

Modernisation of the regulatory framework for LNG terminals

REKK Online workshop - Access to European LNG terminals

February 2021



Contents

1.	Recap 2003: why we introduced rTPA for LNG ?	3
2.	2021: Improvements in market performance (in NW-Europe) allow a rethink of LNG regulation	6
3.	Benefits of nTPA: In competitive markets, nTPA has advantages over rTPA and exemptions	10
4.	Policy recommendation: Allow EU Member States to opt for nTPA where this is suitable	12

Dr Christoph Riechmann

 +44 20 7031 7000

 christoph.riechmann@frontier-economics.com

Dr Matthias Janssen

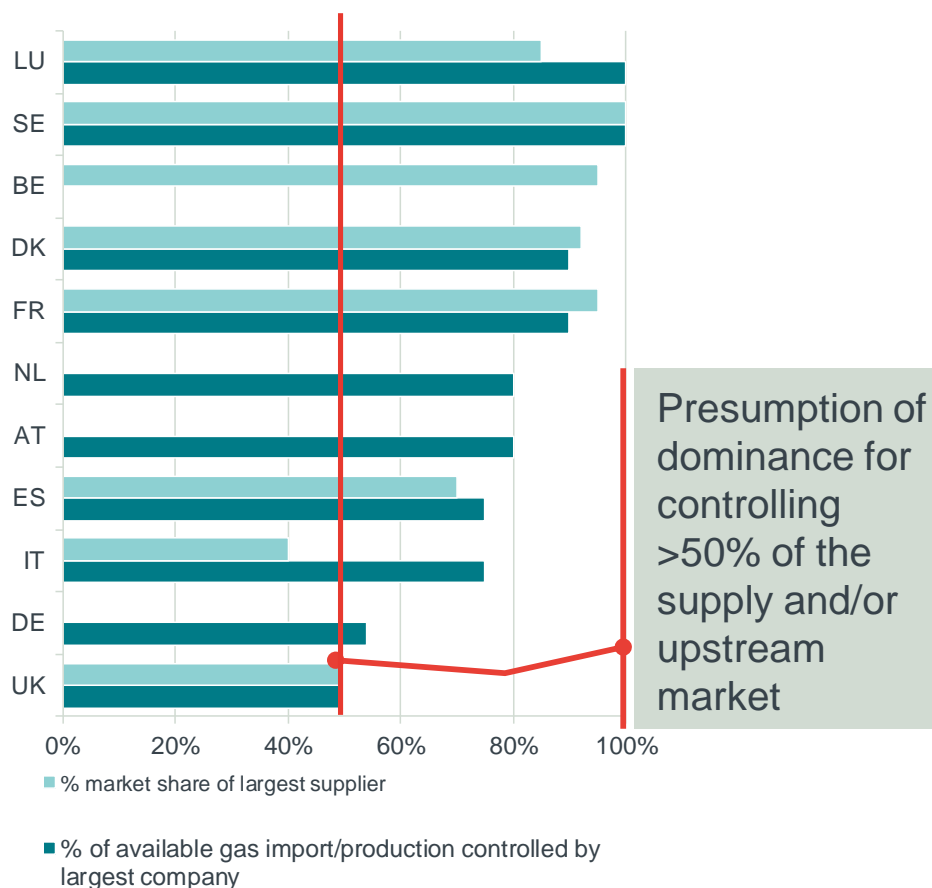
 +49 221 3371 3317

