

Press release

The Monopolies Commission presents its 13th sector report on competition in the telecommunications markets

"Achieving gigabit goals through competition!"

- **Extend mobile spectrum assignments for a maximum of three years and with conditions that promote competition.**
- **Allow infrastructure competition and open up fiber networks.**
- **Reduce the duration of proceedings at the Federal Network Agency.**

In its sector report published today, the Monopolies Commission makes **recommendations on how the German government's gigabit goals can be achieved through competition for the benefit of end users**. In order to ensure a competitive process for the copper switch-off and migration to fiber networks as well as future markets, the framework conditions should create investment incentives and promote competitive market structures in the long term. In fixed networks, infrastructure competition and access to fiber networks as well as consistent regulation of the copper networks are crucial. In mobile networks, a decision on spectrum allocation in the 800 MHz, 1800 MHz and 2600 MHz bands will set the course for competition.

Extend mobile spectrum assignments for a maximum of three years and with conditions that promote competition

At the end of 2025, part of the assignments for mobile spectrum of the three incumbent mobile network operators will expire. The Federal Network Agency will soon decide how to proceed with this spectrum. Common is to assign mobile spectrum by auction. However, the agency seems to favour extending the assignments by five to eight years. For once, the Monopolies Commission also considers an extension to be sensible. There are two reasons. Firstly, the mobile spectrum now expiring could be auctioned off in a few years time, together with other spectrum. Secondly, it should be foreseeable before an auction whether 1&1's mobile network roll-out will succeed as originally planned. However, the Monopolies Commission believes that the assignment extension should be as short as possible and cover a maximum of three years until the end of 2028. Furthermore, competitors' interests need to be considered. **"Even a short three-year assignment extension harms competition and should be mitigated by promoting competition,"** says the Chairman of the Monopolies Commission, Professor Jürgen Kühling. Therefore, the Monopolies Commission recommends obliging the three incumbent operators to grant competitors non-discriminatory access to their networks for the duration of the assignment extension. In addition, the interests of the fourth operator, 1&1, must be taken into account.

Allow infrastructure competition and open up fiber networks

In principle, the number of fiber networks that can be operated profitably in a given area in the long term can only be determined in the competitive process. The Monopolies Commission is of the opinion that not only network expansion competition is important but also price competition and that a ban on

duplicating fiber networks is therefore not useful. However, duplicating fiber networks can be problematic if it ultimately results in the partial or complete failure to roll out a fiber network in an area or delays it in the long term. In the event of abusive or unfair behaviour, the provisions of telecommunications and competition law can be applied. **"The rules of competition must be followed in the parallel expansion of fiber networks,"** says Professor Kühling. Freely negotiated open network access ("open access"), which should enable providers to access the networks of other operators in order to provide their own services, can help to avoid the duplication of an existing fiber network by a second fiber network operator. In the view of the Monopolies Commission, competition-friendly "open access" requires that all realisable wholesale products are offered at normal market conditions and uniform standards in Germany.

Reduce the duration of proceedings at the Federal Network Agency

Some of the current regulatory proceedings at the Federal Network Agency are associated with considerable delays. As this leads to lasting uncertainty for the companies affected, every opportunity to speed up the process should be utilised. In order to shorten the lengthy procedures, the Monopolies Commission recommends, among other things, the legislator to include additional deadlines in the Telecommunications Act within which proceedings must be concluded. In future, the Federal Network Agency should bundle procedural steps that were previously carried out separately into a standardised proceeding and direct more resources to the most important cases. The Telecommunications Act already offers room for manoeuvre in this respect.

The report is now available on the [website](#) of the Monopolies Commission.

The Monopolies Commission is a permanent, independent body of experts that advises the German government and legislative bodies in the areas of competition policy, competition law and regulation. Its legal responsibilities encompass, among others, the preparation of biennial reports analysing the development of competition in telecommunications markets. The Monopolies Commission has five members who are appointed by the Federal President based on a proposal of the German government. Prof. Dr. Jürgen Kühling, LL.M., is the Chairman of the Monopolies Commission.