More Fibre –
Less Bureaucracy

BREKO Position Paper

I. Status Quo

Nationwide fibre roll-out to the building and home across Germany is a common point of interest both for policy-makers and for BREKO's (Bundesverband Breitbandkommunikation e.V.) more than 210 network operators. The BREKO BroadbandStudy20 shows that the economically viable network investments performed by BREKO members is the driver of Germany's fibre expansion. Many investors are willing to invest in fibre infrastructures and collaborations between different companies show the potential this market. In 2019 alone, fibre investments by BREKO network operators amounted to € 2.5 billion. In total, the number of homes connected reached 3.6 million at the end of 2019. Despite considerable ongoing private investments and state aid from federal and state level, which ideally is allocated complementary to economically viable fibre deployment, there is still potential to further accelerate fibre roll-out.

Cities and municipalities are primary contact point for granting fibre roll-out permits in Germany. An overall lack of human and technical resources along with ambiguous interpretations of the relevant provisions of the German Telecommunications Act (TKG) and other related rules have led to protracted granting procedures and various ancillary provisions (Art. 68 (3) TKG). Moreover, obtaining various permits from different authorities (these include rights of way and excavation permits, monument protection, nature conservation and water resources law requirements, traffic regulations and involved forestry authorities) further prolongs the deployment of new electronic communication infrastructures.

The lack of digitisation, standardisation and coordination of the permit request and granting procedures thus leads to unnecessary delays in network deployment, to difficulties in the determination of necessary requirements and overall increases the network operator's efforts. Furthermore, companies can only instruct civil engineering companies once they can predict the completion of a permit granting procedure.

Additionally, the increase in fibre deployment activities also highlight the limited capacities in civil engineering. Fibre roll-out is a cost-intensive endeavour. Up to 80 percent of the investment costs are associated with civil engineering - or more precisely, with underground cabling.

Especially in the area of underground cabling, existing capacity limits are currently becoming evident. The increase in demand, while capacity levels have remained the same, limited among others by the shortage of skilled workers that cannot be increased in the short term, has led to a significant rise in prices in recent years. The capacities in underground cabling have not increased to the same extent as the planned deployment activities. This is a major reason for the currently slow fibre roll-out in Germany. To solve this problem, policy-makers need to give interested civil engineering companies long-term perspectives that allows them to plan and prioritise their resources for fibre deployment. It is therefore crucial to design future funding programmes over a longer period of time and to limit the annual funding amount.

Traditional civil engineering methods allow the deployment of up to 50 meters of fibre per day. This makes large-scale construction projects a challenge. Protracted building activity also puts a strain on local residents, businesses, and pedestrians. Moreover, acceleration of fibre roll-out is hindered since the process is time consuming and cost intensive. These factors demonstrate that slow deployment is not due to a lack of investment in fibre roll-out, which could be easily compensated with targeted funding programmes, but rather due to capacity-related bottlenecks in underground cabling, lengthy and inconsistent granting procedures, and a lack of human and technical resources in public administrations.

To accelerate and simplify the roll-out of fibre, BREKO proposes a number of practice-oriented solutions that could further improve the framework conditions for rapid fibre deployment in Germany. The following aspects could also help to improve the public acceptance of alternative deployment methods.

II. Permit granting procedure

With regards to the permit granting procedures, BREKO sees room for improvement in the relation between telecom companies and authorities. Some of these potentials are currently already being applied in some German districts and cities but have not yet been implemented nationwide.

1. One-Stop-Shop

BREKO's proposal:
Single contact unit coordinates request procedures at local & regional level – "One-Stop-Shop"

To decrease the administrative burden on local and municipal authorities, and to improve the coordination of fibre roll-out at municipal level, BREKO proposes to bundle the coordination and management of the permit granting procedures proposed in the German draft Telecommunications Modernisation Act (TKMoG): a One-Stop-Shop, i.e. a local central point of contact in charge of the fibre deployment. The coordinating unit gives technical expertise at municipal level, supports the relevant authorities and helps with dispute settlements. This would help to lift the burden on municipal authorities and to streamline the permit granting procedure. Simultaneously, the granting procedure should also be further standardised and simplified.

2. Digitisation of permit granting procedures:

BREKO's proposal:
Electronic permit request and granting procedures now!

BREKO supports the digitisation of administrative procedures planned with the Online Access Act ("Online-Zugangs-Gesetz" – OZG), which aims to create an internet-based service portal that can be used across federal states and by different administrations when applying for fibre deployment permits according to Art. 68 TKG (or in the future Art. 122 TKG-E (Draft Telecommunication Act)). Digital administrative procedures that can be used by federal states and administrations to accelerate permit request and granting procedures. When combined with additional standardisation and simplification efforts, this allows the synergetic use of personnel and other resources within the administrative processes to accelerate fibre deployment in the long term. For example, video conferences and digital photos of building sites can often replace time-consuming physical meetings.

Practice has shown that the roll-out speed of electronic communication infrastructures can be significantly increased in municipalities which have successfully implemented digital solutions and have established a central contact point. We very much welcome such best practice examples.