 matthias.janssen@frontier-economics.com

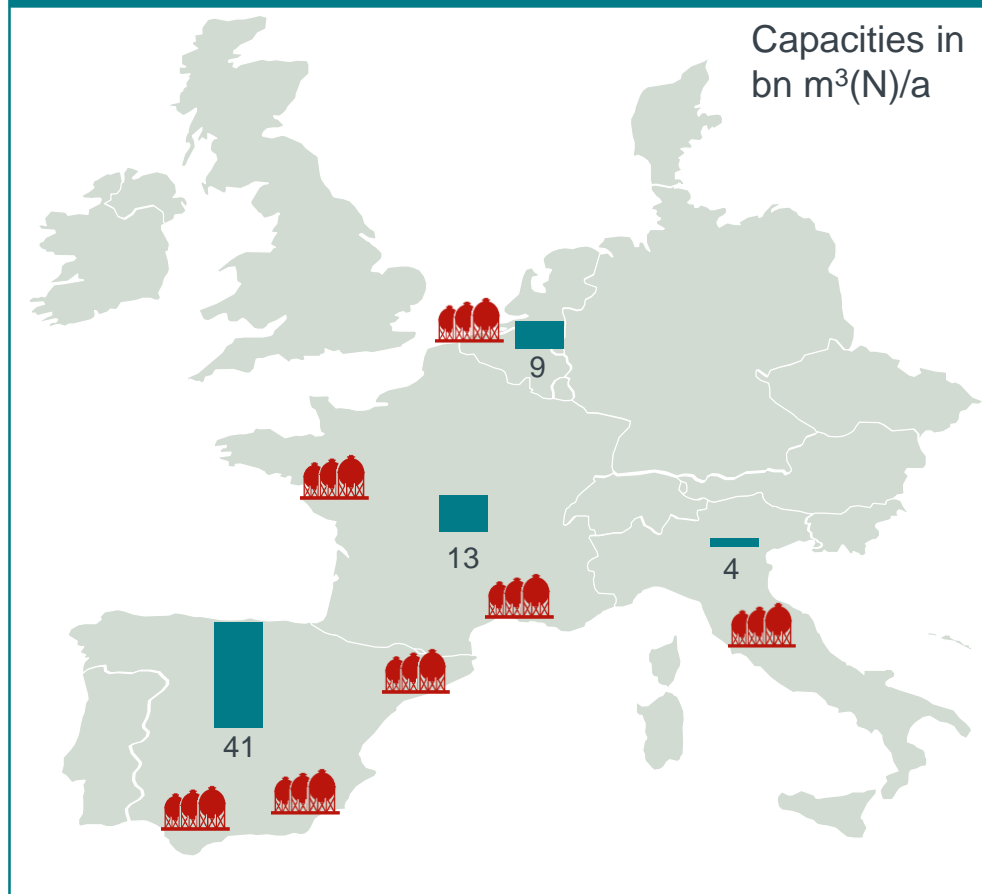
1.	Recap 2003: why we introduced rTPA for LNG ?	3
2.	2021: Improvements in market performance (in NW-Europe) allow a rethink of LNG regulation	6
3.	Benefits of nTPA: In competitive markets, nTPA has advantages over rTPA and exemptions	10
4.	Policy recommendation: Allow EU Member States to opt for nTPA where this is suitable	12

The decision for rTPA for LNG terminals in 2003 was based on an underdeveloped gas market & few LNG terminals in the EU at the time

Gas market concentrations in 2003



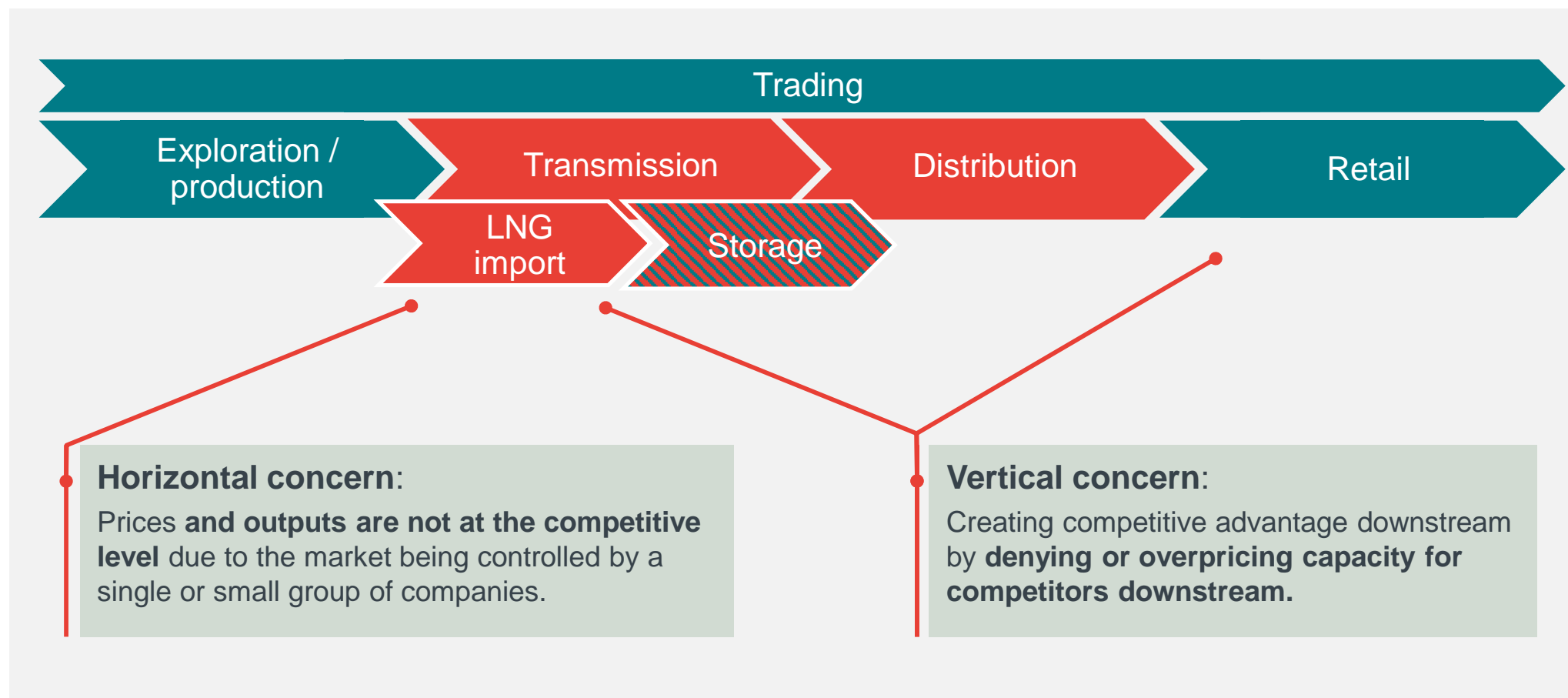
EU LNG terminals in 2003 with nominal capacity



