

COMPETITION POLICY, INTERCONNECTION, AND INTERNET GOVERNANCE

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Competition Policy, Interconnection, and Internet Governance

Introduction

- Origins

FCC Jurisdiction Issues

Broadband Access

How does wireless fit?

Past regulatory experience

Empirical Analysis of Past Reg.

Implications

Introduction

- Call for regulatory action in Internet governance stem largely from concerns of “bottlenecks” in the system
- Market power being abused to control innovation in complementary markets (for example (NN))
- Concerns heightened as we arguably will abandon much (if not all) Title II with digital migration

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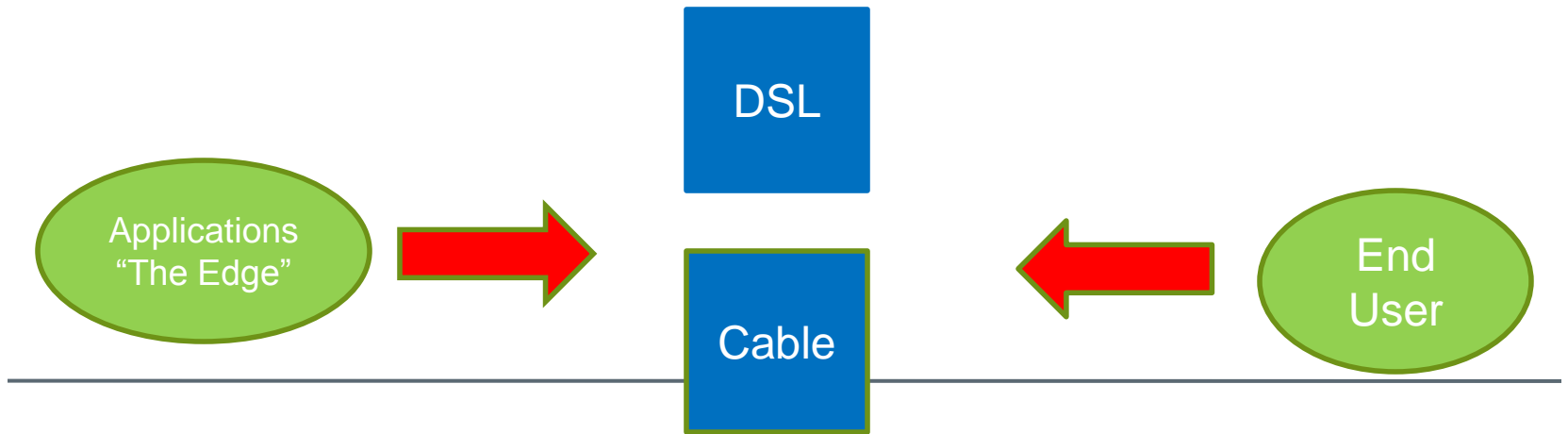
Past regulatory experience

Empirical Analysis of Past Reg.

Implications

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- Counter arguments focus on antitrust solutions to these issues rather than regulation.
- For example, argue NN is counter to efficient vertical integration and product differentiation
- Concerns of high potential of Type I errors of ex ante regulation



The Duopoly
Bottleneck

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FCC Jurisdiction

- 1. Title I + Ancillary
 - *Verizon* (2014) – finding § 706 jurisdiction for some Internet governance; Title II “like” regulation available also but only if FCC classifies provider accordingly
- 2. Title II
 - Full Title II
 - Title II + Forbearance
- 3. Opportunistic Jurisdiction
 - Merger Agr’ts
 - Spectrum License Agr’ts

