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September 18, 2009

Via Electronic Filing

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

EX PARTE NOTICE

RE: *Special Access Rates for Price Cap Local Exchange Carriers,* WC Docket 05-25
A National Broadband Plan for Our Future, GN Docket 09-51
Universal Service Contribution Methodology, WC Docket 06-112
Federal State Board on Universal Service, CC Docket 96-45

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, BT hereby gives notice that on September 17, 2009, the following BT employees – Ian Livingston (CEO), Deborah Lathen, (Board Member and Non-Executive Director), Sheba Chacko (Head, Americas and Global Operational Regulation), and Jill Cocayne (VP, US Government Affairs) -- met with Commissioner Clyburn and Renee Crittendon (Legal Advisor).

BT stated its concerns about ineffective regulation of special access and Ethernet services, and highlighted the knock-on effects that unaddressed economic bottlenecks have on broadband, health IT, the consumer and SME markets. BT urged the FCC to take action on the special access docket and stated that it would support a time-bound, manageable and defined data-collection exercise if the FCC believes this is necessary. BT referred to the data points in the attached slidepack during its discussion with the Commissioner and her staff.

On the issue of Universal Service, BT urged the FCC to reform the USF regime by making it fairer and more efficient and made the same arguments it did in its ex partes filed in 2008 in WC Docket No. 06-112 and CC Docket No. 96-45.

If you have any questions regarding matters discussed herein, please contact the undersigned.

Sincerely,

Sheba Chacko
Head, Global Operational Regulation and Americas Regulation - BT Global Services

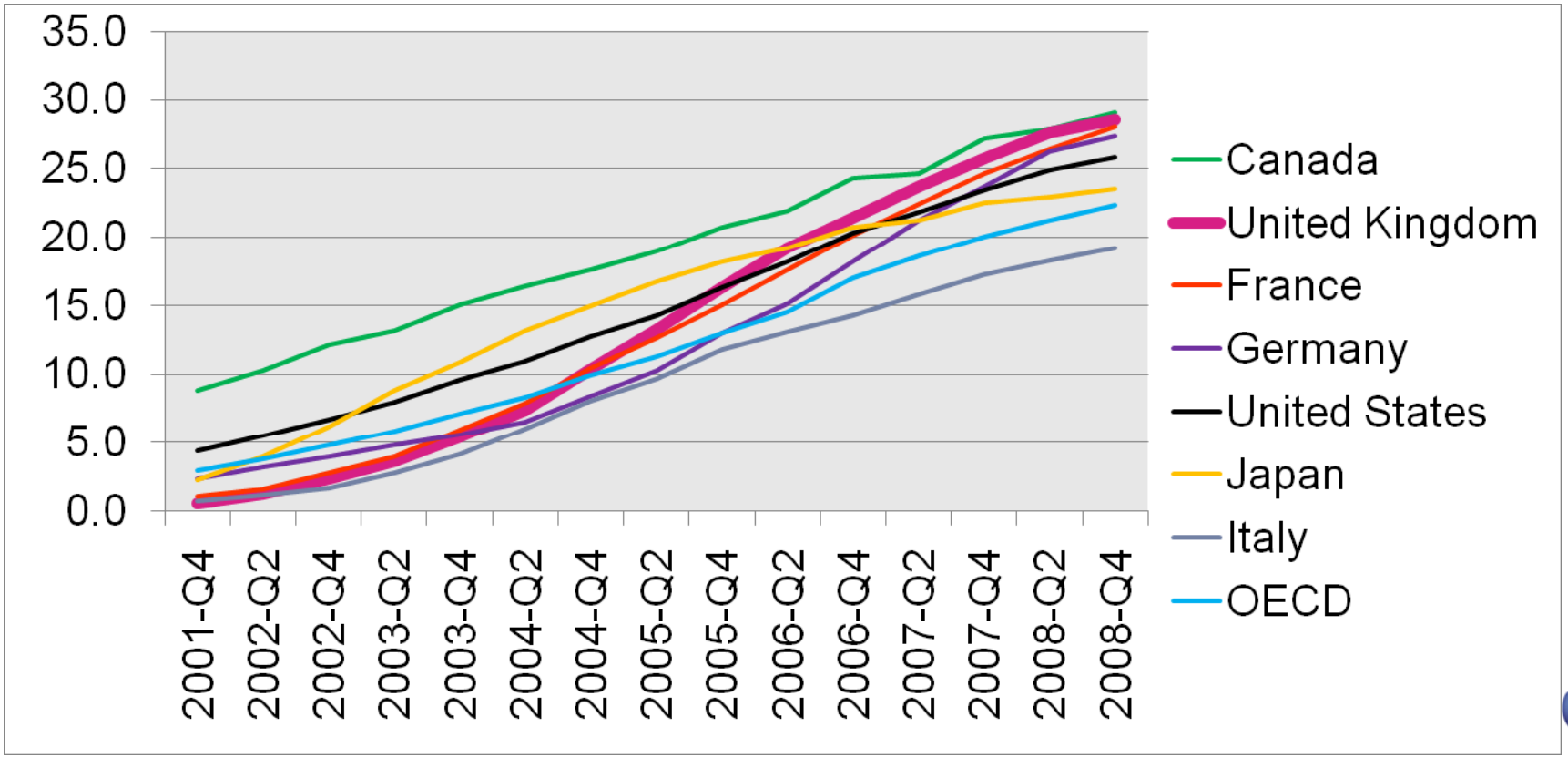
cc: Renee Crittendon

Relationship Between Effective Regulation of Access Bottlenecks and Broadband Penetration: The UK's Experience

