



Alternate Root Models in the Internet

Antitrust Law Perspectives

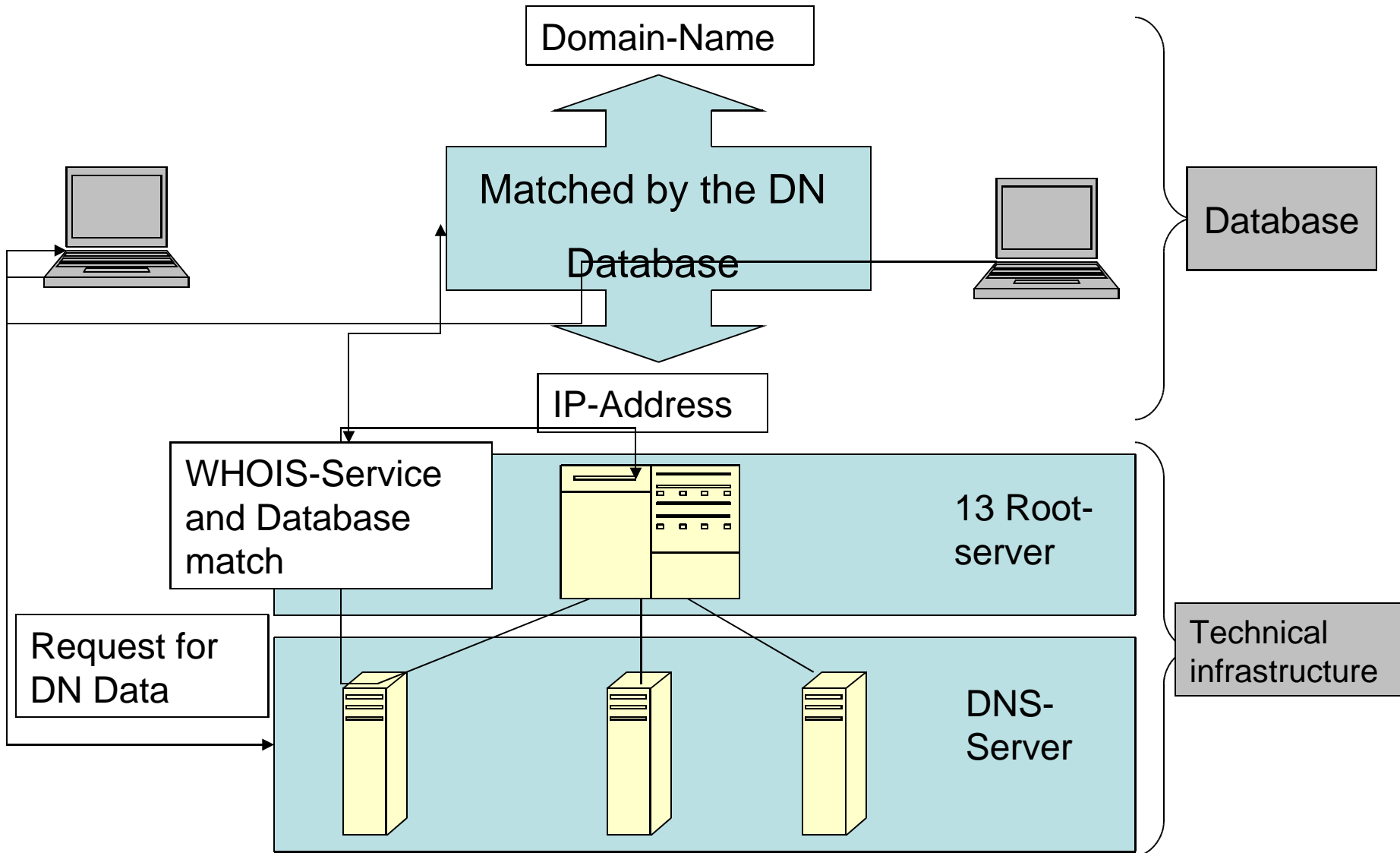
Dr. Ulf Müller

Institute for Information-, Telecommunication- and Media
Law

Westphalian Wilhelms University Münster, Germany



1. Technical Internet Rooting





1.1.1 ICANN

- Founded in 1998 as a non-profit organisation on US-civil law (California)
- Politically independent
- Associated to the US Department of Commerce (renewed August 14th 2006)
- ICANN owns supremacy of the DNS