All LNG terminals operated in markets with dominant companies. rTPA was a tool to break these dominant positions and facilitate new entrants.

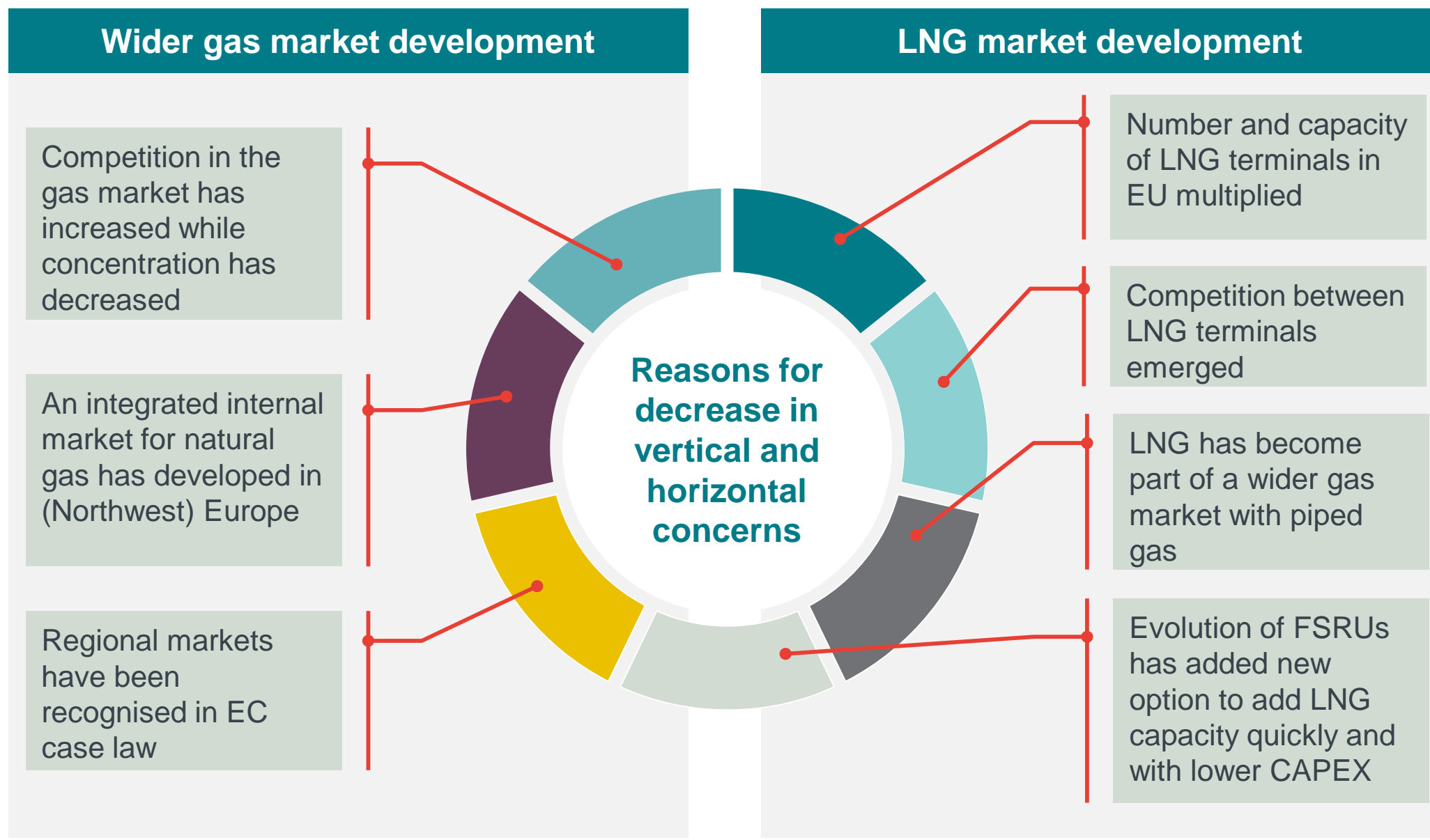
Motivation for rTPA for LNG in 2003 was to prevent abuse of horizontal market power & vertical foreclosure of downstream markets by incumbents

