

## **Impact of the Vodafone / Unitymedia merger on the German telecommunications market – planned merger not approvable**

### **Vodafone and Unitymedia already receive exclusive conditions on TV broadcasting rights**

Already now, Vodafone and Unitymedia are the only operators in Germany receiving transmission fees from public sector broadcasters. This is a clear sign of their dominant market power giving them a significant competitive advantage towards smaller operators. The merger would even increase Vodafone's power on the market for the licensing of TV and other audiovisual content.

### **Vodafone would become a monopolist regarding the supply of TV signal to MDUs**

In Germany the fees for cable TV in MDUs are collected as service charges and are not based on individual contracts with the customer. Vodafone and Unitymedia already supply most MDUs with cable TV and could strengthen their position even further if the merger was approved. This dominant position also transfers to the market for voice and internet services since most customers prefer having a single provider for multiple services.

### **The merger would impede the deployment of fiber networks and harm competition regarding internet access services**

The merger would destroy any incentive for the new entity to invest in new networks, especially fiber networks (FttB/H) but also the ability to do so regarding the financial extent of the transaction. Therefore, fiber rollout will be slower than actually necessary for a soon countrywide deployment of FttB/H networks. Hence, customers would have to wait even longer for the best available network infrastructure. Especially local and regional providers of FttB/H infrastructure would be impaired by the huge market power not only regarding the cable infrastructure but also regarding the market for mobile connectivity and audiovisual content and TV. This broad market power across multiple markets would make it impossible for smaller operators to compete effectively.

The general loss of competition especially but not exclusively in the footprint of Unitymedia would also lead to higher prices and less choice for the consumer.

### **Competitive restrictions regarding multiple play bundles**

The control over Vodafone's mobile infrastructure combined with exclusive conditions regarding the supply of TV and audiovisual content leads to enormous advantages at the provision of triple- or quadruple-play bundles that include not only fixed internet and voice services but also TV or other content and mobile connectivity. The poor access conditions for smaller operators designed by Vodafone make it impossible for them to compete on an economically viable basis.

### **Conclusion: The merger is not approvable!**

The merged entity would spread its power across multiple markets especially regarding the supply of fixed and mobile internet access, fixed and mobile voice communication, TV service and provision of other audiovisual content. But also as a huge demander of audiovisual content and especially TV rights the bargaining power of both companies is already a significant obstacle for competition and would impair conditions for competitors even more if the merger was approved. Also, the merged entity would be by far the largest provider für the housing industry regarding the provision for MDUs (so called “Gestattungsmarkt”) and could easily suppress smaller competitors by aggressive dumping or comprehensive contracts with the housing industry.

### **A new duopoly in the German market would prevent fiber rollout to the buildings**

We are especially concerned about the negative effects of the merger on the necessary deployment of fiber infrastructure at least up to the buildings (FttB/H). If the merger was approved, there wouldn't be any incentive for the merged entity to invest in such infrastructures. Instead, the available funds would most certainly be used for upgrading legacy cable infrastructure to DOCSIS 3.1 instead of sustainable fiber infrastructure. Also, Deutsche Telekom as the only other company with fixed infrastructure on a national scope will invest predominantly in FttC-Vectoring. Therefore, the only companies left to build FttB/H infrastructures are the local and regional operators that would be worst affected by the merger due to their low market power.

### **About BUGLAS**

The German Federal Association of Fiber Access Operators (Bundesverband Glasfaseranschluss e.V. - BUGLAS) represents those enterprises and operators which are accountable for 70% of the total number and for 85% of competitively deployed FttB/H networks in Germany. Our members, among them NetCologne, M-net, Wilhelm.tel, MDCC and over 100 other enterprises, plan to connect nearly a million further homes and enterprises directly via fiber up to end of the next year.

FttB/H networks are, on the one hand, the only future-proof technology to continuously cope with ever increasing demands concerning (symmetrical) bandwidths, latency and resilience as well as the basis for the upcoming roll-out of 5G infrastructures. On the other hand, the deployment of those FttB/H networks in Germany takes place in a very difficult economic environment: Retail prices for broadband products are comparatively low, FttB/H demands – other than cable with a 70 % footprint in Germany or copper networks with a nearly 100 % footprint – complete new network infrastructures and refinancing FttB/H-investments is dependent on long term horizons and a stronger take-up. For this reason, BUGLAS advocates investment friendly framework conditions in which the deployment of FttB/H-networks and associated business models can nevertheless be implemented successfully.