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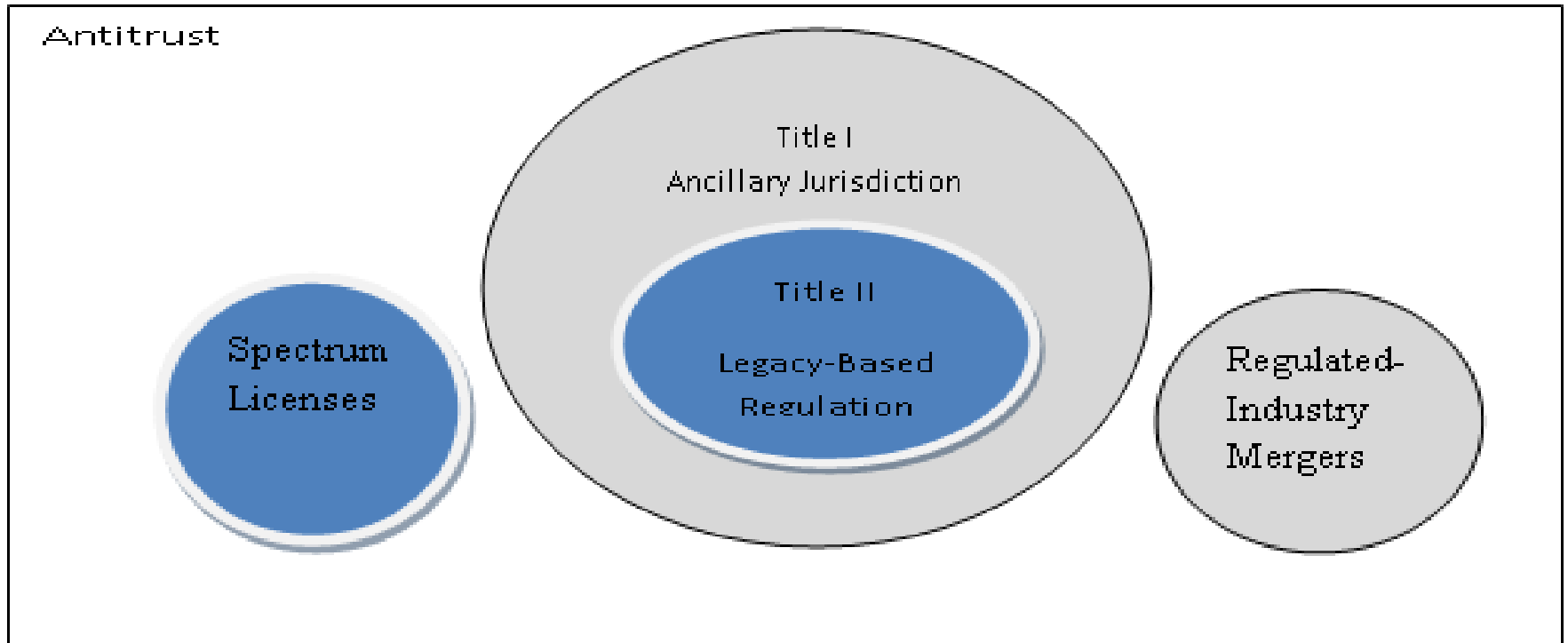
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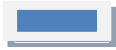
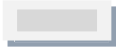
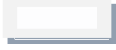
FTC Jurisdiction

- 1. FCC uses Title I
 - Trinko? Some FTC limits.
- 2. FCC uses Title II
 - Common Carrier Exemption
FTC excluded

Regulatory & Antitrust Boundaries



Key:

-  -- Blue is the area of greatest regulatory (i.e. FCC), jurisdictional strength
-  -- Grey is the area of shared regulatory and antitrust jurisdiction
-  -- White is the area of sole antitrust jurisdiction; no regulatory jurisdiction