Regulating LNG terminals, seen as natural monopolies and essential facilities, was aimed at **restricting the use of horizontal market power and vertical foreclosure**.



1.	Recap 2003: why we introduced rTPA for LNG ?	3
2.	2021: Improvements in market performance (in NW-Europe) allow a rethink of LNG regulation	6
3.	Benefits of nTPA: In competitive markets, nTPA has advantages over rTPA and exemptions	10
4.	Policy recommendation: Allow EU Member States to opt for nTPA where this is suitable	12

Developments until 2020: Fundamental changes in NW-Europe gas market, alleviating concerns from 2003



These developments have also been observed by different recent studies



Trinomics, REKK & Enquidity for EC (2020)

Some terminals – like those in Northwest Europe – are well connected to neighbouring markets and present ample downstream distribution opportunities to their users. . . . These physical interconnections have bred strong inter-terminal competition in the region, as shippers can elect to use any of the terminals to serve the same markets”



Trinomics, REKK & Enquidity for EC (2020)

“LNG markets in the EU historically operated to a large extent at national level. . . . However, in the past decade gas systems and market areas have become more interconnected, enabling increased gas flows between different countries in the EU. In recent years, competition has also intensified between terminals with similar capacities in the same regions”



EY/REKK (2018)

“Increasing global LNG oversupply as well as large volumes of regasification capacity helps competition to unfold between LNG and pipelined gas in the EU.”

Therefore, the concerns that motivated rTPA have reduced over time with the development of competitive markets

The original motivation for rTPA was based on market failures in an immature gas market. Effective competition e.g. in the NWE market remove these concerns

Horizontal concerns have been reduced:

- The market share each terminal holds for delivery to the regional market
- Competition between terminals
- The competitive pressure on LNG from pipeline import and production capacity
- Lower barriers to entry for LNG (especially due to the evolution of FSRU technology)

Vertical concerns have been reduced:

- The market share each terminal holds for delivery to the regional market
- The access mid- and downstream players have to alternative sources of gas on a well-functioning regional gas market
- Unbundling that has occurred since 2003

The balance between the costs and benefits of the rTPA regime has changed since 2003. A review and modernisation of the regulatory framework for LNG terminals is required.

1.	Recap 2003: why we introduced rTPA for LNG ?	3
2.	2021: Improvements in market performance (in NW-Europe) allow a rethink of LNG regulation	6
3.	Benefits of nTPA: In competitive markets, nTPA has advantages over rTPA and exemptions	10
4.	Policy recommendation: Allow EU Member States to opt for nTPA where this is suitable	12

Advantages of nTPA over rTPA in regions, where the need for regulation no longer prevails

Where effective competition takes place between terminals (and with piped gas), nTPA avoids the inefficiencies that are an inherent risk of regulatory regimes and avoids distorted competition driven by different regulatory terms in different EU Member States.



Provides operational freedom to offer services in line with market demand



Removes the uncertainty of the exemptions procedure



Creates investment signals based on market demand rather than regulatory incentives

