

Modern broadband networks are a precondition for participating in the society, economic growth and for Germany's international competitiveness. It is therefore crucial that the focus in politics and business is on which specific legal and regulatory framework conditions are suitable to promote an efficient and successful broadband deployment successfully.

Common Goals must be:

- 1.) To connect the last municipalities and districts not yet developed as soon as possible with basic broadband service of at least one to two Mbps.**
- 2.) To roll out in the future fiber-based high-performance networks as broadly as possible in rural areas and urban centers alike into buildings and homes (“FTTB / FTTH”) to ensure a robust mobile Internet access in all regions in a competitive way.**

We would like to explain briefly which measures should be implemented and promoted to achieve these goals and to address currently highly disputed questions, such as an **universal broadband service** and the **regionalization of regulations**.

Immediate guarantee of a basic broadband provision and steps to migrate to fiber-optic lines.

The past year 2010 yielded some great successes in relation with bringing broadband service to underserved areas. In particular the broad usage of the “Digital Dividend” which commences this year and the increasing flexibility of the usage of frequencies in the area of the 900 MHz-spectrum gives rise to the assumption that the vast majority of “white spots” can be closed.

We further assume that due to the current state of technology a bandwidth with approximately 100 MBit/s can be realized with the LTE-Aerial-Link. However, this technology is - like many other technologies - a shared Medium. This means that the data transfer rates that are available for the individual customer may decrease according to the number of users and other physical circumstances.

In light of the current technological development so far one can assume that the bandwidths of LTE are going to increase further, given that in the past a more efficient use of the spectrum has been achieved this way despite limited resources of frequencies.

Of great importance is the reference to other wireless technologies, which are not related to cellular communications, such as Wimax, Pre Wimax or WLAN. Over the last few years great progress has been made in these areas, and the bandwidths could even be doubled within short periods of time. As a rate of 512 KBit/s was the standard a few years ago, now a standard rate of up to 6 MBit/s is commonplace.

After the successful launch of the KA-satellite the transfer rates via satellite will increase dramatically. Transfer rates of up to 10 MBit/s (download) should be achieved on a regular basis. The envisaged launch of further KA-satellites should secure a successive extension of the bandwidths according to customer demand. In context of satellite-communication it is noteworthy that the capacities are exclusively dedicated for Internet usage and not - as it is the case e.g. with DSL and FTTH - for the transmitting TV contents at the same time that would stifle other uses due to its spectrum demands.

Area-wide fiber-networks into buildings and homes (FttB/FttH)

The common goal of policy and economy should be the timely and area-wide implementation of FttB and FttH in urban centers and rural areas alike. It is clear that this can only happen over a longer period of time and by using all cost saving potentials, synergy effects and possibilities for migration. To decrease the costs of FttB and FttH implementation, especially in rural areas, the first measure should be the installation of empty ducts and pipes in all current construction projects, for instance, by utilities and their municipal service providers.

To ensure an efficient broadband extension with costs as low as possible and an economical approach with realistic prospects for making profits, a high utilization rate and network use by the costumers are essential. Such a demand can only be boosted significantly by competition and fair access such as e.g. Open Access.

The main task in the context of the current legislative procedure for the German Telecommunications Act's ("TKG") revision and beyond for the forthcoming years will be to identify all the synergies and cost-savings and use them to safeguard fair competition by providing fair access for the competitors. Under no circumstances should this process lead to a re-monopolization of the German telecommunications market or to a duopoly of Deutsche Telekom jointly with another company.

In the TKG's ministerial bill, there are various rules and regulatory instruments that are quite suitable to improve the investment conditions. In particular, it contains a proposed access requirement to inactive network elements such as conduits that should be very relevant to ensure the fiber-based connectivity of mobile antenna sites in rural areas. In addition, we welcome the possibilities in the bill for sharing of in-house wiring.

It is important that, wherever possible, the entire available passive infrastructure is put to use. This relates primarily to infrastructure from companies with federal participation or companies owned by the municipalities, such as the Federal Railway, utilities, highways or waterways. This will lead to cost reductions yielding a maximum economic benefit.