September 2009

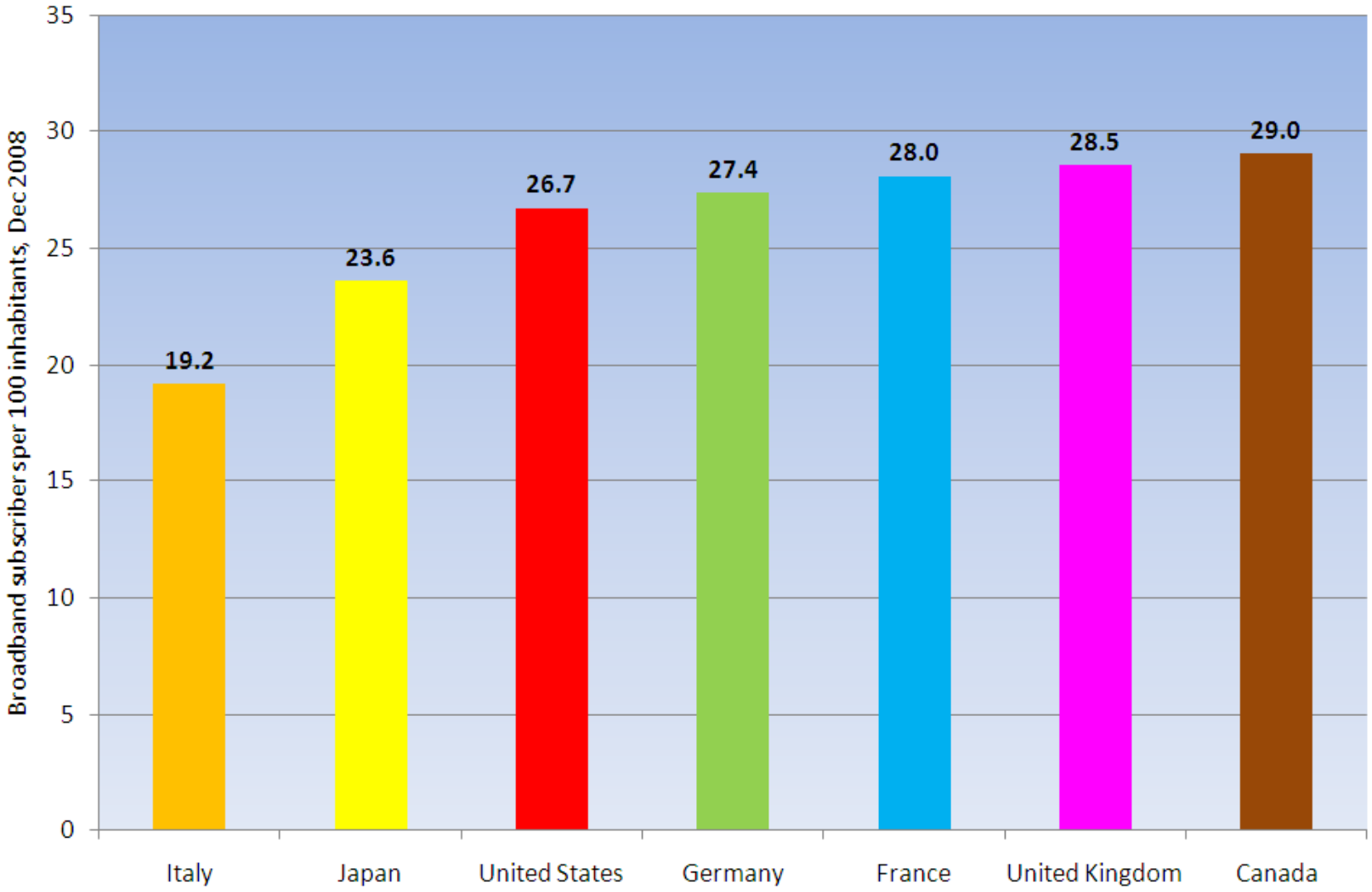
Effective regulation of access bottlenecks has driven accelerated broadband uptake in the UK

- Steeper rate of broadband penetration following implementation of the EC's regulatory framework and functional separation of BT
- Propelled the UK from a laggard position in broadband penetration amongst the G7 to one of leadership second only to Canada