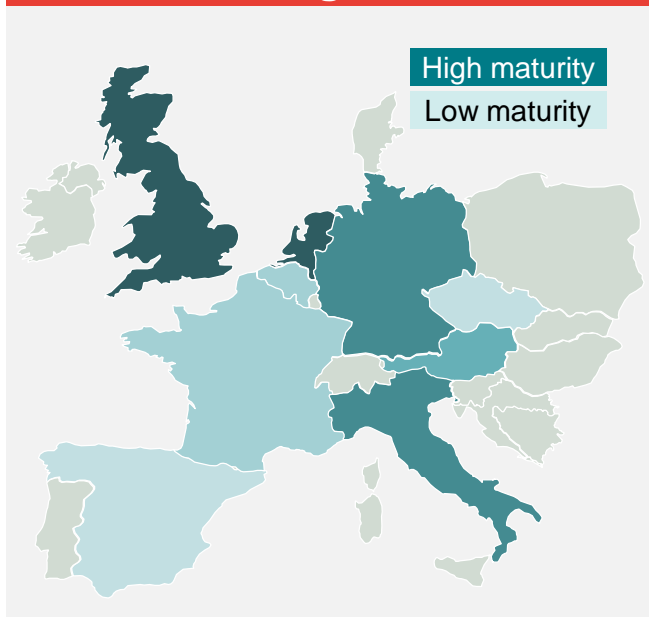


Case-by-case exemption regime is an additional burden on the development of terminals

1.	Recap 2003: why we introduced rTPA for LNG ?	3
2.	2021: Improvements in market performance (in NW-Europe) allow a rethink of LNG regulation	6
3.	Benefits of nTPA: In competitive markets, nTPA has advantages over rTPA and exemptions	10
4.	Policy recommendation: Allow EU Member States to opt for nTPA where this is suitable	12

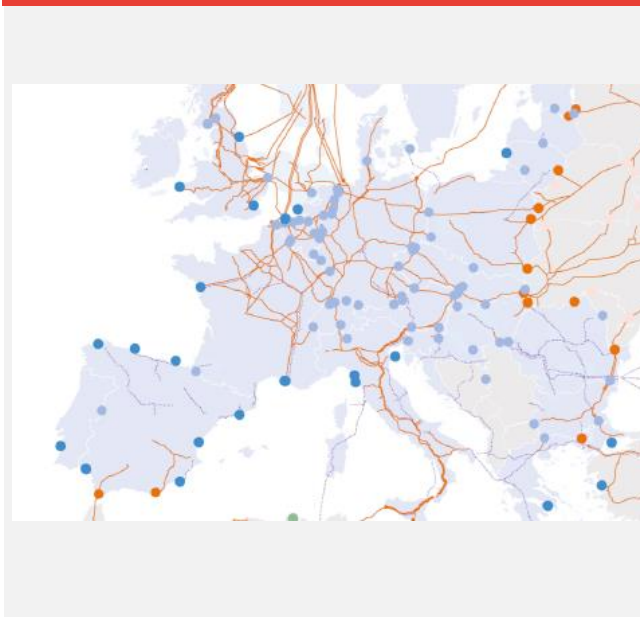
Developments of the gas and LNG markets since 2003 are very different across the EU – **Flexible regulation across regions is needed**

Differences in the maturity level of gas hubs



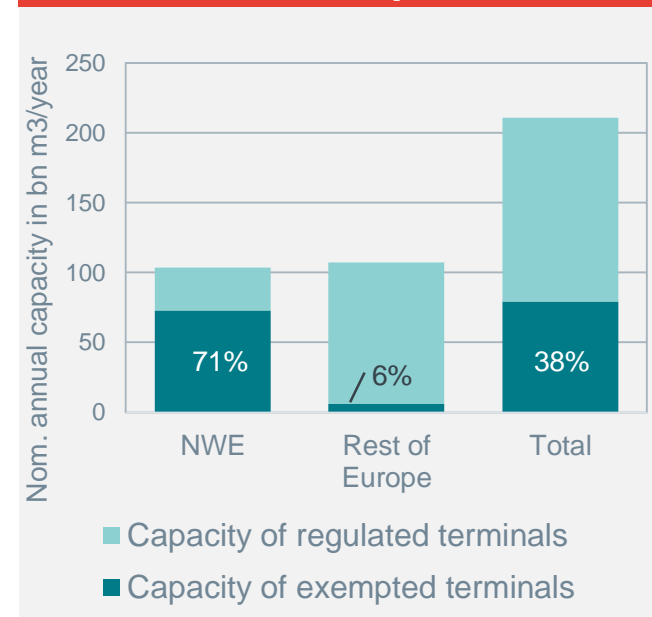
The map shows **differences in the maturity level of gas hubs** (based on the number of active participants, diversity of traded products, traded volumes, tradability index and churn rates).

