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digital ecosystem
economic policy
innovation

Co-opetition in 5G Markets

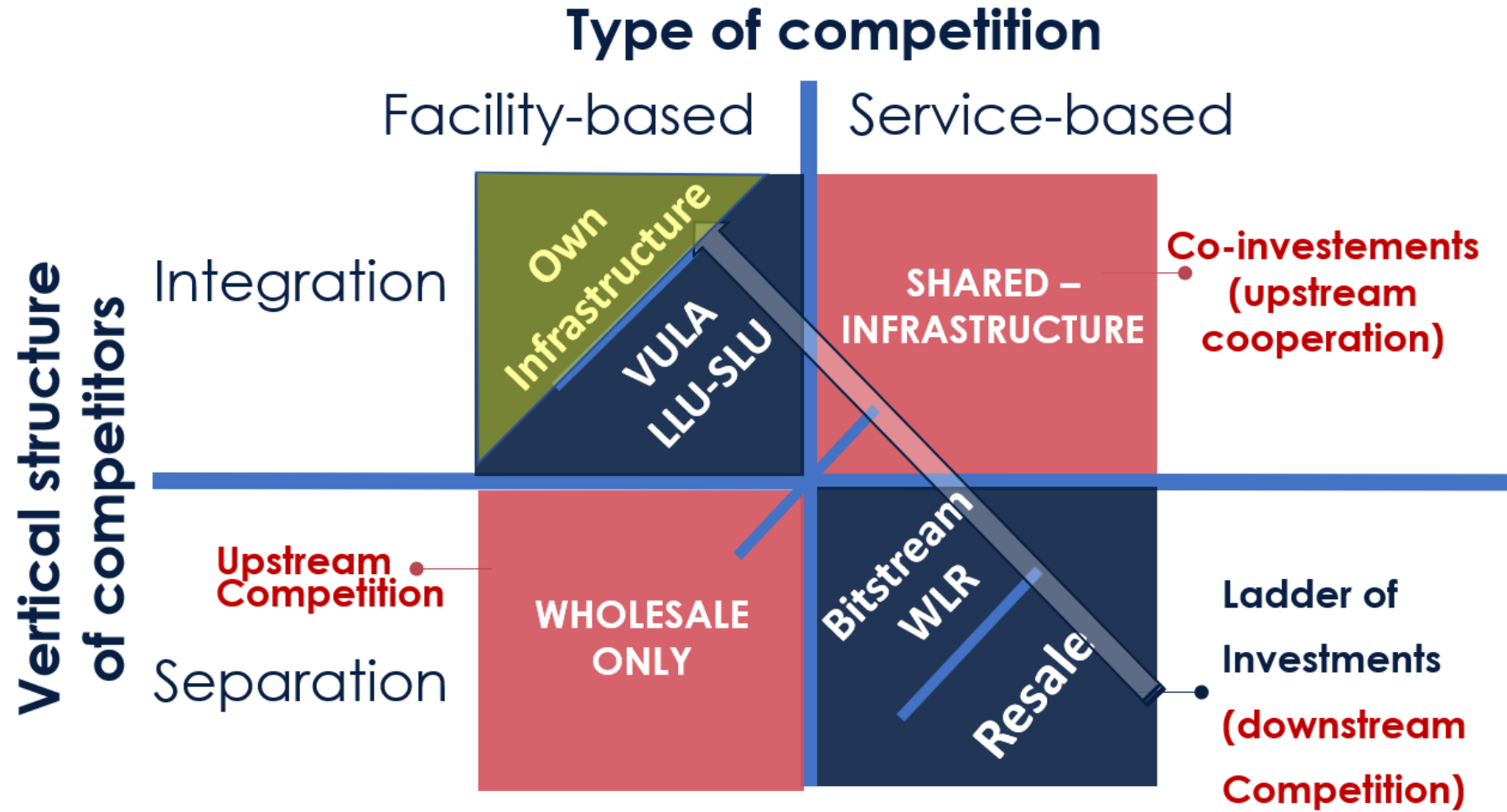
Innovation, Standards and IPRs

Brussels, 17 December 2019

In cooperation with



A COMPLEX ECOSYSTEM



WHERE SHOULD WE GO

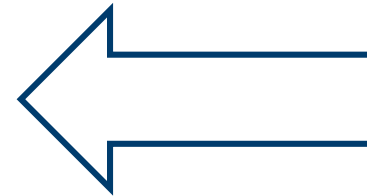
- Light-handed regulation
for the definition of boundaries for competition and cooperation
- Harmonisation
- Spectrum and Infrastructure Sharing
- Co-investments
- Club use
- Interoperability
- Open Standardisation and effective governance
- Patents balanced licensing environments

COMPETITION

COOPERATION

5G

CO-OPETITION



SDOs AND SEPs IN THE 5G ECOSYSTEM

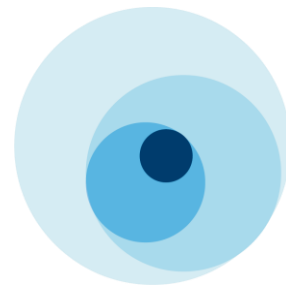
- **PRICING LEVEL:** In the context of the cooperative process of standard-setting, a core problem is deciding the “right” distribution of rewards among innovators, and between innovators and implementers. The large majority of SDOs have chosen to adopt some form of FRAND licensing which are naturally affected by “contractual incompleteness” and high intensity of litigation.
- **LICENSING LEVEL, Device level v component level :** under a theoretical economic perspective the value of the investment to be recovered, as reflected in the FRAND price levels to be paid, is independent on the specific level of the license.
- **TRANSFER OF COMPETITIVE DYNAMICS INTO SDOs AND SEPs:** strategic and opportunistic behaviours, hold-up vs hold-out

SDOs AND SEPs IN THE 5G ECOSYSTEM

- **USE OF ANTITRUST LAW:** The schism between hold-up and reverse hold-up theories has fueled the debate about the antitrust relevance of FRAND commitments → there is no convincing reason for laying down an exceptional antitrust treatment for FRAND-encumbered patents. / GL on horizontal cooperation agreements