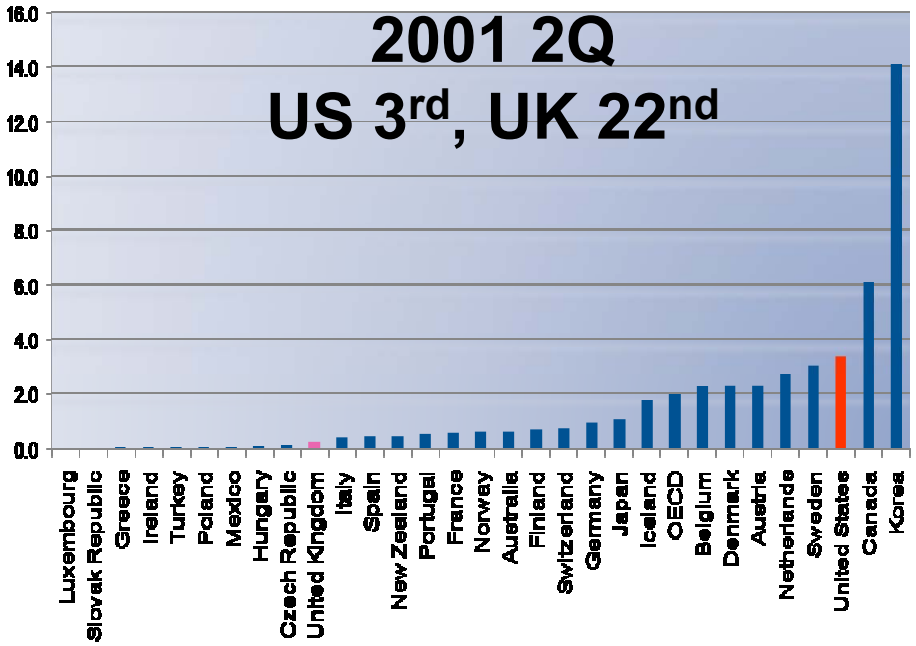
Source: OECD

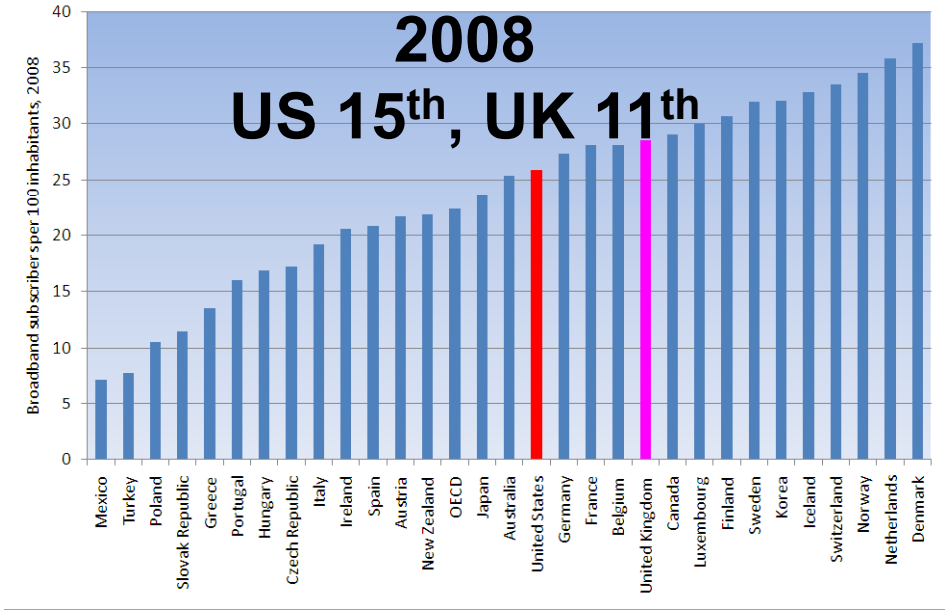
Broadband penetration in major economies



OECD Broadband Portal, 2009

Improved UK broadband performance enabled by effective regulation of access bottlenecks





