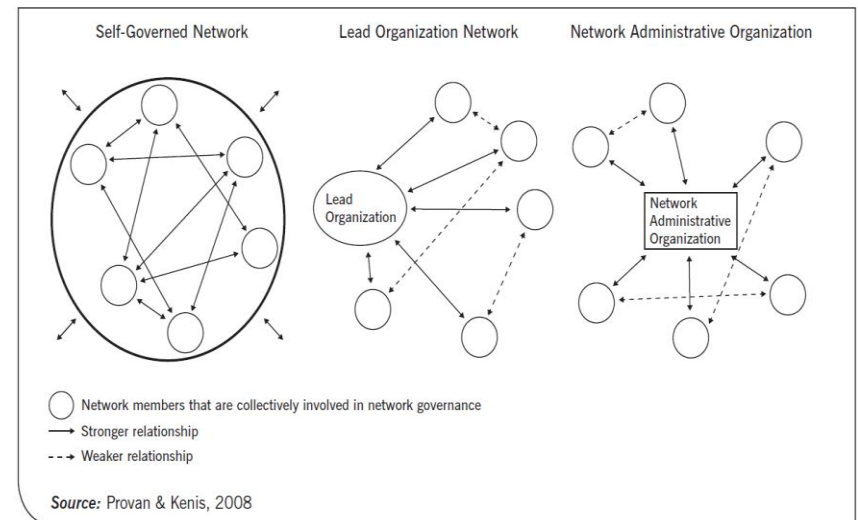
Institutional setup



Self-governed network

- Main aim of the network is to exchange information on consumer related issues
 1. Players work together in a network, but there is no “lead organization”
 2. No unified consideration of consumer protection issues – different players with different “instruments” pursue the same objectives (BNetzA has the necessary tools, private consumer protection authorities are closer to the customer)
 3. Interactions are not systematized, but are based on personal contacts/trust
 4. No targeted activities to counter the "rational disinterest" of consumers
 - Players do not want to get in each other's way
 - No comprehensive process flow available (complaint management)
 - Pro-active consumer protection is not a priority (e.g. it takes a very long time for measures in the area of standards/processes to be in place).

Figure 1: Modes of network governance



Recommendations

- There is a constant need for adaptation in the area of sector-specific consumer protection (e.g. developments in legal standards).
- New responsibilities of public players would lead to further fragmentation of consumer protection
- **Network improvement**
 - Players are linked together in a "loose" network. Strengthening the network through a **stronger hierarchy** with a leading function by the BNetzA can increase effectiveness. The aim should be less cooperation through personal contacts, more formal cooperation between the players.
 - Introduction of **standardized processes** in the area of complaint management among the individual actors and improvement of the visibility of results.
 - Introduction of **cross-institutional complaint management** processes between players

Conclusions

- Consumer protection issues will become an area of increasing importance to regulators.
- In a globally connected world the cooperation between regulators will also become more important. (common practices)

Provan and Kenis (2008) argue that:

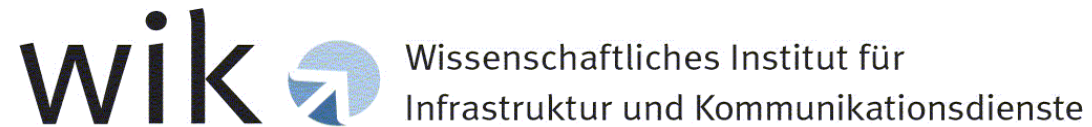
as trust becomes less densely distributed throughout the network, as the number of participants gets larger, as network goal consensus declines, and as the need for network-level competencies increases, brokered forms of network governance, like lead organization and network administrative organization, are likely to become more effective than shared-governance networks. (p. 237)

Table 5: Key predictors of a good fit between a network and a governance structure

Governance structure	Distribution of trust	Number of participants	Goal consensus	Need for network level competencies*	Decision making
Shared governance	Widely distributed	Few (i.e., < 6-8)	High	Low	Decentralized
Lead organization	Narrowly distributed, occurring differentially within individual dyads or cliques	Moderate Number	Moderately low	Moderate	Centralized
Network administrative organization	Moderately distributed, NAO monitored by members	Moderate to many	Moderately high	High	Mixed

Adapted from: Milward & Provan, 2006; Provan & Kenis, 2008

* Examples of network level competencies could include: quality monitoring; building legitimacy; bridging; negotiation; advocating



WIK Wissenschaftliches Institut für Infrastruktur
und Kommunikationsdienste GmbH
Postfach 2000
53588 Bad Honnef
Tel.: +49 2224-9225-0
Fax: +49 2224-9225-68
eMail: info@wik.org
www.wik.org