Differences in pipeline infrastructures



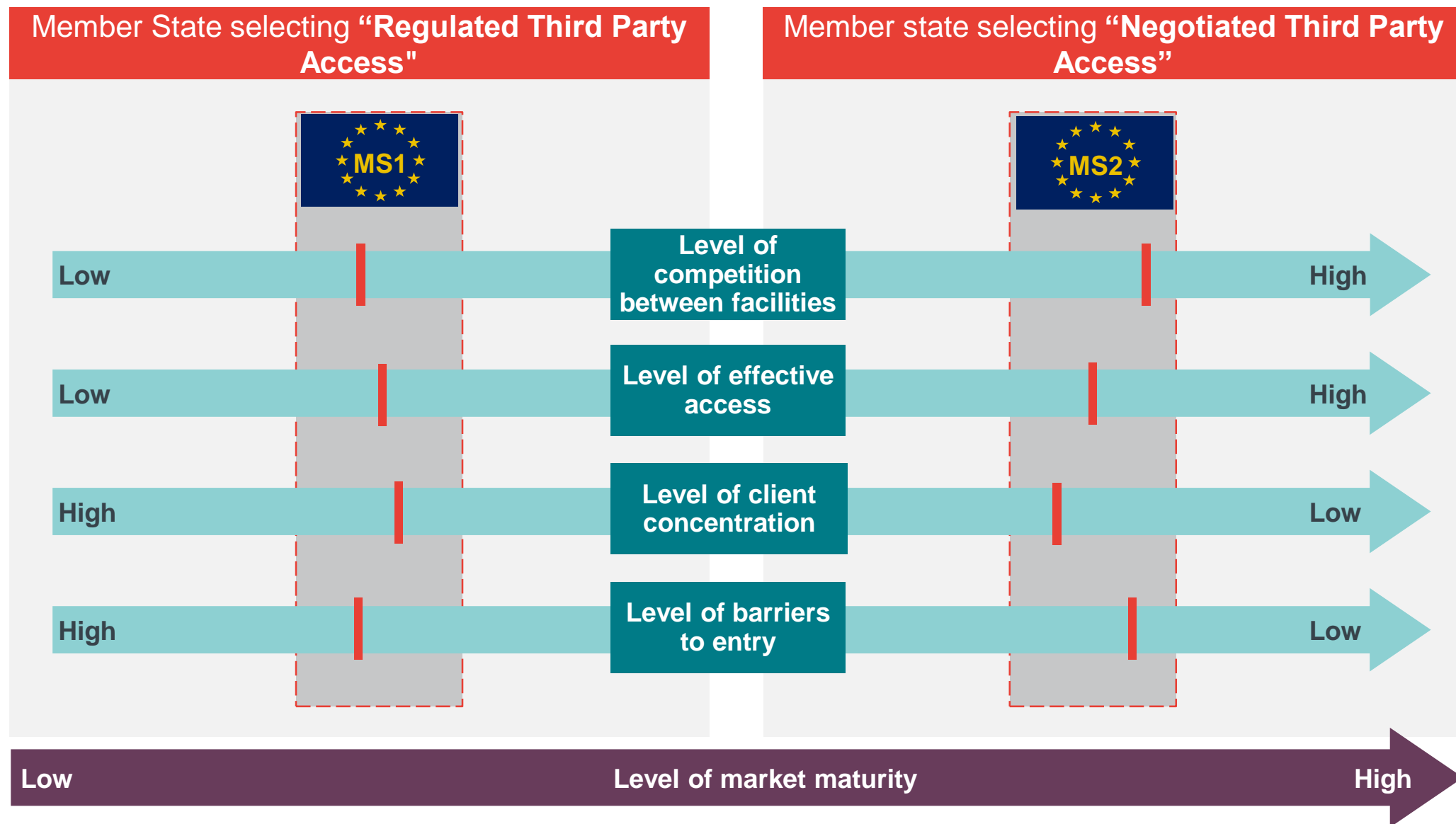
The level of **effective competition differs by Member State**, as interconnection and supply sources vary by country.

Distribution of rTPA exemptions



NWE has a **very high share** of import capacity that is TPA exempted while the rest of Europe has a **very low share** of exempted capacity.