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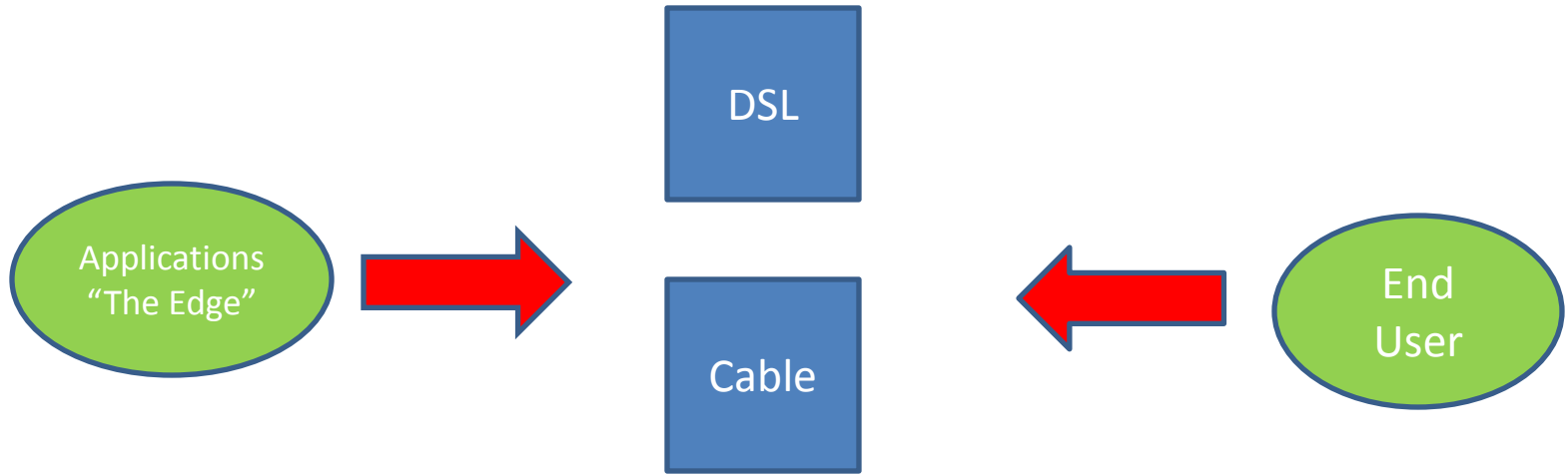
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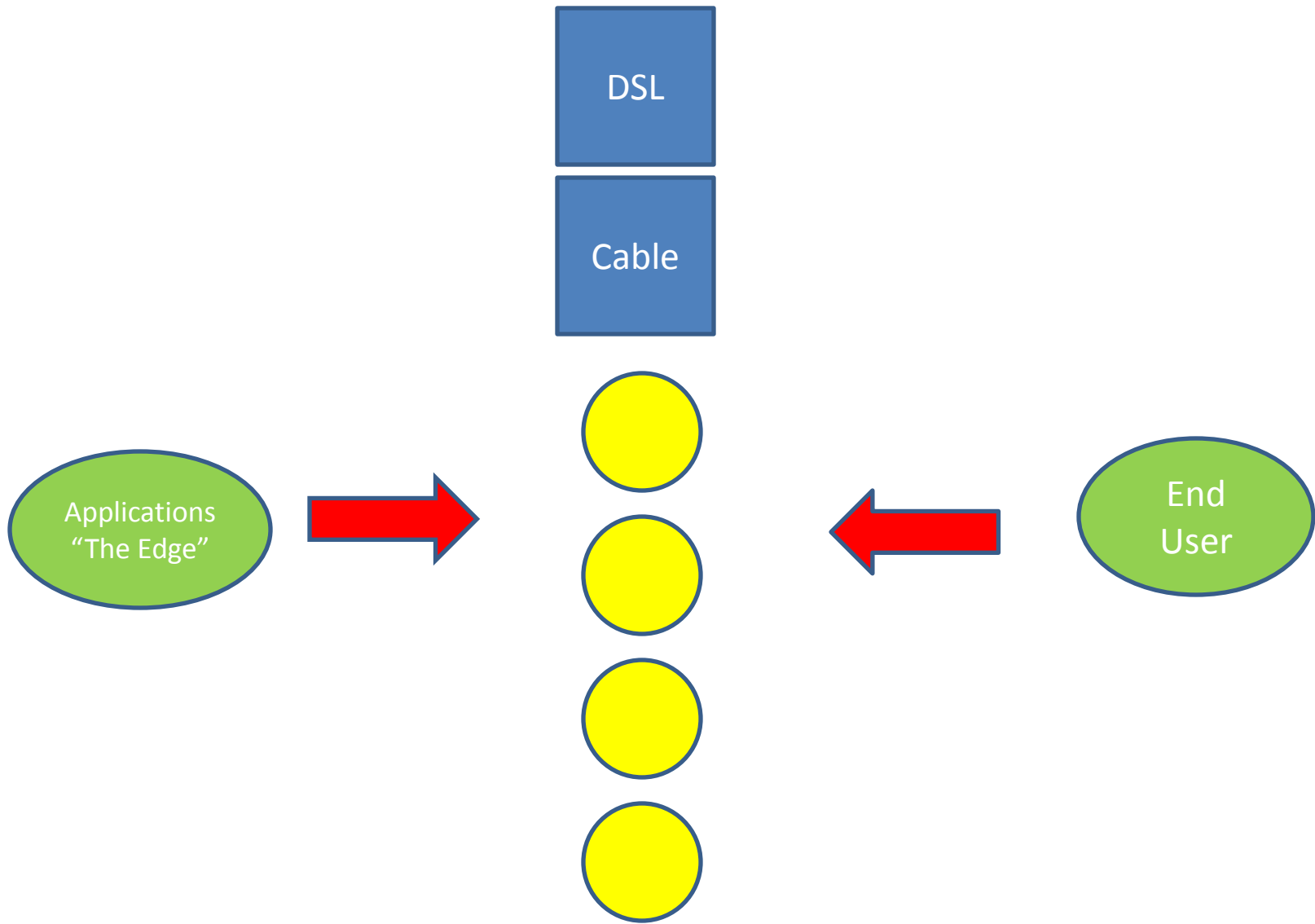
Why this area of the ecosystem?

