

EU Telecom rules: Where are we now?



During 2006 the competitive situation further improved on most of the fixed line markets in Germany. In the mobile market, further significant changes were seen in retail prices, with new operators providing only basic services entering the market. The broadband retail market became much more competitive, also due to increased resale-based offers. Consumers continued to benefit from further falling prices, in some instances triggered by developments on the markets rather than specific regulatory intervention.

As regards regulation, the German National Regulatory Authority (NRA), BNetzA, completed important market analyses, such as those for the mobile call termination and wholesale broadband access markets. However, there were also some delays in completion of significant market analyses.

The issue of how to regulate “new markets” was first discussed and finally addressed in Germany by inserting a new provision in the Telecommunications Act which, in the view of the Commission, would grant a “regulatory holiday” to the incumbent fixed network operator. In addition, this provision would decrease the discretion of the German NRA and would evade the consultation and consolidation mechanism provided for by the Telecom Rules. The Commission therefore launched fast track infringement proceedings.

Overview

Broadband

The market situation improved compared with the previous year. This was mainly because alternative operators were able to increase their market shares concerning retail access significantly. Moreover, retail prices fell considerably.

In October 2006 the broadband penetration rate was 16.4% (up from 11%). Cable continues to be used mainly for television, but the cable network operators have slowly begun to offer broadband internet services and have reached a market share of just 3.2%. However, there is a clear trend towards more growth.

The alternative operators' share of the DSL retail lines market has increased significantly, from 33% in October 2005 to 47.2% in July 2006. However, a closer look at these figures demonstrates that this positive development is largely based on resale products from the incumbent and would obviously not be so good if resale were excluded. If new entrants' DSL resale lines were included in the incumbent's market share, this would still add up to 71% in July 2006.

Mobile

Mobile penetration was 101% in October 2006 (up from 92%), and there were 83.1 million subscribers. There were four mobile network operators and eight main mobile service providers on the market. The overall market share

of the subsidiary of the incumbent fixed network operator was 36.9% in July 2006 (37.7% the year before). The main competitor held an almost identical market share with 35.6% (37.2% the year before). The third mobile network operator had 14.7% and the fourth 12.8%.

Fixed telephony

On the basis of retail revenue and minutes of outgoing communications, the incumbent fixed network operator's market shares of all types of calls decreased further. On the basis of retail revenue, alternative operators' market shares increased from 25% to 31% for local phone calls, from 37% to 43% for national phone calls and from 60% to 61% for international calls, while their share of calls to mobile rose from 39% to 43%. Alternative operators' share of the market for all local calls on the basis of outgoing minutes increased significantly once again, from 34% to 60%.

Carrier (pre-) selection is broadly applied and the fact that the incumbent fixed line operator also collects the charges for call-by-call connections made through its competitors makes it attractive for customers to use carrier selection.

Broadcasting

In the German TV and radio market end-users mainly use cable (55% of all connections) or satellite (40% of all connections) to receive the radio and television signal. Analogue terrestrial TV has virtually ceased to exist as an alternative access platform (around 2% and still falling), while digital terrestrial television (DVB-T) has not yet

reached critical mass (around 3% of all connections). Both television via ADSL ("IPTV") and UMTS account for less than 1% of all connections and are considered by BNetzA

as still nascent alternative platforms for delivery of the television signal.

Important consumer information

Tariff transparency	The consumer protection association regards the lack of transparency of tariffs as a problem, in particular in the case of mobile tariffs. The situation is reported to be even worse with international roaming tariffs or tariffs for international calls.
Universal service	The previous implementation report pointed out that the new TKG appears to limit the NRA's regulatory discretion and powers. The Commission's concerns have now been addressed in the law amending provisions of the TKG which was adopted at the end of 2006.
Emergency services	Since 112 has been in use in Germany for decades there was no need to run special awareness-raising campaigns. With the introduction of the GSM telephone service and international roaming German citizens were informed by GSM network operators that 112 is used in many European countries. Before the holiday season telephone bills sometimes include a hint about emergency numbers in foreign countries.
Number portability	In 2006 there were more than one million ported mobile numbers, approximately 350 000 more than in the previous year. The average period before the ported number is operative with the new operator was five working days, as in previous years.
Must-carry	Must-carry is regulated in all sixteen Federal States ("Bundesländer"), some of which designate all analogue channels for must-carry. In a few Bundesländer the stations that take part in terrestrial digital TV provision (DVB-T) appear to receive must-carry status for analogue provision via cable, and restrictions are regulated in law and in the cable allocation statutes of the Bundesländer. Some must-carry rules have been called into question by market players. In October 2006 the Commission initiated an infringement proceeding against the legislation of four Bundesländer, without prejudice to the must-carry rules or application of these rules in the remaining Federal States. One of the grievances addressed is the general obligation which has the effect that all available cable channels are reserved for stations identified by the Federal State.
Data protection	Due to inaccuracies and deficiencies in the German law transposing certain provisions of the ePrivacy Directive, the Commission initiated an infringement proceeding against Germany. The Commission's concerns have now been addressed in the law amending the TKG adopted at the end of 2006.

Infringement proceedings pending under the EU Telecom Rules: 4

For further information:

Info Desk
 European Commission
 Information Society and Media Directorate-General

E-mail: info-desk@ec.europa.eu

Tel: +32 2 299 93 99

http://ec.europa.eu/information_society/