This allows tailoring the regulation to the status of market maturity in different Member States by **allowing MS to select nTPA or rTPA**



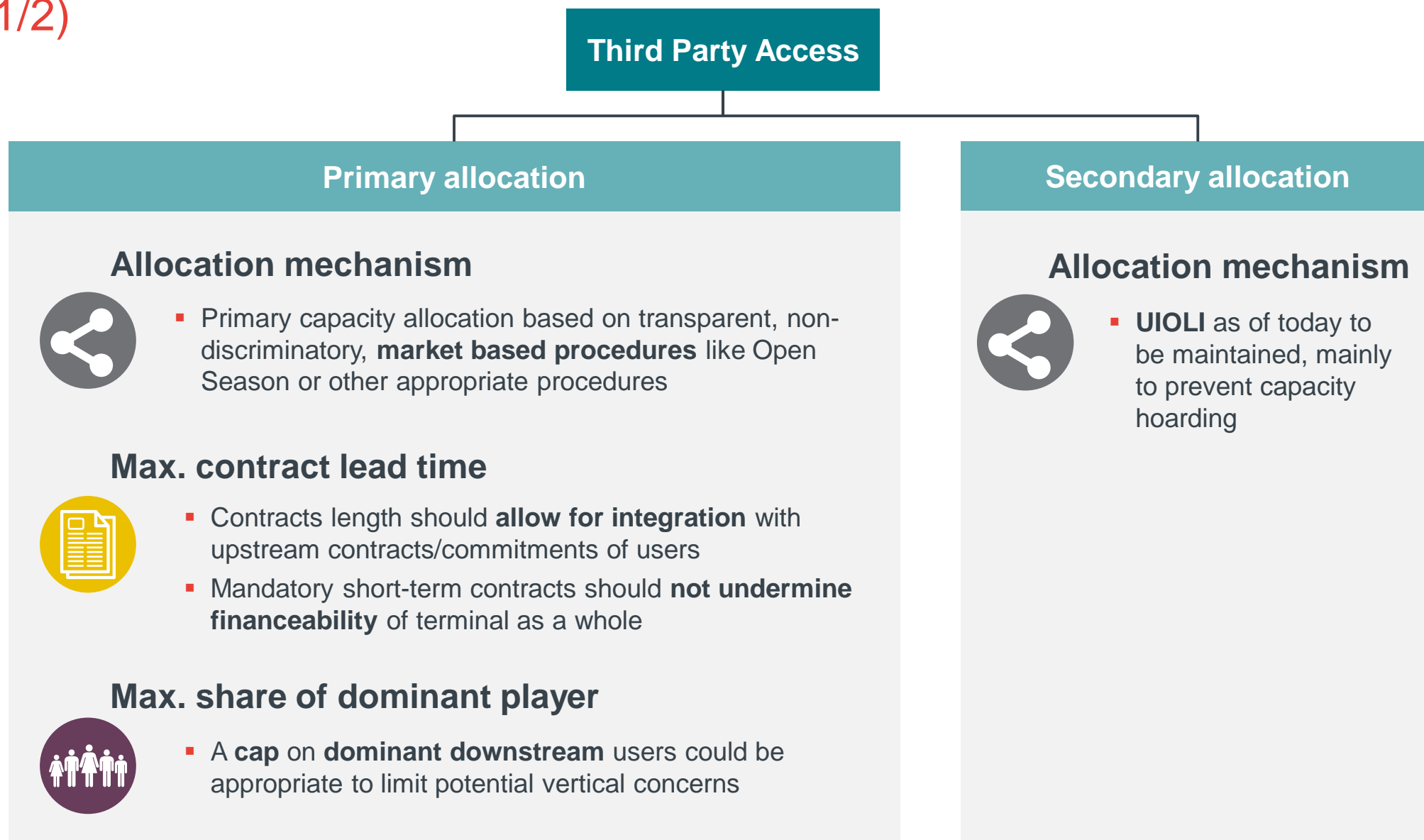
As a starting we could **follow the guidelines set out for storage** today, and allow MS to set other relevant criteria if needed

	Commission guidance for storage	Comments for LNG
Effective competition between facilities	<ul style="list-style-type: none"> Is there competition between facilities and with the wider market? <ul style="list-style-type: none"> Sufficient number of independent providers? 	<ul style="list-style-type: none"> Structural indicators like capacity available (and also considering piped gas) More performance indicators could be collected from market parties.
Effective access	<ul style="list-style-type: none"> Are market parties able to get access to the facility? <ul style="list-style-type: none"> High proportion of LT-capacity allocated without non-discriminatory manner? 	<ul style="list-style-type: none"> Open Seasons or other market-based mechanisms to allocate capacity
Concentration of clients	<ul style="list-style-type: none"> Is capacity mainly used by a small set of concentrated market parties and does this distort the market? 	<ul style="list-style-type: none"> Where required, additional conditions such as those imposed on exempted LNG terminals could prevent concentration
Barriers to entry	<ul style="list-style-type: none"> Are there barriers to entry? <ul style="list-style-type: none"> Technical barriers? Administrative barriers? Economic barriers? 	<ul style="list-style-type: none"> Barriers to entry have been reduced given the entry observed and developments like FSRUs.