Why not include wireless?

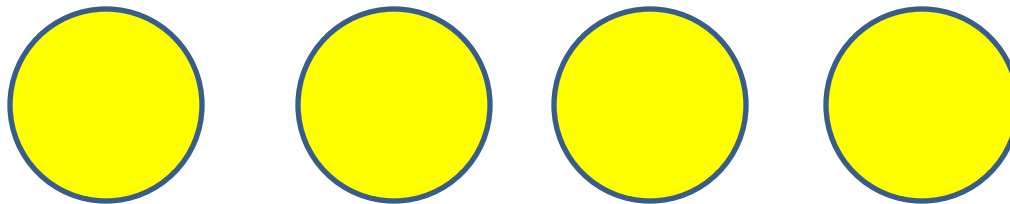
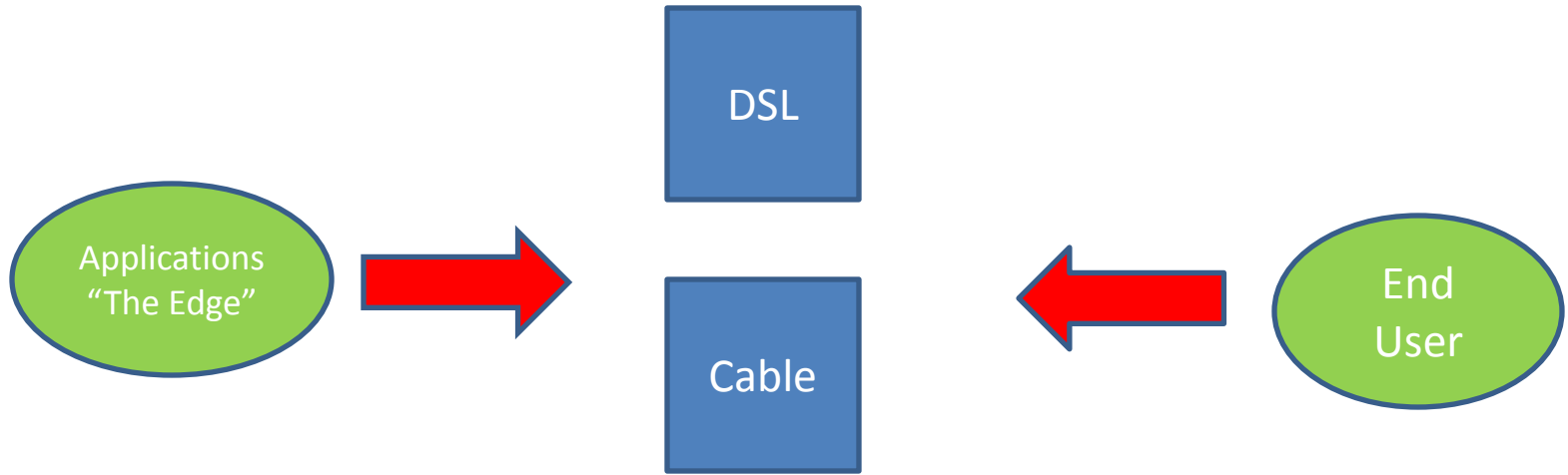
- (1) Identification of consumer harm:
Is there market power abuse or
anticompetitive vertical restrictions?
- (2) Identification of the costs /
benefits: Type I versus Type II
errors