UK is 11th in OECD ranking today whereas it was in 22nd place in 2001

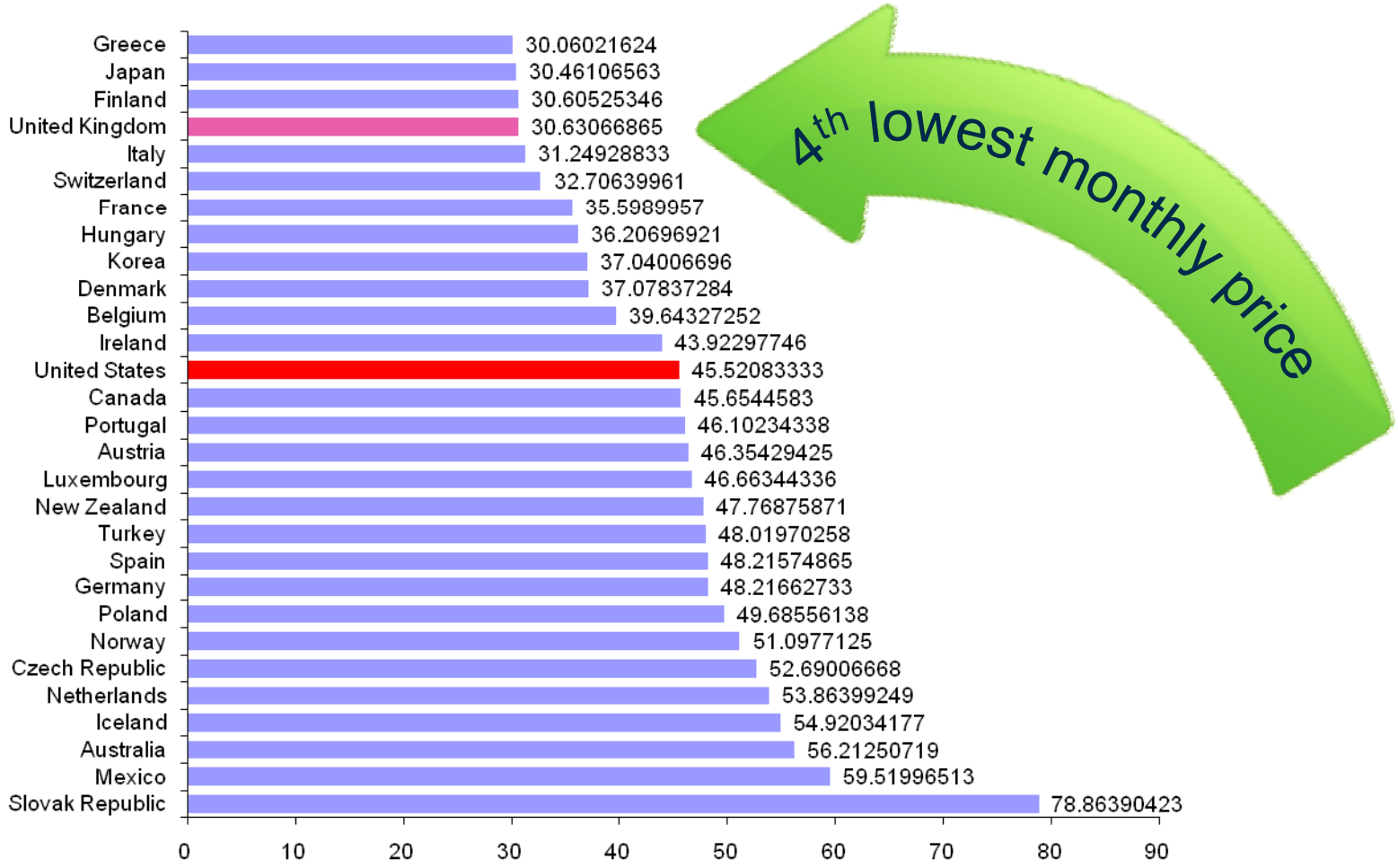
= UK

= US

OECD Broadband Portal, 2009

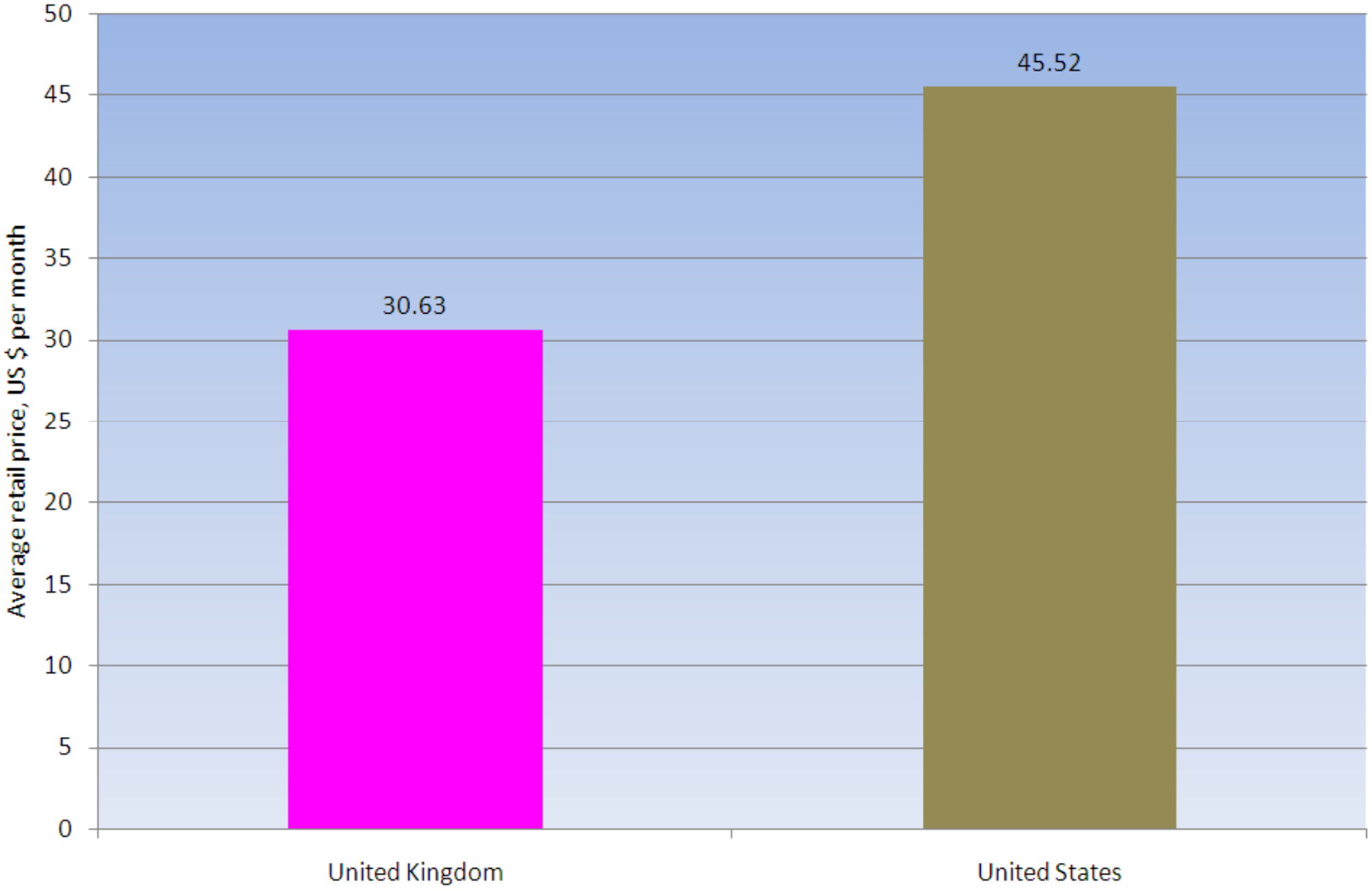
Intense intra/intermodal competition has lowered prices for broadband subscribers

