


# New Markets and Regulatory Forbearance



Dr Klaus Mueller  
Executive Vice President  
Group Regulatory Strategy  
Deutsche Telekom

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# New Markets and Regulatory Forbearance

## The initiative of Deutsche Telekom

Point of departure: challenges and market problems in 2005

The FTTC/VDSL2 project of Deutsche Telekom

FTTC/VDSL2 services are new so that regulatory forbearance is justified

How the regulatory forbearance rules work



Misguided regulatory policy kills investment incentives and thereby jeopardizes ICT industry being one principal driver of productivity and economic growth

## Status of ICT Industry in Europe as of late 2005

- Decline in network investment incentives
- Ironically when upgrade to IP technology-based NGNs
- Europe running the risk of falling behind

It's high time for an exit strategy. As a first step, new/emerging markets should be left unregulated.

Potential new/emerging markets: e.g. FTTx/VDSL2, VoIP, Content-based services on NGNs, ...

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Viviane Reding, EU Commissioner, i2010 Conference, 06 Sep 2005: "The review will also be an opportunity to see whether we can further encourage investments in new high speed infrastructures ... . I will certainly be looking into the question of a regulatory moratorium for the creation of next generation networks, ..."

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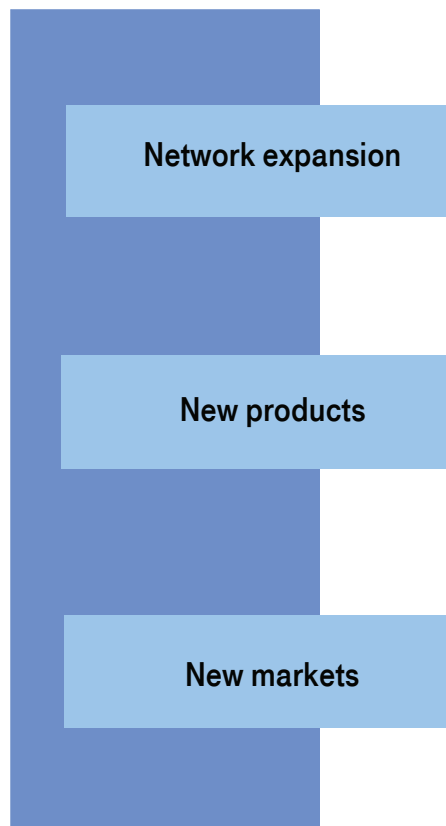
Framework Directive, Art. 8, 2c: "The NRAs shall promote competition ... by ... encouraging efficient investment in infrastructure, and promoting innovation; ..."

Recommendation on Relevant Markets, §15: "... (N)ew and emerging markets, in which market player power may be found to exist because of 'first mover' advantages, should not in principle be subject to ex ante regulation."



# The FTTC/VDSL2 deployment is the most complex and innovative project of the fixed line unit of Deutsche Telekom since digitalisation

## T-Home Speed



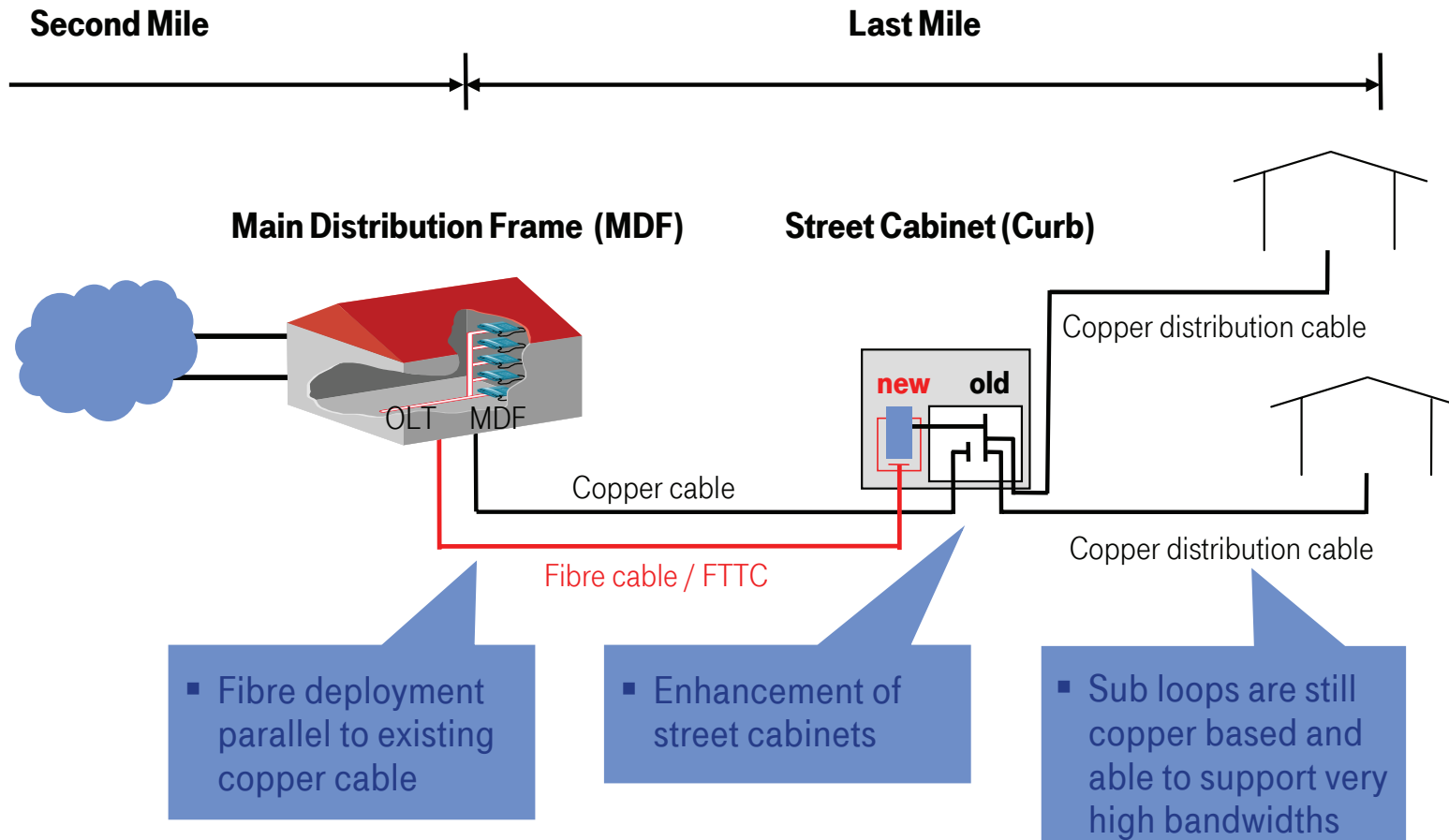
- € 3 bn capex in FTTC network
- Bandwidth of up to 50 Mbps
- 18,000 km of fibre cable
- 74,000 new optical street cabinets
- 50 cities
- Television of the future (IPTV)
- Quality enhancement (HDTV)
- Attractive content (Bundesliga)
- 3-Dimensional TV
- Access to new costumers
- Telcos will develop interactive 3play
- Enabling of mass customization
- e-Learning, -Health, -Government, -Procurement (Information Society)



