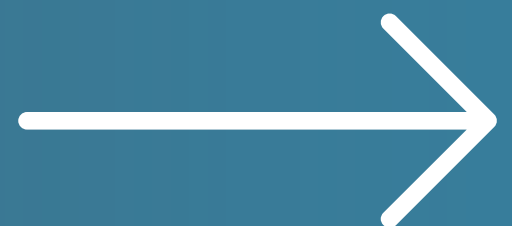


CLOUD ON THE REGULATORY HORIZON?

A TIME OF RECKONING
FOR THE EU TELECOMS
INDUSTRY



CLOUD IS SUBJECT TO REGULATORY SCRUTINY

To achieve the EU's "Digital Decade" targets, significant investments in cloud infrastructure will be required. The Commission reports an investment gap of EUR 80 billion in the EU until 2027 to stay competitive with the US and China.*

At the same time, cloud providers are facing increased scrutiny by regulators and policymakers. Several competition authorities have launched probes and identified competition concerns, or received complaints, while some stakeholders have called for (additional) regulation.



Lock-in effects in cloud computing sector warrant closer scrutiny, French enforcer says

Charles McConnell
30 June 2023



Spain launches cloud services market study

Francesca McClimont
23 November 2023



Press release
CMA launches market investigation into cloud services



05-11-2023

AdC warns of competition risks in the Generative Artificial Intelligence sector



Dutch enforcer wants legislative fix for cloud competition concerns

Olivia Rafferty
05 September 2022

*European Commission's Whitepaper "How to master Europe's digital infrastructure needs?"

THERE IS ALREADY REGULATION TO ADDRESS CLOUD CONCERNS

Cloud has already been the focus of the EU Commission's regulatory efforts - both via the DMA and via the Data Act.

The DMA lists “cloud services” as a core platform service - but no cloud providers have yet been designated as gatekeepers. Although several cloud providers would appear to be large enough to qualify in terms of revenues, this is perhaps because cloud is not considered to constitute a gateway between businesses and consumers.*

The Data Act has just entered into force with specific provisions that target all cloud providers and aim at lowering switching costs and improving interoperability.

*CERRE argues that the one-sided nature of cloud computing services potentially hinders their designation under the DMA. Since cloud services do not directly intermediate between two different groups of customers, it is challenging to apply the quantitative thresholds for both end and business users. Source: CERRE (2024), “Competition and regulation of cloud computing services: economic analysis and review of EU policies”, section 3.3.

FURTHER REGULATION MAY COME FROM ANOTHER ANGLE

However, further regulation of cloud may still be on the cards and could come from an alternative source. The Commission is set to revamp telecoms regulation in the EU and cloud providers may be in for a surprise.

The Commission's white paper released earlier this year points to increasing convergence between traditional telecoms and cloud services. It suggests that this convergence may warrant a common regulatory framework, which applies to both telecoms operators and cloud providers.

“Yesterday’s separation between “traditional” electronic communications networks/service providers and cloud or other digital service providers will tomorrow be superseded by a complex converged ecosystem.”

European Commission’s white paper
“How to master Europe's digital infrastructure needs?”

“There's no distinction for us between a cloud operator and a telecom operator. There shall be none, because in the future they are the same so there cannot be a regulatory difference.”

Roberto Viola (Director General, DG Connect)



