



Press release

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Page 1 of 3

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Bundesnetzagentur presents draft of future access regulation

Jochen Homann: "We are starting a paradigm shift in regulatory activity"

The Bundesnetzagentur has today published its draft decision on the general conditions under which telecommunications companies can gain access in the coming years to Deutsche Telekom's local loop, also known as the "last mile".

"The Bundesnetzagentur is setting the course for faster fibre optic expansion in Germany," announced Jochen Homann, Bundesnetzagentur President, at the commencement of the consultation on future regulation. "Access to Deutsche Telekom's fibre network - unlike that of the copper network - will not be regulated ex ante. This is a major step forward and a cue for Deutsche Telekom to expand its fibre network swiftly. In return, Deutsche Telekom must offer its competitors the use of its fibre network at the same conditions accorded to its own marketing organisation. In the event of anti-competitive behaviour, however, the Bundesnetzagentur does reserve the right to intervene."

"The Bundesnetzagentur expects Deutsche Telekom and its competitors to take advantage of the new market regime to increase their investment in fibre optic networks significantly. This rolling back of regulation is a paradigm shift that shows that the Bundesnetzagentur can respond flexibly and ingeniously to new market developments," Homann continued.

"Light regulatory regime" for optical fibre

The Bundesnetzagentur has floated the prospect of not wanting to regulate the new fibre network as intensely as Deutsche Telekom's copper network, which had accrued from the former monopoly. The draft regulatory order provides for a "light regulatory regime" for the new gigabit networks.

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Bonn, 11 October 2021

Seite 2 von 3

The charges paid to Deutsche Telekom, which still dominates the market, by other telecommunications providers for the use of its fibre networks are to be reviewed in the event of anomalies. It will be possible to dispense with ex ante controls.

Non-discriminatory access to Deutsche Telekom's fibre networks is to be secured by a non-discrimination obligation following the Equivalence of Input principle. The new approach basically provides for other companies to obtain access under the same system and process conditions as those available to Deutsche Telekom itself.

To encourage the greatest possible expansion of fibre optics, the planned regulatory framework also provides for more extensive access to ducts. This will speed up network expansion and save on unnecessary civil engineering costs. The charges for duct access will be subject to authorisation, as is the case at present.

Regulation of copper networks

The regulation of copper networks is essentially to be maintained. In this connection, however, Deutsche Telekom has a new obligation to announce any migration to fibre networks caused by dismantling the copper infrastructure in good time and to disclose its migration plans.

The Bundesnetzagentur has not imposed any requirements on Deutsche Telekom as to whether and when it has to shut down its copper network. Migration is a complex commercial process in which the authority may not become involved through state planning and mandating. Instead regulatory activity will focus on making the migration clear for users, consumers and other providers sufficiently in advance.

The long-term agreements reached in spring 2021 between Deutsche Telekom and its biggest access seekers also apply to its copper network. The agreements likewise provide a highly promising basis for both sides for a fast transition from the copper network to the fibre networks of Deutsche Telekom and its competitors. In light of the agreements, a strict pricing



Bonn, 11 October 2021

Seite 3 von 3

regulation that requires the approval of charges can be waived. The less intense regulation when compared to the regulatory regime thus far will also facilitate investment in fibre networks.

Consultation on the draft decision

The Bundesnetzagentur is making its regulatory proposals known in anticipation of the Telecommunications Legislation Modernisation Act that enters into force on 1 December 2021 and intends to make direct use of its new regulatory tools to encourage rolling out fibre networks.

The complete report has been published on the Bundesnetzagentur's website at www.bundesnetzagentur.de/bk3-19-020. Stakeholders have until 15 November 2021 to respond in writing. A public hearing will be held on 3 November 2021 before the ruling chamber.

The Bundesnetzagentur is an authority under the responsibility of the Federal Ministry for Economic Affairs and Energy. Its core tasks include supervising the energy, telecommunications, postal and railway markets.

As part of its mandate, the Bundesnetzagentur ensures that as many undertakings as possible can use the infrastructure in these sectors so that consumers benefit from competition and favourable prices.

The authority employs over 2,900 people at its headquarters in Bonn and Mainz and its 46 regional offices.