In some larger cities in North Rhine-Westphalia, it is already possible to digitally submit complete permit requests for fibre deployment projects to a single public authority. This authority in return automatically involves any other relevant authorities. As such, well-prepared requests can often be handled and responded to at a faster pace, before the end of the statutory three-month time period.

3. Deadlines:

For the deployment of fibre in public spaces, Art. 68 (3) TKG states that the tacit approval of the road maintenance authority shall be presumed in the absence of an official response within a period of three months. In theory, this rule makes sense, however building authorities often ask for additional information at the end of the three months, which prolongs the approval procedure. In this regard, the planned regulation in Art. 124 (3) TKG-E comes useful, which considers a request to be complete one month after its submission if the authority does not object in the meanwhile. A One-Stop-Shop rule and a structured procedure facilitated by fixed deadlines, would allow companies to improve their planning and the required civil engineering capacities.

BREKO's proposal:
Respecting deadlines within granting procedures!

In some cases, authorities do not meet the agreed deadlines. These include, for example, acceptance dates which are crucial to complete a project. Thus, there should be an increased awareness among authorities of the importance of these deadlines in order to avoid delays in fibre roll-out.

4. Identification of building owners:

Identifying individual households is currently an enormous practical undertaking for the companies deploying networks. At present, the enquiries about household-related addresses differ considerably from one municipality to another and collective enquiries are not always possible. This makes the endeavour not only very time-consuming, but also very costly, as the municipalities often have different fee models. BREKO therefore supports a standard procedure for household-related address enquiries. Such a process is described in the model contract for funding areas that are economically unviable by private means within the framework of the German federal broadband funding scheme. Proper implementation requires address lists with not only addresses but also the corresponding households for each address (household-related address lists). To this end, for example, the customer address register of waste disposal companies or the addresses provided by the Federal Office of Geodesy and Cartography could be useful. BREKO supports the idea of providing household-related address registers for free, not only for publicly funded, but also for privately funded deployment.

BREKO's proposal:

Municipal address registers identifying households!

5. Deploying fibre under agriculture roads and field paths:

In practice, there are major barriers to deploying fibre under agriculture roads and field paths. Generally, municipalities only condone the deployment within the framework of Art. 76 TKG. Individual agreements not only have high one-time fees, but also often prohibit alternative deployment methods and require extensive surface improvements compared its original state, i.e. elaborate gravelling. The currently available draft of the TKMoG does not address this issue under the section "right of way", referring to the right to access and utilise another person's grounds, but rather in the context of land encroachment. BREKO welcomes that the use of public agriculture roads will receive a secure legal basis by incorporating it to Art. 131 TKG-E. It is also a positive development that fees for access extending beyond Art. 131 (3 p. 2) TKG-E cannot be claimed for publicly owned land and for connections to buildings.

BREKO's proposal:

Standardising the deployment of fibre under agriculture roads and field paths!

6. Waterway crossings:

Waterway crossings also requires a minimum standard in order to give case-by-case decisions a better structure. Thus, the federal states should define standards, which only need to be submitted to the municipalities or water authorities/associations for approval. Separately, sufficient empty ducts for fibre cables should be planned for newly constructed bridges.

BREKO's proposal:

Standards for waterway crossings!

7. Traffic regulations:

Municipalities should use their authority to minimise permits under the traffic regulation[1] and accelerate processes. This could be achieved, for example, by harmonising procedures through framework contracts in the form of "annual permits". Moreover, the approval period of 3 months provided by Art. 77 TKG should be met. A standard should be defined to determine which of the measures are subject to approval, as there are different ways in how municipalities handle this at the moment.

BREKO's proposal:

Use authority to accelerate permit granting under the traffic regulation!

[1] In DE: Verkehrsrechtliche Anordnung (VAO)

8. Proven alternatives to traditional civil engineering methods:

BREKO's proposal:
Increasing the use of alternative deployment methods!

To accelerate the deployment of fibre networks and to ensure the efficient use of existing underground cabling capacities, there needs to be a much higher local acceptance for the use of alternative deployment methods. One of the advantages of alternative deployment methods, amongst others, is that they use a special technique to cut narrow trenches or slots into the ground that allows them to deploy microducts or fibre optic cables at a shallow depth. In practice, alternative deployment methods, such as milling, (wash)-boring or ploughing techniques, ensure a quality level that is comparable to traditional civil engineering methods, while allowing the deployment of longer routes within a shorter timeframe at a comparatively lower building effort. Local building authorities should be made increasingly aware of the possibilities arising from deployment laying methods, to put them on an equal footing in the future.

9. Provide human, financial and technical resources:

BREKO's proposal:
Sufficient human and technical resources for cities and municipalities!

In order to accelerate permit procedures, cities and municipalities should be provided with the necessary human, financial and technical resources to properly address and implement the practice-oriented proposals in this paper. For this means, the federal states should allocate the financial resources to support city and municipal authorities.