# Extension of the Access Network Infrastructure



## T-Home Speed



# FTTC/VDSL2 Rollout Planning



## T-Home Speed



- Phase 1 - Midyear 2006:  
50% of households in the Top 10 cities
- Phase 2 - End 2006:  
90% of households in the Top 10 cities
- Phase 3 - From 2007:  
90% of households in up to 50 cities
- Further coverage depends on market development



**Rollout planning is conditional on both customers' demand and regulatory parameters**



# Full HD Interactive TV, Videophony and 3D applications will be the drivers for access link speeds

## Bandwidth demand

Bandwidth driver
Full HDTV requires 8 - 17 Mbps
Videophony requires 2 - 5 Mbps (symmetric)
3D-Videostreaming requires 20 - 25 Mbps

Example scenario	
Family with two kids:	
▪ 2 TV channel HDTV	16 Mbps
▪ 1 TV channel recorded (DVD)	2,5 Mbps
▪ WWW	2,0 Mbps
▪ Video telephony	2,5 Mbps
▪ Intelligent Home	1,0 Mbps

**Seamless channel switching needs 1,3 x normal bandwidth!**



Technological changes do not pop up - they emerge gradually, mostly via integration of existing technologies

What is a new and /or an emerging service?



The integration of fixed phones and portable radios made mobile phones new!







The intention of § 9a TKG is to provide incentives to invest even for regulated companies, by regulatory forbearance

## The New Market Rule in the German Telecoms Law

### Rule

§ 9a I (Regulatory forbearance of new markets)

...new markets in principle shall not be subject to regulation...

### Exception

§ 9a II (Regulation of new markets)

- if regulatory forbearance will discourage the long-term development of a sustainable competitive market, the Federal Network Agency can regulate a new market
- when imposing measures, the Federal Network Agency has to consider in particular the objective of promoting efficient infrastructure investments and innovations

### Definition of New Markets

§ 3 Nr. 12b: 'new market'

a market for services or products, which do not differ only insignificantly from currently existing services or products with regard to capacity, coverage, availability to larger user groups (mass-market ability), price or quality from the perspective of a reasonable customer, and which do not only substitute these

*Translation by Cullen International, official translation will be issued immediately after taking effect*



# Exemption from the regulation of new networks and new markets is compliant with the European Regulatory Framework

## New Market Concept of the EU-Framework

### Objective

- Framework directive (Art. 8 Abs. 2 lit. c): encouraging efficient investment in infrastructure, and promoting innovation

### Market Definition

- Market recommendation (Recital 15): new and emerging markets, in which market power may be found to exist because of “firstmover” advantages, should not in principle be subject to ex-ante regulation

### Intention

- Framework directive (Recital 27): guidelines will also address the issue of newly emerging markets, where de facto the market leader is likely to have a substantial market share but should not be subjected to inappropriate obligations
- Guidelines on market analysis (no. 32): premature imposition of *ex-ante* regulation may unduly influence the competitive conditions taking shape within a new and emerging market.
- Guidelines on market analysis (footnote 92): Article 14(3) of the framework Directive is not intended to apply in relation to market power leveraged from a ‘regulated’ market into an emerging, ‘non-regulated’ market. In such cases, any abusive conduct in the ‘emerging’ market would normally be dealt with under Article 82 of the EC Treaty.

Regulation does not help, but hinders innovation



## The Global Perspective on Infrastructure Investments