Broadband average monthly subscription price, Oct. 2008, USD PPP



Source: OECD

Average retail broadband subscription price per month (US $ per month, Oct 2008)



OECD Broadband Portal , September 2009

UK: Intense intra/intermodal broadband competition enabled by effective access regulation

- Over 700 national and regional ISPs compete to serve a population 1/5th the size of the US, and occupying a landmass the size of Oregon.
- 99% of UK exchanges are enabled with ADSL Max
  - Up to 8 Mbps available to UK homes as well as small, medium, and large businesses.
- BT offering ADSL2+ to reach 55% of UK homes by 2010 providing up to 20 Mbps downstream.
- BT to spend £1.5 billion to extend FTTC and FTTH to 10 million UK homes by 2012, approximately 40% of UK homes.
- BT has 614 Ethernet nodes rolled out across the UK. Ethernet service within 5km of 90% of UK's business premises.

Result: More innovation in services & pricing driving broadband uptake

BT

UK: Intense intra/intermodal broadband competition enabled by effective access regulation

- Health IT in the UK is a reality because high speed broadband is affordable, widely deployed, and used by not only residential customers but also by doctors' and dentists' offices.
- Small businesses (SMEs) have access to affordable large business solutions allowing them to compete on a global stage.
  - Dozens of national and sub-national providers competing to provide broadband and related services to SMEs.
  - BT and others offer SMEs 20-24 Mbps broadband services at affordable prices.
  - SMEs have access to innovative services such as Ethernet, SaaS, cloud computing, videoconferencing, and unified communications.

Result: More innovation in services & pricing driving broadband uptake

BT

US access bottlenecks **need** effective regulation

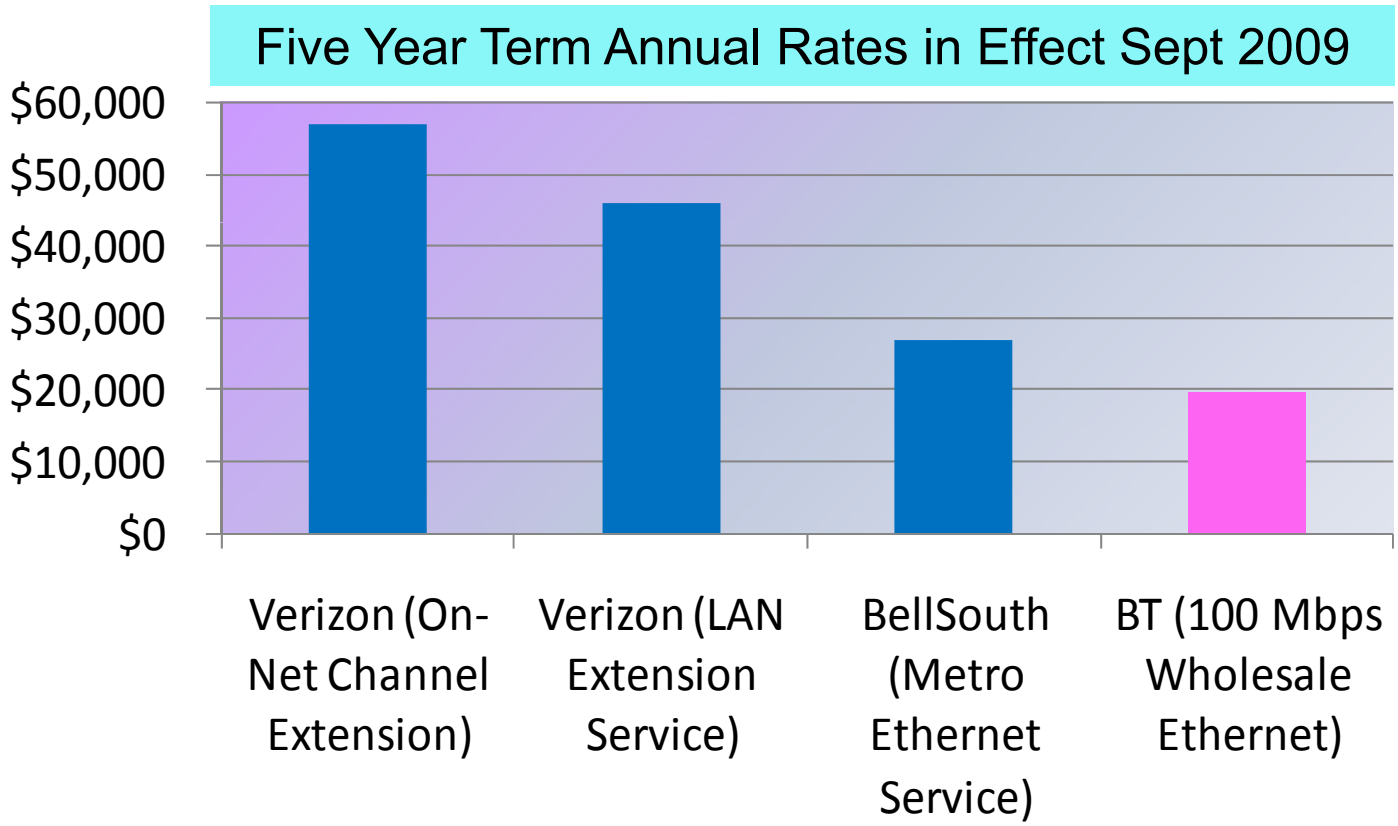
- AT&T's 2007 after-tax rate of return on special access = 137%.
- Verizon's 2007 after-tax rate of return on special access = 63%.
- BT's rate of return on PPCs, the UK equivalent of special access, is 11.5% and its allowed return on wholesale Ethernet is 10%.**
- US access services are chokepoints. The following slides show comparative US/UK data highlighting overpricing.