- **SDOs GOVERNANCE** Problems afflicting SEP licensing stems from the lack of contractual or organisational solutions provided by SDOs which exacerbates the risk of strategic behaviors. By focusing the crucial position of SDOs, some policy recommendations can be put forward to curb the economic frictions affecting SEP licensing.
- **PATENT POOLS:** Patent pools have been viewed as a potential mechanism to create efficiencies by bringing together multiple patent owners with complementary technologies

Thanks!

a.manganelli@deep-in.network



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TODAY'S DISCUSSION

	Morning Session: Chair: Sandro Mendonça – Board member, ANACOM /Professor of Economics
11.25	Co-opetition, innovation and standardization: 5G and IPRs
	<p>Maarit Palovirta Director of Regulatory Affairs, ETNO</p> <p>Emilio Davila Gonzalez Head of Sector ICT Standardisation, European Commission</p> <p>Rosario Baratta Head of Competition Law, GSMA</p> <p>Michael Meyer Research Manager, Ericsson Eurolab, Ericsson</p> <p>Wassim Chourbaji Senior Vice President, Government Affairs, Qualcomm</p>

TODAY'S DISCUSSION

	Afternoon Session Chair: Antonio Nicita – Commissioner, AGCOM / Professor of Economic Policy
14.10	Competition and cooperation in the “new” ICT markets
	Rita Wezenbeek Head of Unit Antitrust Telecoms – DG Competition, EU Commission
	Jennifer Dixon Special Counsel for Policy & Intellectual Property, Antitrust Division, U.S. DoJ
14.50	Beyond Patent Hold-Up and Hold-out: antitrust, regulation or contracts?
	Amaryllis Verhoeven Chair of the EU Commission Expert Group on Licensing and Valuation of SEPs
	Damien Geradin Professor of Competition Law & Economics, Tilburg University
	George Padilla Head of Compass Lexecon Europe
	Eric Brousseau Scientific Director, Chair Gouvernance and Regulation, University Paris-Dauphine