The Duopoly
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The Duopoly & Wireless?
Bottleneck



Separate Market

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Empirical Analysis of Past
Regulation

Implications

Empirical Analysis of Past Regulation

If Title II is the answer, is there empirical evidence that Title II regulation will lead to superior results?

Examples:

What is the effect of regulating “fair and reasonable” prices?

What is the effect of regulating interconnection (wholesale prices)?

What is the effect of entry?

Regulatory Framework

Pre-1993

Federal	State
No Price Regulation	Retail and Wholesale Price Regulation
2 Entrants Licensed per MSA	Final Entry Approval
	Terms and Conditions

Post-1993

Federal	State
PCS licensed – up to 7 licenses per MSA	No rate regulation
	Some terms and conditions

Log of Price Regression Model with Regulatory Differentiation

Regulatory Variables	<i>Full Reduced-Form Model</i>		<i>Full Model with Regulatory Differentiation/ Wholesale</i>	
	Estimated Coefficient	Standard Error	Estimated Coefficient	Standard Error
RegLow	.0555**	.0256		
RegHigh	.0401	.0448		
DTwo	.0475**	.0239		
RegPCPR	.0684***	.0450		
RegLowWC			.0534**	.0258
RegLowW			dropped	
RegHighWC			.0318	.0535
RegHighW			.0531	.0617