Source: EC, 2010

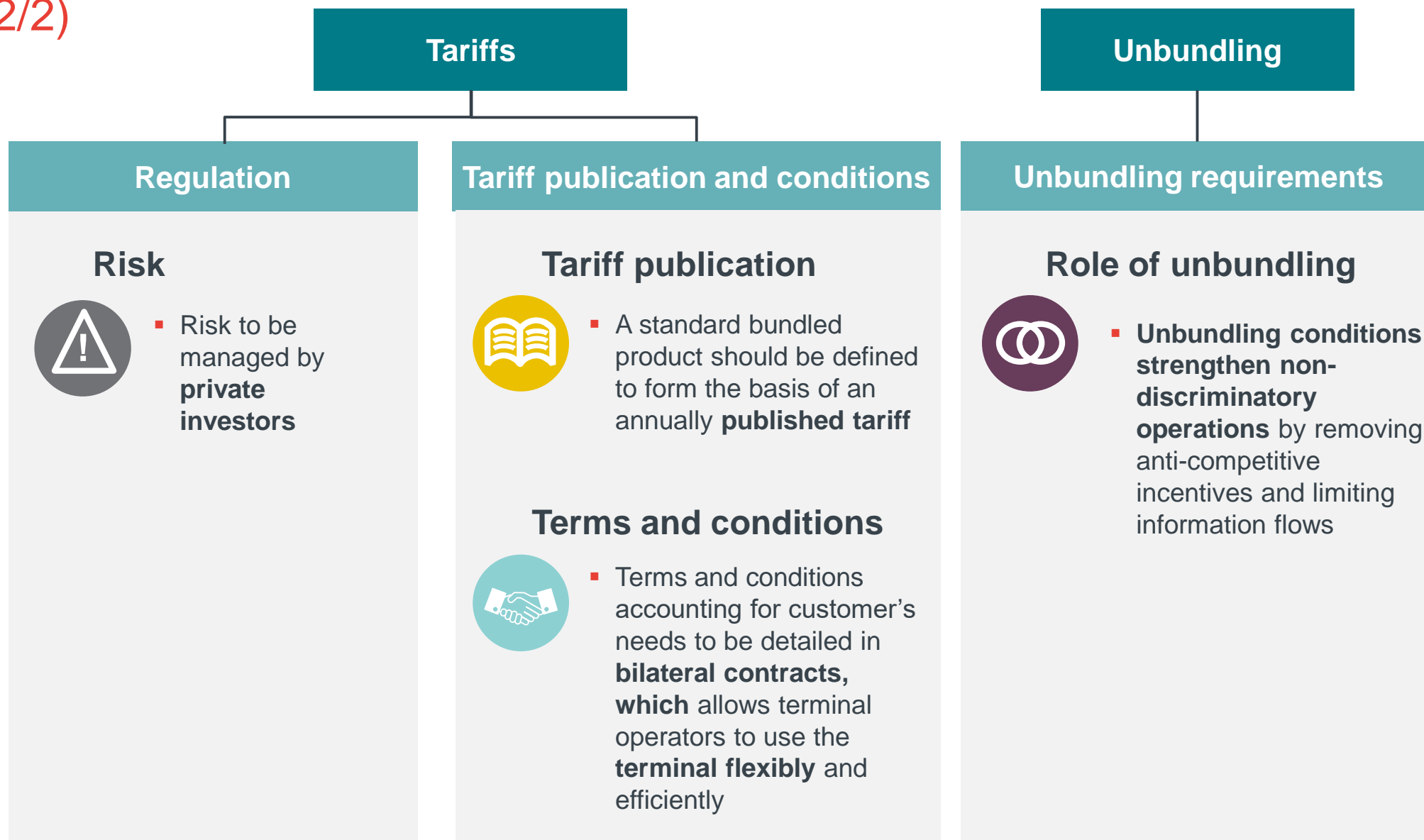
Also with nTPA – minimum regulation standards can provide safeguards for effective competition while enabling benefits of commercial freedom

(1/2)



Also with nTPA – minimum regulation standards can provide safeguards for effective competition while enabling benefits of commercial freedom

(2/2)





Frontier Economics Ltd is a member of the Frontier Economics network, which consists of two separate companies based in Europe (Frontier Economics Ltd, with offices in Brussels, Cologne, Dublin, London & Madrid) and Australia (Frontier Economics Pty Ltd, with offices in Melbourne & Sydney). Both companies are independently owned, and legal commitments entered into by one company do not impose any obligations on the other company in the network. All views expressed in this document are the views of Frontier Economics Ltd.