TELECOMS AND CLOUD

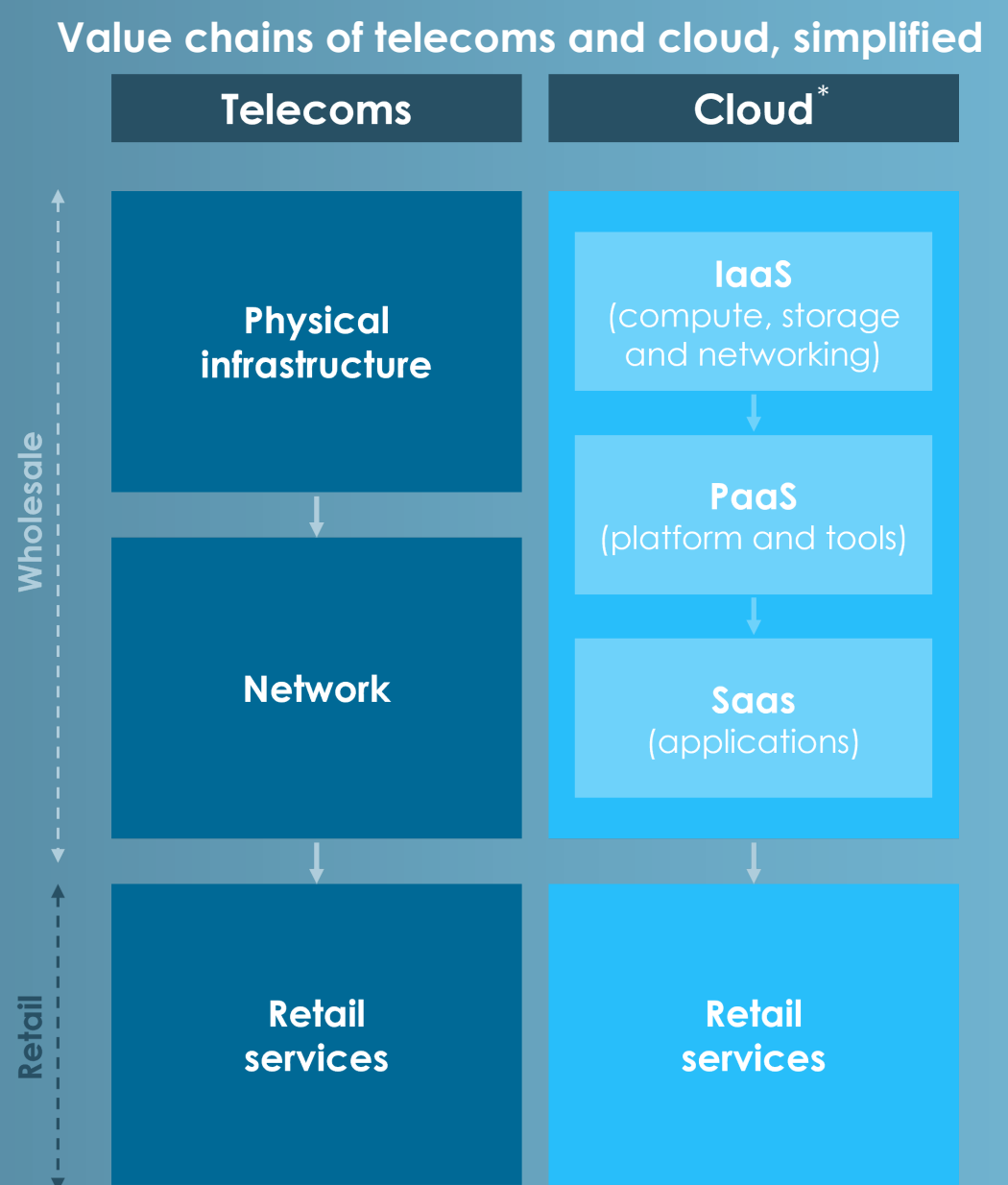
- SAME SAME OR DIFFERENT?

Although telecoms services and cloud services may be part of the same overall industries and/or value chains, the exact extent of regulatory equivalence between the two types of services is yet to be explored in detail.

There are several overlaps and links between telecoms and cloud services:

- Telecoms services and cloud services are sometimes sold to the same business end-users, sometimes in bundles.
- Telecoms operators provide interconnection services between data centres.
- Cloud operators provide network virtualisation services to telecoms operators.