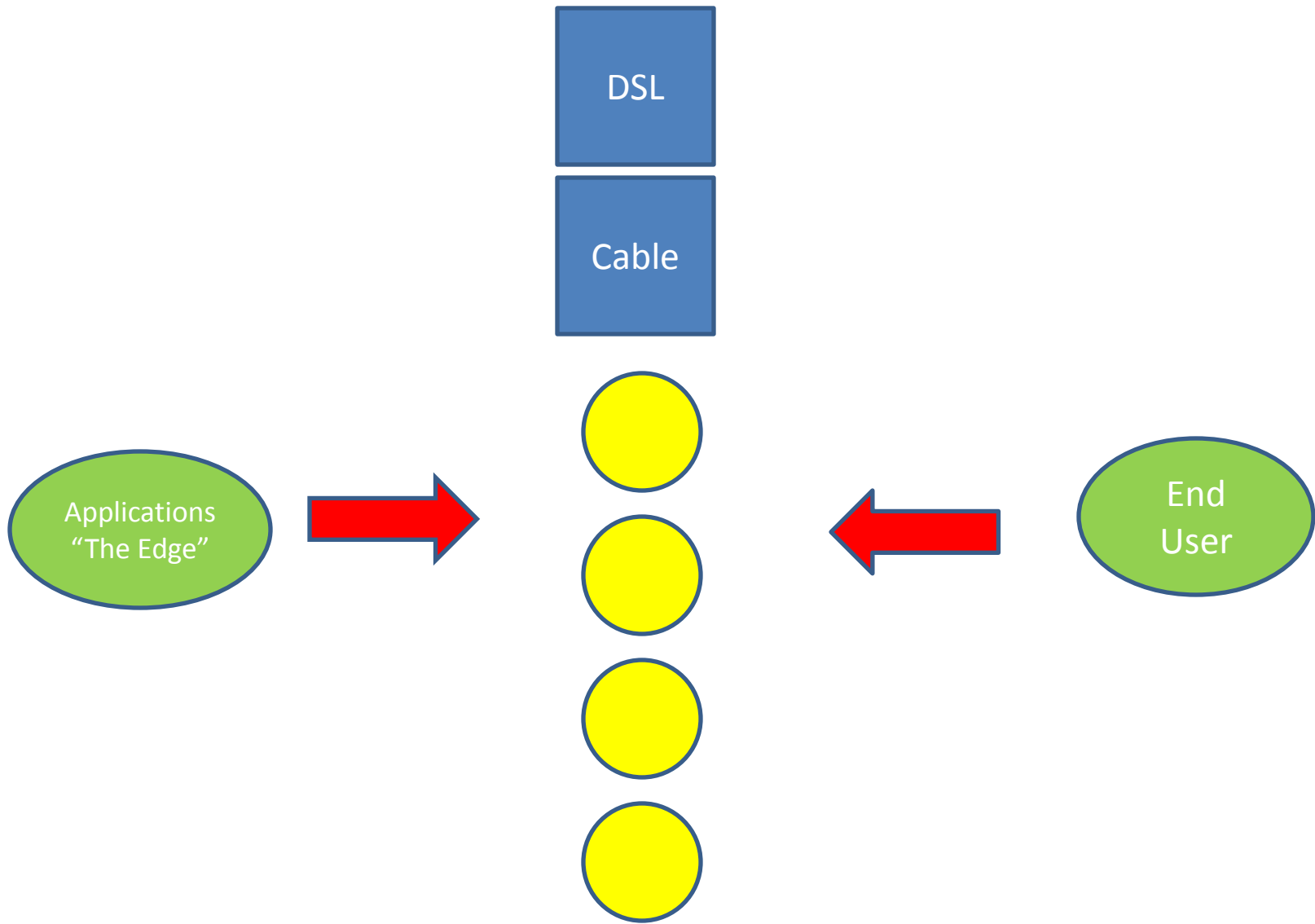
* Significant at 99% confidence level
level N = 440.