Chokepoints in US infrastructure → Slower deployment and uptake of intermodal & intramodal broadband services

** (Ofcom determined that BT's return on wholesale Ethernet is at 35% and excessive therefore it is imposing a price cap that will bring BT's return on Ethernet down to 10%).

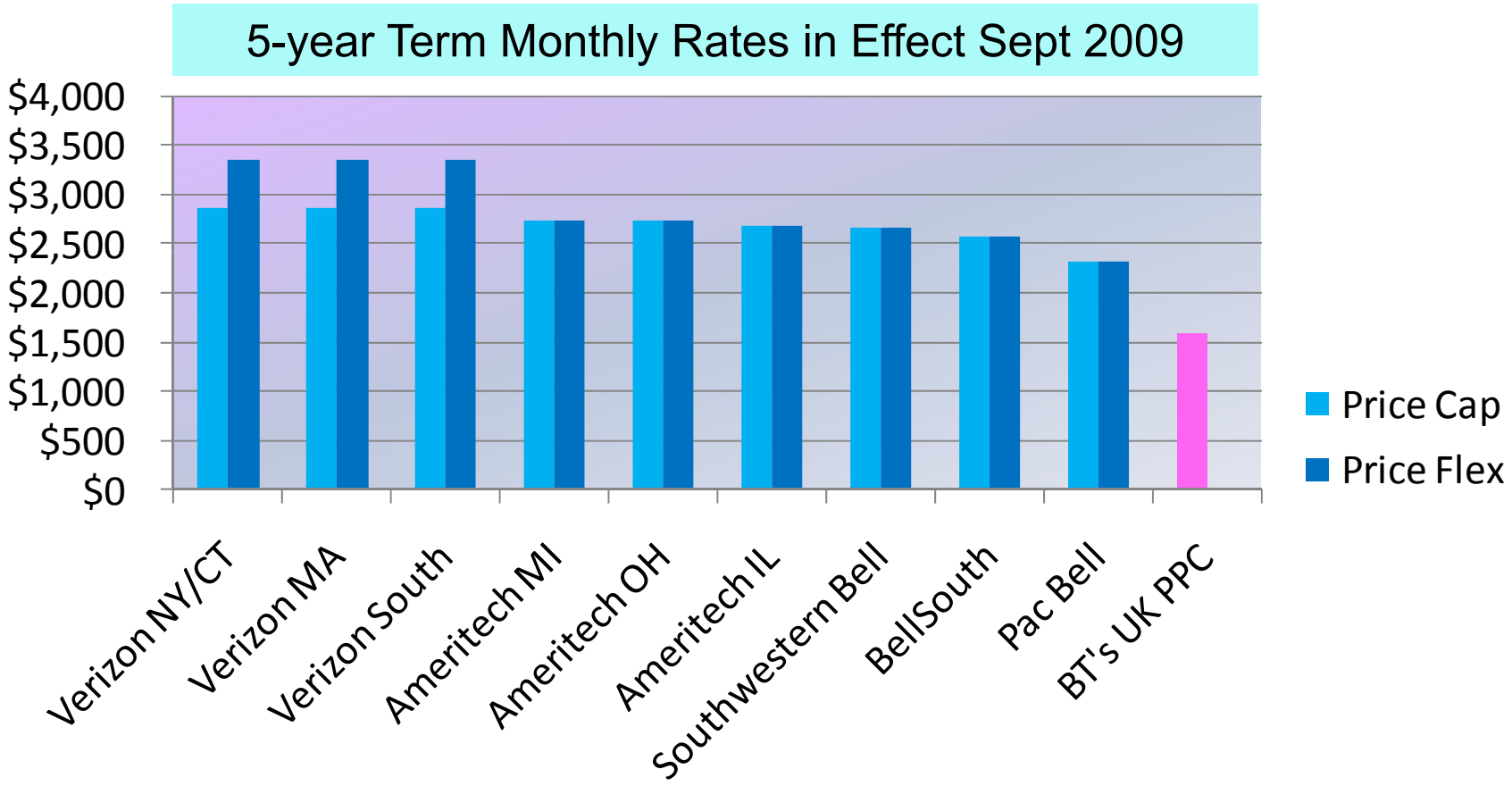
BT

Comparison of 100 Mbps Ethernet access rates to BT's equivalent offering



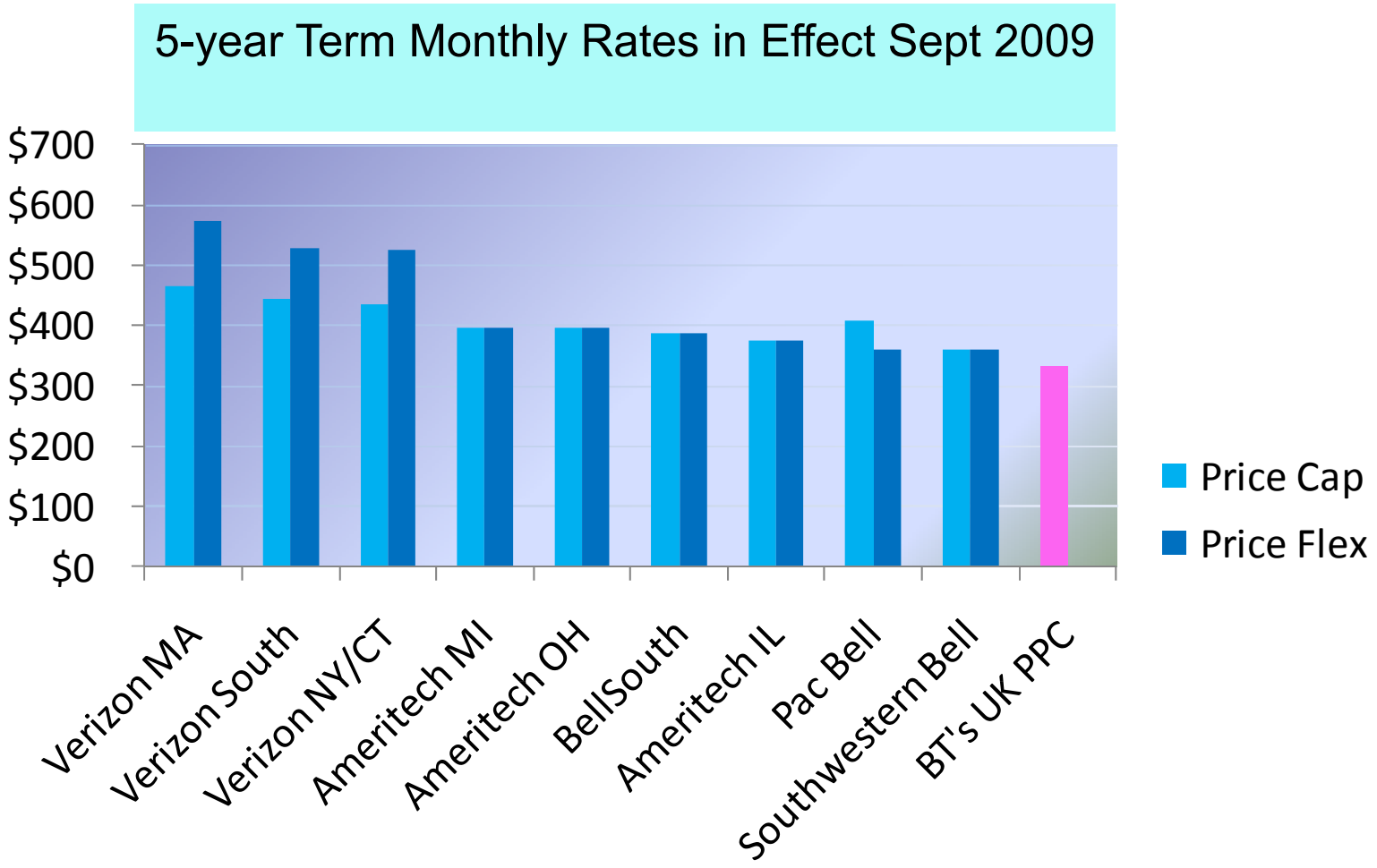
See Note 1, Annex A

Comparison of DS3 (45 Mbps) special access to rate for BT's UK equivalent 45 Mbps PPC access