1.1.1 ICANN

ICANN's main functions are:

2. Responsibility for IANA

→ Administration of the rootzone of the internet

→ Allocation of IP-numbers

2. Organisation of the DNS/Coordination of the rootservers

3. Accreditation of registrars

4. Technical administration of the internet



1.1.2. Second-Level Domain

- Identifying part of the domain name
- Allocated by
 - National registrars for SLD under ccTLD (ex. Nominet UK, DENIC) or
 - other registrars for SLD under gTLD as *VeriSign (.com)*
- Subdomains by SLD-Owners



1.2 UnifiedRoot

UnifiedRoot

- Dutch enterprise under private law
- Offering self-defined domain names without pre-defined TLD (e.g. “uni-muenster“)
- Supersedes ICANN’s TLD
- Owns infrastructure system

→ Relies on ICANN’s WHO-IS data base for synchronisation

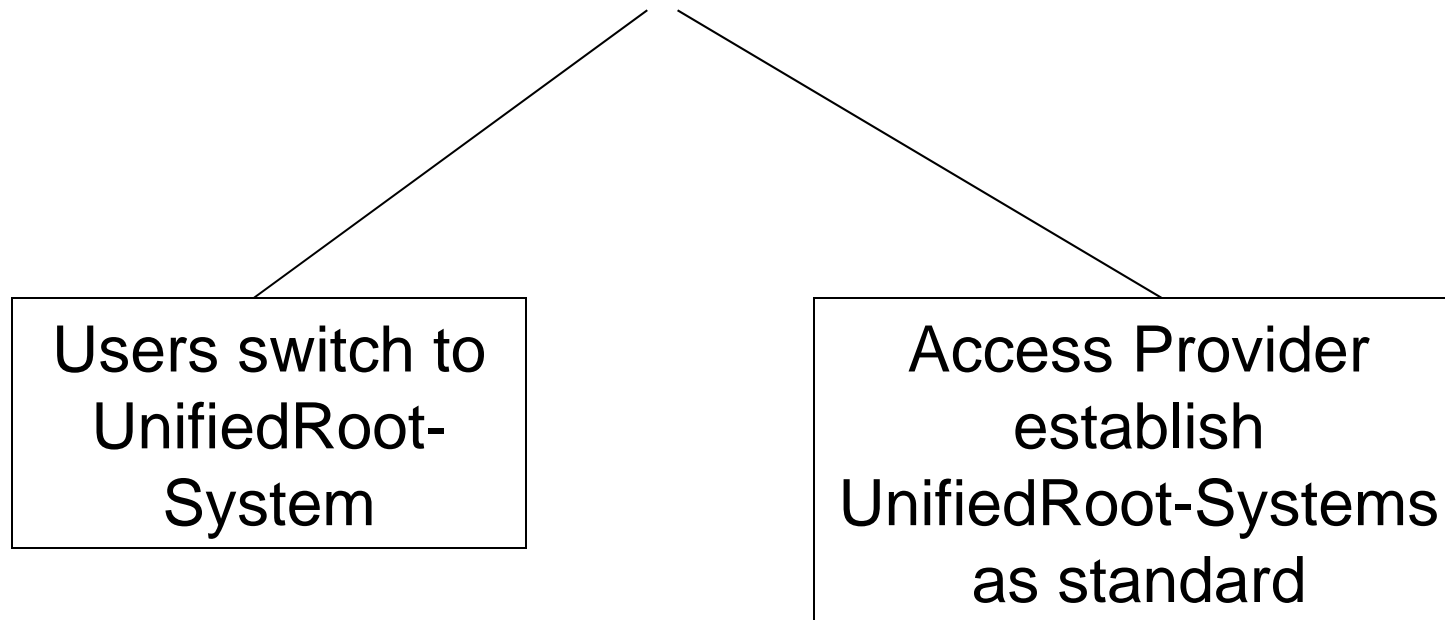
Similar: China



1.2 UnifiedRoot

Precondition for UnifiedRoot's business model:

