



THE EU APPROACH TO REGIONAL INTEGRATION IN SERVICES – THE SERVICES DIRECTIVE AND THE SINGLE DIGITAL MARKET

Hildegunn Kyvik Nordås
OECD and Örebro University



Overview

- Focus on two sectors:
 - Telecommunications
 - Engineering
- EU approach to regulation and market integration
 - Directives versus regulation
 - Remaining intra-EU services trade barriers
- The two sectors in the digital single market
 - Telecommunications: the infrastructure and services backbone of the digital market
 - Engineering: digital transformation and market integration of regulated professions
- A research agenda



Directives versus regulation

- **Directive:** a legislative act that sets out a goal that all EU countries must achieve. It is up to the individual countries to devise their own laws on how to reach these goals.
 - Telecommunications:
 - Regulatory framework (a set of directives, regulations and decisions)
 - Broadband cost reduction directive
 - Engineering
 - Mutual recognition directive
- **Regulation:** a binding legislative act. It must be applied in its entirety across the EU
 - Telecommunications:
 - Roaming (2015/2120): access to the internet without paying retail roaming surcharges
 - Cross-border portability of digital content (for temporary visits in another EU country)
 - Engineering
 - No EU regulation (falls under the responsibility of individual members)

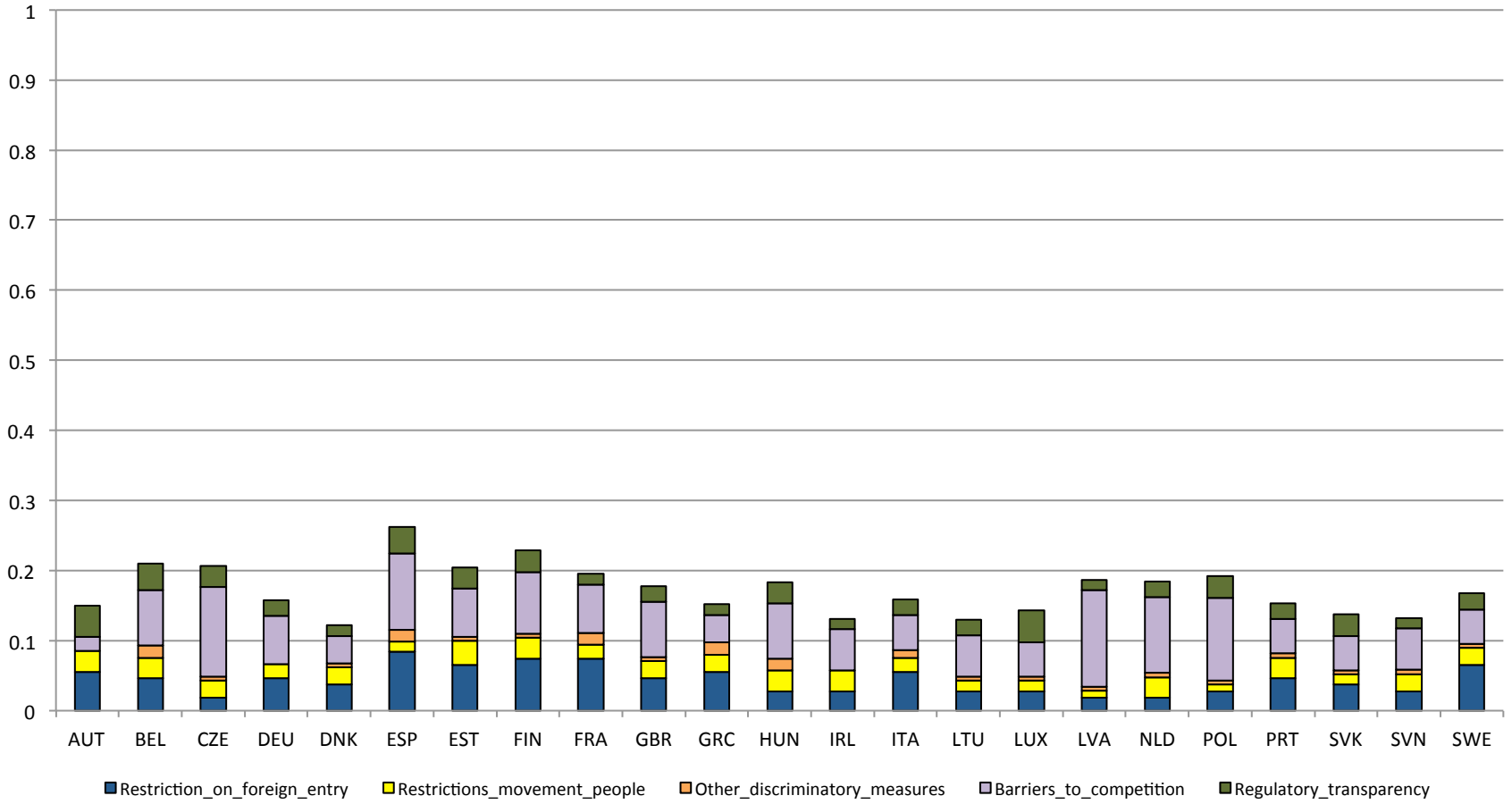


Telecommunications: pro competitive access regulations

- The regulatory framework (to be replaced with European Electronic Communications Code)
 - Framework directive 2002/21/EC
 - the access directive 2002/19/EC
- National regulators (NRA):
 - Market analysis identifying suppliers with significant market power (SMP) about every three years
 - Impose obligations (e.g. access, interconnection, non-discrimination, price caps, transparency) on SMPs
- BEREC: reviews and comments on national regulators' analysis and decisions
- It happens relatively often that BEREC has comments and requests better documentation or changes to NRA analysis and decisions
- Existing practice: strong emphasis on competition in the short run
- The new Code: more emphasis on competition in the long run – a regulatory framework that gives more incentives for investment in high-speed networks
- Since NRAs analysis and market condition may differ across member states, regulation differ as well.