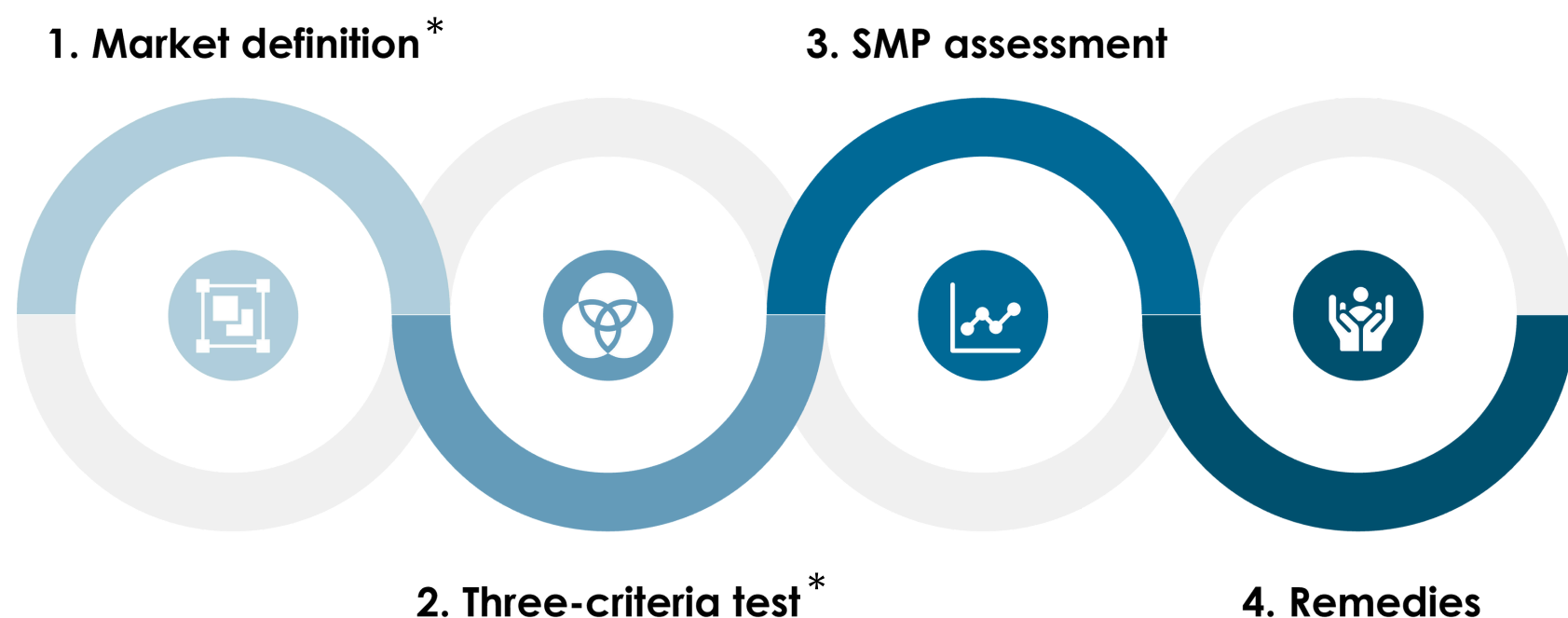
However, it is unclear whether these overlaps and links lead to equivalence.



*Inspired by Ofcom (2023), Cloud services market study, Figure 3.8.

YET TO BE SEEN HOW THE TELECOMS REGULATORY TOOLBOX WOULD APPLY TO CLOUD

It is still too early to assess the exact shape of a common regulatory framework. However, if the current direction is maintained, the Commission may rely on well-established tools from telecoms.



In telecoms, SMP operators often have to comply with “access” remedies where they are obliged to allow third parties to use their networks at a certain price level.

It is unclear if/how similar remedies would apply to cloud.

*Inspired by the Commission’s list of recommended markets.

Copenhagen
Economics

CE

CLOUDS YET TO CLEAR ON KEY QUESTIONS

While the story is still unfolding, some key questions are beginning to take shape.

- Will regulators seek to define new relevant markets for cloud?
- How would the three criteria test work?
- Will regulators assess single/joint SMP (dominance) status on national or regional markets, with at most one cloud provider being regulated in each geographic area?
- How would traditional telecoms “access” remedies apply to cloud?
- How would this regulation interact with existing regulation, such as the Data Act?

GET IN TOUCH



Rodrigo Cipriano, Lead Economist
roc@copenhageneconomics.com



Elena Salmaso, Lead Economist
esa@copenhageneconomics.com



**Neil Gallagher, Managing Economist
Service Leader for TMT & Digital**
neg@copenhageneconomics.com

**Copenhagen
Economics**



www.copenhageneconomics.com