→ adequate amount of users





2.1 Compatibility

Compatibility could be achieved through:

2.2.1 Extending the DNS on any TLD

2.2.2 Duplication of the DNS-database

2.2.3 Restructuring the root-systematics

Can ICANN be forced to open its system or infrastructure for competitors?



2.1 Compatibility

→ abuse of a market-dominating position
under art. 82 EC

Art. 82 EC Treaty:

Any abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the common market insofar as it may affect trade between Member States.

Such abuse may, in particular, consist in....



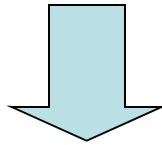
2.2.1 Extending the DNS on any TLD

- Possible abuse:
Refusal to integrate UnifiedRoot's domain names into the ICANN-TLD (art. 82 EC)
 - would modify DNS
 - resistance towards arbitrary DNS because of cultural moral concepts (e.g. ".xxx")
- Could lead to a regional splitting up of the internet (China!)



2.2.2 Duplication of DNS-database

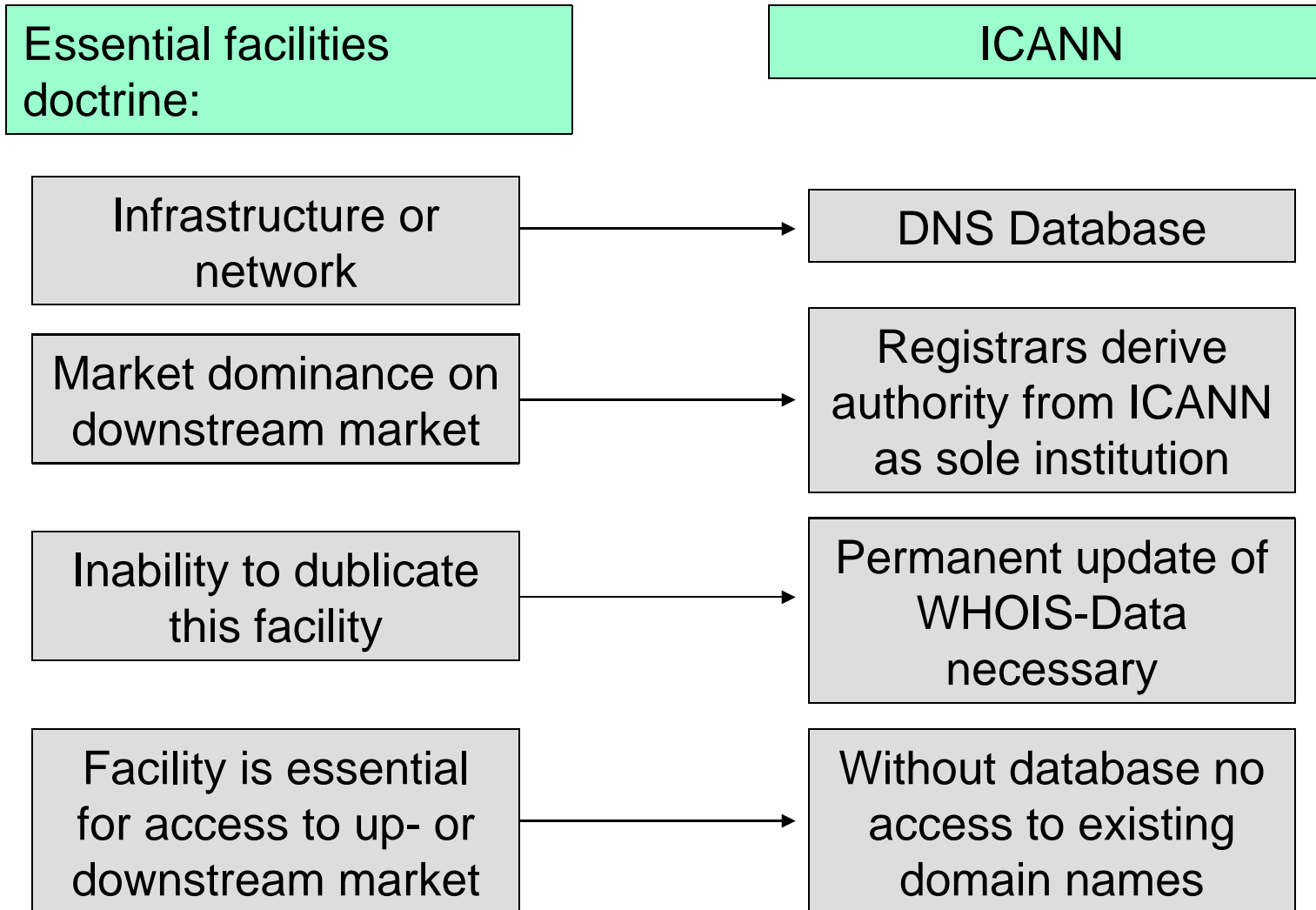
DNS-database as intellectual property



essential facilities doctrine



2.2.2 Duplication of the DNS-database





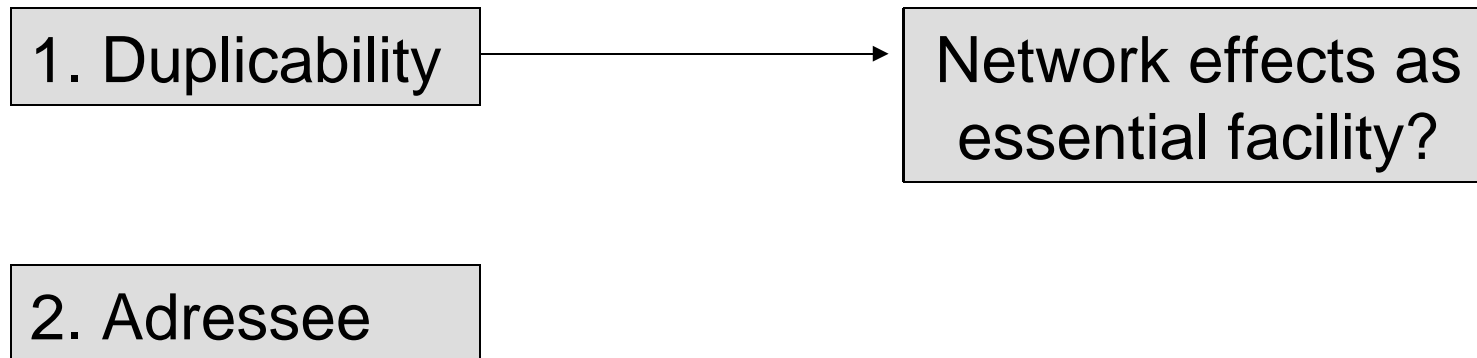
2.2.3 Restructuring the root-systematics

- Affects ICANN's function as technical administrator
 - Implementation of „regional codes“ for different root zones
- Antitrust law is not applicable if ICANN is not strucked as a competitor