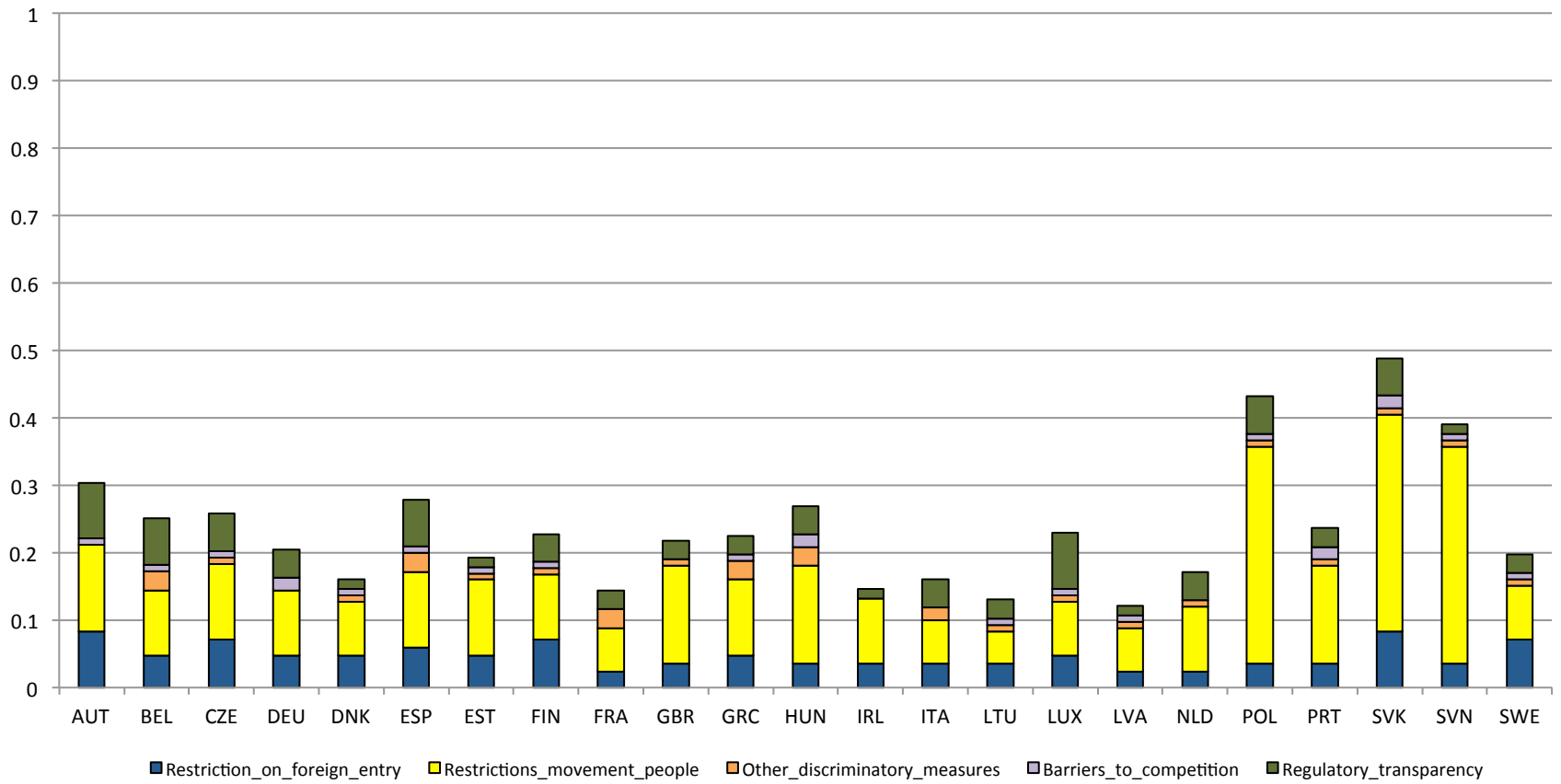


STRI, telecommunications, EU countries, 2016





STRI, engineering, EU countries, 2016





Examples of remaining intra-EU barriers

- Data localisation requirements
 - Data localisation requirements for other purposes than protecting privacy (e.g. accounting, tax, company records) is common.
- National licensing, regulators and regulation in telecommunications (BEREC oversees NRAs decisions)
- Recognition of professional qualifications in engineering
 - Each professional needs to apply for recognition in each country s/he wants to provide engineering service
 - Recognition is not automatic
 - 12 of the OECD EU countries (out of 23) regulate engineering in the sense that a license is required and licensed engineers have exclusive rights to provide a given set of engineering services (which differs across countries)
- Geo-blocking is rampant
- Territorial IPRs



Research agenda: some suggestions

- IPRs and digital products (e.g. copyright, design)
 - Practical solutions for cross-border licensing
 - Striking the right balance between protecting existing work and incentives to generate new work; and between the interest of rights holders and consumers
- The regulatory regime in telecommunications
 - How should suppliers with significant market power be identified and regulated to ensure competitive markets in the short and long run?
 - The prevalence and impact of reciprocity in access regulation
 - Structural changes following internet/OTT services – trade, competition and privacy policy implications
 - Net neutrality
- Digitisation of professional services: Digitised professional services are knowledge-intensive products (can be stored and used repeatedly at close to zero marginal cost)
 - How does the licensing regime (if any) of professional services affect the take up and use of PSA software – and cross-border trade in professional services?
 - To what extent is cross-border trade in professional services complementary to other modes of supply (e.g. movement of people)?
 - To what extent and how does regulation affect how PSAs are used?
- Multisided markets and competition in an international trade context