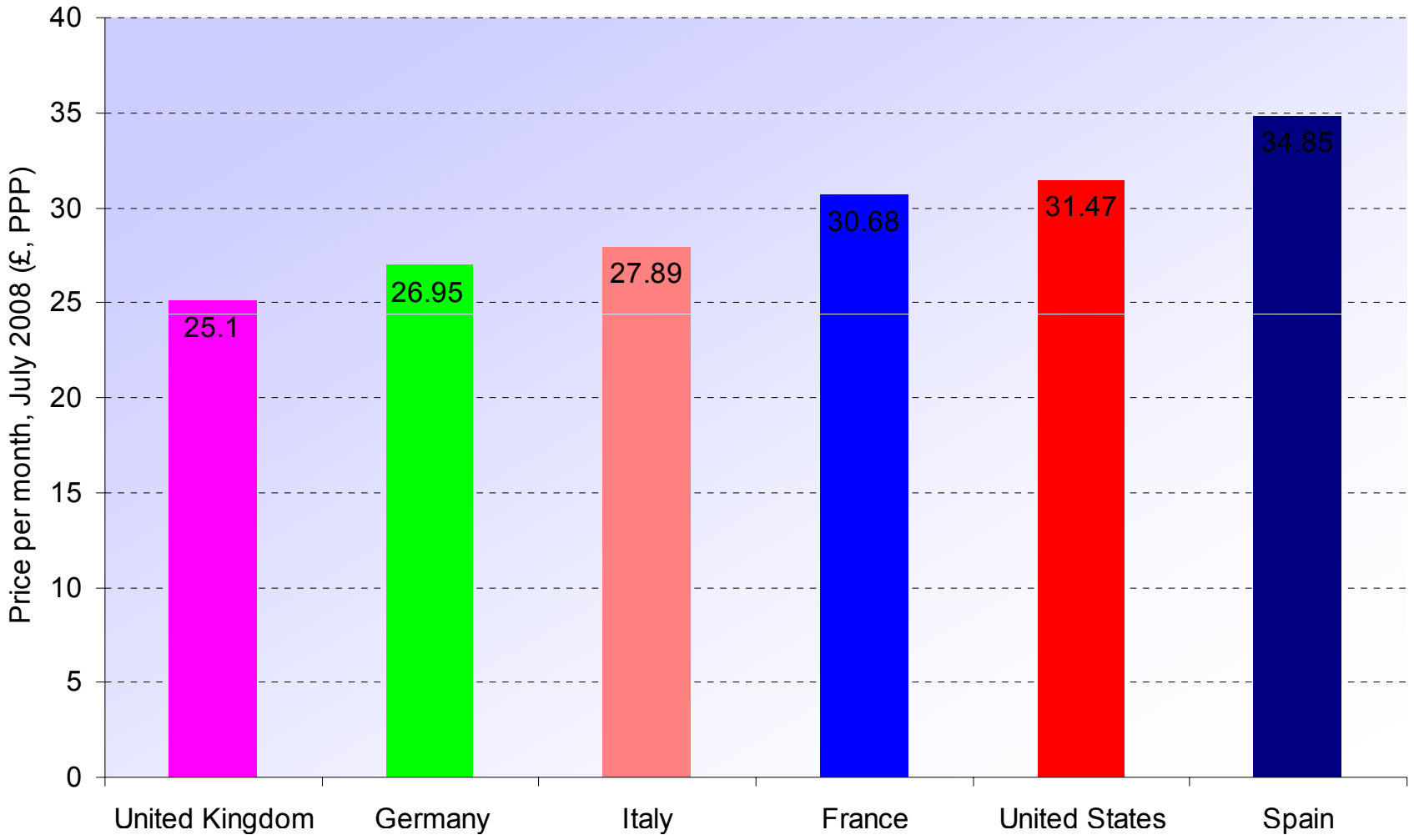
See Note 2, Annex A

Comparison of DS1 (1.5 Mbps) special access rates to BT's equivalent 2 Mbps PPC access



*See Note 1, Annex A

UK has lowest landline prices amongst major countries



International Communications Market, November 2008, Ofcom; weighted average of best-value tariff from each of the three largest operators by market share in each country, for 600 outbound minutes; July 2008; PPP adjusted. Based on a family of two parents and two children, who are cost conscious and favour using the fixed-line phone whenever possible, which gets fairly heavy use. Includes line rental and cost of purchasing enhanced tariffs that offer reduced prices.

Conclusion

Proper regulation of network chokepoints accelerates broadband deployment and take up.

A successful National Broadband Plan must include effective regulation of special access and Ethernet chokepoints.

ANNEX A – Note 1

Verizon's and BellSouth's Ethernet rates are computed for a five-year term point-to-point circuit that is ten miles long and has two connections. Verizon's rates are derived from its tariff FCC No. 1. Secs 7.5.23 and 7.5.25 while BellSouth's rate is derived from its Interstate Access Guidebook at Sec. 7.5.22.

BT's Wholesale Ethernet access rate (WES/WEES 100) is available at http://www.openreach.co.uk/orpg/pricing/loadProductPriceDetails.do?data=kM1u9yq1NPJ1yTuBFDTfUb%2FuVhXjMR5hQz3DdrCHJqBVrWsgMC%2F4dy9qJJFTkna2. BT's UK rate was converted to USD using the OECD's 2009 Purchasing Power Parities rate of $1.00/£0.654. The OECD's PPP rates are available at http://stats.oecd.org/Index.aspx?datasetcode=SNA_TABLE4.

Both nonrecurring and recurring charges were computed for Verizon's, BellSouth's and BT's 100 Mbps Ethernet services and divided by the relevant denominator to produce annual charges.

ANNEX A – Note 2

Verizon's and AT&T's special access rates are derived from their applicable FCC interstate access tariffs. Rates are Zone 1, five-year term rates and are computed for a hypothetical circuit consisting of ten miles of interoffice and two channel terminations at either end of less than a mile each. Rates include a 12.9% USF charge.

BT's PPC rates are available at www.btwholesale.com. They are likewise computed for a hypothetical circuit consisting of a main link ten miles long (fixed and mileage charges for ten miles), a local customer end of less than a mile (fixed and mileage charge for less than one mile) and a handover charge between the incumbent BT and the competitive provider. BT's UK rates contain an implicit universal service subsidy. Annual rates plus point of handover charges were computed for five years and then divided by 60 to derive an equivalent monthly five-year term rate. BT's rates are geographically neutral – i.e., BT's rates are the same regardless of geography. Hence the price comparison to AT&T's and Verizon's Zone 1 rates are more favorable to these Bell companies than a Zone 3 or Zone 5 rate comparison would be.

Nonrecurring charges were not included in the US and UK pricing calculations because a like-for-like comparison was not possible. BT's UK rate was converted to USD using the OECD's 2009 Purchasing Power Parities rate of $1.00/£0.654. The OECD's PPP rates are available at http://stats.oecd.org/Index.aspx?datasetcode=SNA_TABLE4.