2.3 Access to the ICANN-rootserver

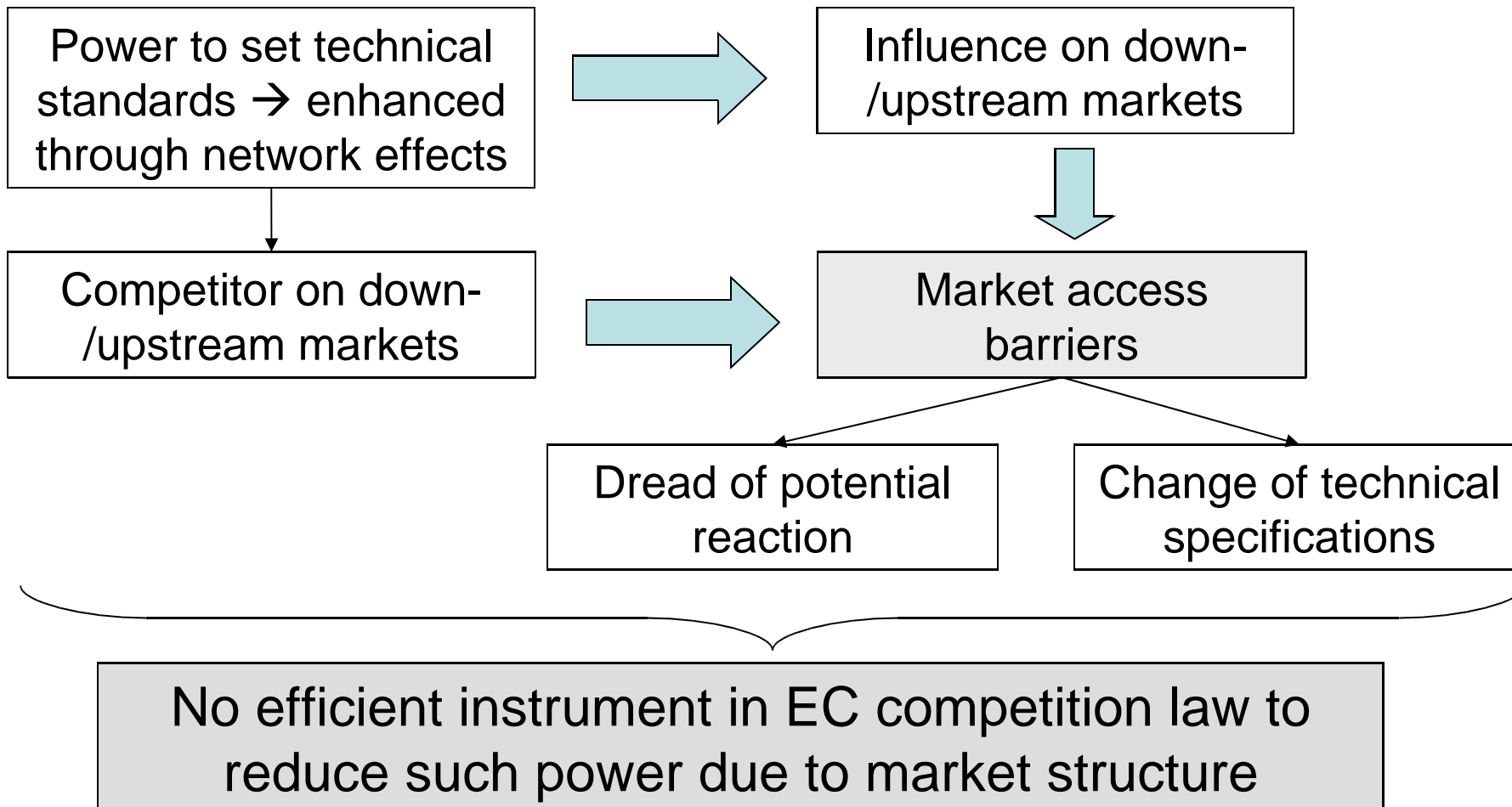
- ICANN-rootserver have connection to all Internet provider
- Application of essential facilities doctrine is questionable





2.4 Decentralisation of ICANN

Antitrust Law and de-facto Standardisation





3. Conclusion: Decentralisation as political solution