** Significant at 95% confidence level

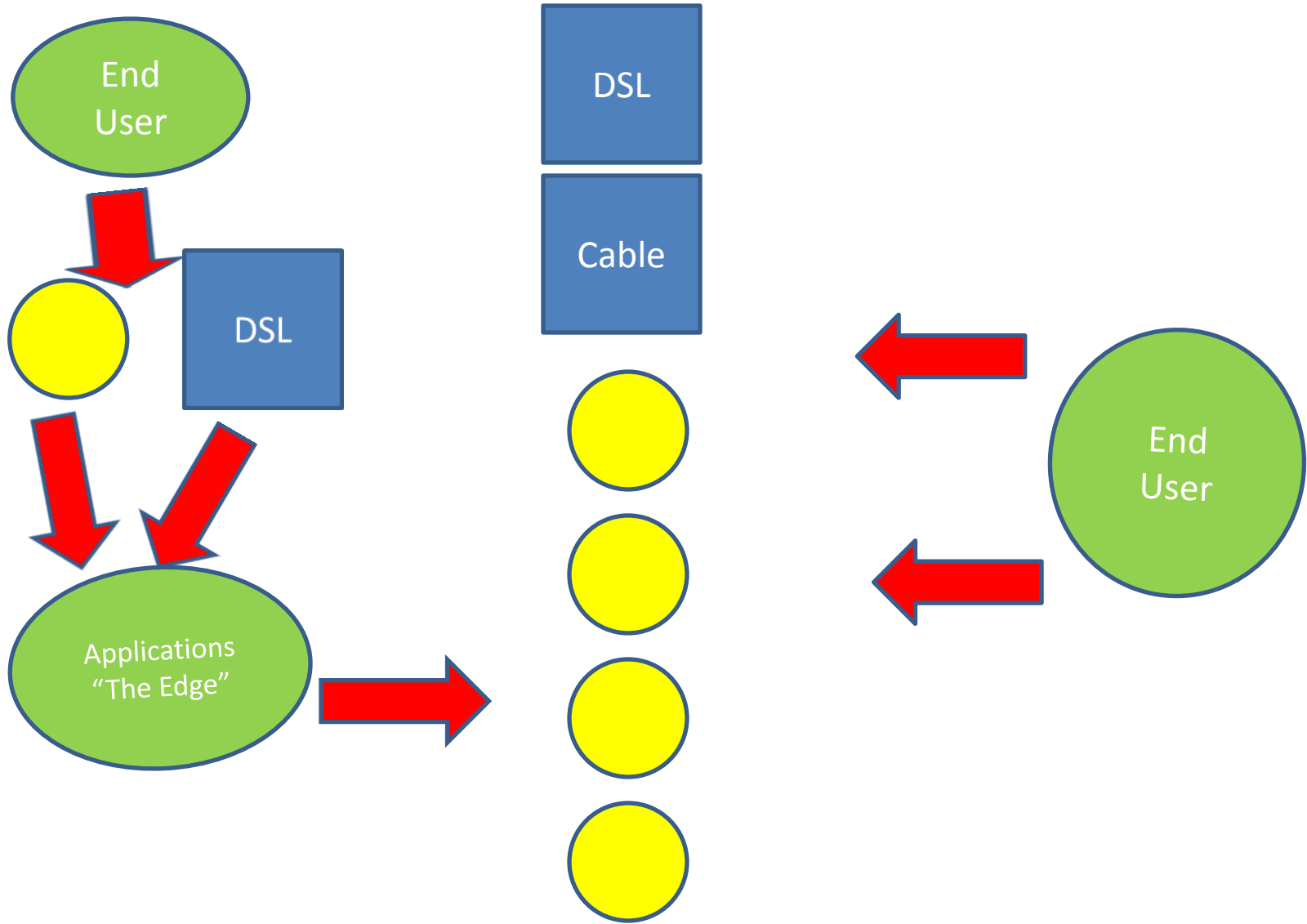
*** Significant at the 87% confidence

Possible Policy Implications from Title II Experience

1. “High,” levels of regulation may not lower prices
 - Links to both consumer welfare analysis and FCC jurisdiction
 - P decreases, Broadband Adoption increases --FCC §706 jurisdiction based in increasing deployment
2. Market entry has positive consumer welfare effects.
3. Consider use of ex post antitrust enforcement or antitrust “style” regulation to control anticompetitive vertical restraints.
4. Possible negative international regulation reaction to a US Title II regime
 - what is considered *fair and reasonable* in US may not be in other countries (foreign telcos v. US applications)
5. Strict structuralist view of market limited; may lead to Type I systemic errors when used to justify ex ante regulation



The Duopoly & Wireless?
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“multi-level” bottlenecks?