We observe that there is ample room for improvement for the obligation to install empty pipes and ducts that encourage FTTB or FTTH construction during construction work that is already taking place. There are reasonable approaches for this, for example, in the state of Baden-Württemberg. Federal uniform rules should be examined urgently.

Since this FTTB / FTTH expansion requires investments of over € 100 billion, all cost savings and synergy effects must be put to use to promote this goal. Primarily in rural areas, a forward-looking conduit and pipe installation obligation for construction project that are already required for other reasons is very significant.

Even if these framework conditions improve, a realistic assessment indicates that they are not sufficient to ensure a return on investment coming from a complete fiber-optic network expansion in all regions. In certain areas tax subsidies will not be avoidable. These subsidies should in no way mean that investments by competitors be devalued. In addition, subsidies for the wholesale pricing should be taken into account to reduce the costs.

Universal service for broadband slows down the extension of broadband services and increases the costs.

In macroeconomic terms, imposing universal service obligations is a serious regulatory intervention, which in principle should only be considered as a means of last resort if competitive solutions fail. Regardless of the fact that the conditions under the EU legal framework for the introduction of a broadband universal service are not fulfilled, the possibilities of the market forces to deal with the situation are by no means exhausted. As mentioned before, the year 2010 has yielded some great results in closing of “white spots.”

The VATM expects, in particular by making use of the Digital Dividend for broadband that commences this year, that the vast majority of "white spots" can be closed. Against this background, one should rather wait for the expected results, given that the legal conditions of the recent frequency auction impose strict standards on the mobile phone companies for making the development of rural areas a top priority.

It does not make sense to pursue in parallel with great haste new universal service strategies that would undermine any possibility of a reasonable return on investment for the mobile providers' build-out using the Digital Dividend. Even if one already commences with creating the legal basis for a universal broadband service in Germany right now, its statutory implementation would easily take at least two years. At the very moment when the date of an universal broadband service as a policy goal is communicated, many expansion plans would be put "on hold". To make matters worse, all individual efforts of the local communities would come to a grinding hold if one could count on a government-subsidized development on a larger scale.

By introducing an universal service the costs of the further build-out of broadband would increase drastically as in many areas the possible build-out by private companies would be abandoned for a inefficient mandatory build-out.

In conclusion, we do not deem the introduction of a universal broadband service suitable. Instead we recommend useful and well-focused subsidies for areas that are difficult to reach.

Regionalization of regulation is no instrument to enhance broadband build-out.

The regionalization of regulation is a very sensitive topic of the ongoing general debate. The ministerial bill to the current TKG revision stipulates that the Federal Network Agency must respect already existing requirements under the law to consider regional characteristics. Beyond this, there is no general obligation imposed by the law on the regionalization of the markets, which we applaud. Introducing such a requirement would clearly be contrary to the European legislation that allows for an examination, but not for a prior specification imposed by the law of regionalization, irrespective of the national or regional circumstances.

Moreover, the regionalization of regulation does not create any additional investment incentives. Rather, it would lead to a significant regulation on a small-scale, significantly more complex level. Another crucial argument against regionalization of the regulation is that it almost inevitably leads to a further widening of the urban-rural gap.

Therefore, regionalization of regulation as a general obligation is currently not suitable from anyone's perspective to solve the problem that broadband coverage is not yet available nationwide and does not promote the development of state-of-the-art fiber optic networks.

Determinations reaching too far into the future can inflict harm on investments.

Planning safety is a pre-condition for companies and investors and furthers investments. Therefore, a reliable policy by the federal government is crucial, but it cannot mean, given the dynamic market of telecommunications, that strict regulations should linger over a long time period.

We strongly oppose particularly the suggestions to oblige the Federal Network Agency to render a compulsory and detailed statement regarding later regulations prior to planned investments. Apart from its non-compliance with EU regulations, the development of the real market is difficult or even impossible to predict: evidence for this are the market penetration and build-out of DSL, VDSL or UMTS. Furthermore, such a regulation puts the independence of the Federal Network Agency in peril. The crucial point is that regulations must be sufficiently nimble to react to the market conditions to sustain competition and thus enhance innovation and investments.