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Broadband deployment: Open access and separation

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Name des Referenten

- Number of BB access lines increases continuously: 25mio (end 2009)
- Meanwhile ar. 2.6 mio lines are provided by alternative technologies, mainly cable connections that bring an additional element of competition
- Market share of competitors in the BB market more than 50%
- With nearly 30% penetration, Germany has gained a good position in the international comparison
- Nearly 25% of all users have a bandwidth of more than 10 Mbit/s.
- One of the most significant developments is the „explosive“ increase of mobile broadband data traffic

- Bundesnetzagentur ...
  - … has created a stable, transparent and predictable regulatory framework which is key for investment decisions
  - ... especially focuses on setting the right incentives for efficient investments and promoting innovation.
  - … entered early on in a constructive dialogue with all market parties in order to manage a smooth transition to NGN/NGA promoting both investment and maintaining the level of competition reached with regulation, namely ULL

- The regulatory decisions have ...
  - … ensured an approriate balance between service-based and infrastructure based competition (following the model of the ladder of investment)
  - … has set the right incentives for roll-out of fibre infrastructure and innovation

    (e.g. by imposing an obligation of access to street cabinets and ducts, combined with a bitstream product regulation adjusting to the development of modern broadband networks

- BNetzA‘s tasks of the National Broadband Strategy of the Government (1)
  - growth and innovation oriented regulation
  - Supporting spectrum policy/regulation (auctioning of the digital dividend)
  - Setting up of an (passive) infrastructure mapping (data base)

BNetzA‘s tasks of the National Broadband Strategy of the Government (2)

(1) Key elements on the regulatory framework conditions for the development of modern telecommunications networks and the creation of high speed broadband infrastructures

(2) Clarification of regulatory and competition law questions related to cooperation projects (together with the Cartell Office)

(3) Developing principles of a consistent rates regulation with a view to promote efficient infrastructure investment (published in November 2009)

NGA Key elements (1)

- Draft **NGA Key elements** published for consultation on 13th May 09, consultation period ended on 1 July, comments were evaluated
- Final version published on 17th March 2010
- Principles for a growth and innovation oriented regulation
- 14 key elements outlining the fundamental principles of NGA regulation confirming applicability of regulatory framework and underlining the importance of pursuing both objectives: promoting sustainable competition fostering at the same time efficient investment in highspeed broadband network infrastructure
- Fit in regulation in existing framework providing consistency, and make a considered choice of ex-ante/ex-post regulation to achieve these objectives

NGA Key elements (2)

NGA Key elements for the the development of modern telecommunications networks and the creation of high speed broadband infrastructures

- Published 17 Mach 2010
- Main topics
  - Open Access
  - Co-operations and Co-investment
  - Planning certainty
  - Access products for NGA-networks
  - Migration
  - New pricing structures for wholesale products
  - Risk adequate equity rate of return
  - Setting up of a NGA-Forum
  - Importance of the infrastructure mapping

NGA Key elements (3)

- BNetzA is aware of the importance of modern high speed broadband infrastructure for the country's competitiveness
  - Economic and legal predictability to take account of long term planning for NGA investments, i.e. have longer market review periods – change of the law from 2 to 3 years (envisaged)
  - Necessary transparency on NGA roll-out to have an overview of the changes of the network architecture
  - Continue with a technological neutral regulation
  - Creating a NGA Forum for a constructive dialogue

- BNetzA welcomes the roll-out of highspeed broadband infrastructure, e.g. by regional companies
- Non-SMP operators should offer voluntary (network-) access products on a non-discriminatory, transparent and open basis **(Open Access).** They are not regulated
- A scenario where DT AG offers voluntarily access products satisfying the access seekers‘ demand on a non-discriminatory basis at reasonable prices, is preferable to a regulatory intervention.
- BNetzA supports appropriate modells of infrastructure-sharing that are in conformity with competition law rules and welcomes in principle a non-discriminatory implementation of co-operation projects
- New pricing models (e.g. *upfront payments*) are in principle compatible with the cost standard of the cost of efficient service provision, but shall not create a margin squeeze
- In general, transparency shall be increased (e.g. NGA-Forum, infrastructure map.)

NGA-Forum I

- The NGA-Forum is moderated and chaired by BNetzA. Several high-level experts that represent the market and have considerable experience, were invited

- The NGA-Forum shall discuss concrete topics that play a role for the deployment of NGA networks. In particular it shall be discussed which possible solutions can be considered for the improvement of the broadband availability.

- The NGA-Forum shall work transparently and will publish results – whenever possible – on the BNetzA website.

- Publication of the mandate, mission, members and topics to be addressed on 17 April: http://www.bundesnetzagentur.de/cln_1911/DE/Sachgebiete/Telekommunikation/RegulierungTelekommunikation/NGAForum/NGAForum_node.html

NGA-Forum II

- First informal meeting took place on 16 March 2010.
- First regular meeting scheduled for 5 May 2010.
- Issues relevant in the short term shall be clarified until fall 2010 and an interim report published
- Final report envisaged for spring 2011.
- Mandate:
  - Incentives for efficient investment
  - Ensuring sustainable competition
  - Incentives for an efficient usage/operation of networks

NGA-Forum III

Main topics:

- Open Access
- Cooperation and co-investment
- Technical and operational aspects of access to fibre networks and other NGA networks (in particular questions of interoperability)
- Shared infrastructure (e.g. inhouse-cabling)

Infrastructure mapping (1)

- What is the infrastructure mapping?
  - A database of BNetzA that contains the existing infrastructure and (planned) roll-out projects together
  - BNetzA collects the data, feeds it into the format and compiles it in the data base
- Which data is contained in it?
  - fibre, ducts, masts etc.
- Where is the data from?
  - More than 110 companies and institutions provided the data voluntarily
- Does the mapping provide a complete overview?
  - No, as there is no obligation to participate

- Since 8 December 2009 the infrastructure mapping database is available for usage
  - More than 150 applications were received by BNetzA
  - So far information regarding the infrastructure in more than 2,200 cities, municipalities or parts thereof have been provided. This covers 6.8 million inhabitants and 3.2 million households.
  - Currently 117 companies participate in the mapping.

Conclusions (1)

- The tasks of the BB Strategy confirm BNetzA‘s regulation promoting *effective* competition and *efficient* investment setting incentives for innovation for the benefit of the consumer
- Regulation must be consistent and adjusted to NGA economics
- Ensure migration from copper to fibre networks and possible convergence with mobile broadband
- There is no contradiction between infrastructure and service competition, but balance has to be reviewed in an NGA environment as economics of scale change, adjustment of existing wholesale local access products where necessary
- Ensure current state of competition is maintained in an NGA environment by adapting the regulation to deal with technological change while incentivising *efficient* investment in new infrastructure and avoid leveraging of SMP:
  Telecom Infrastructure will remain an attractive investment for investors

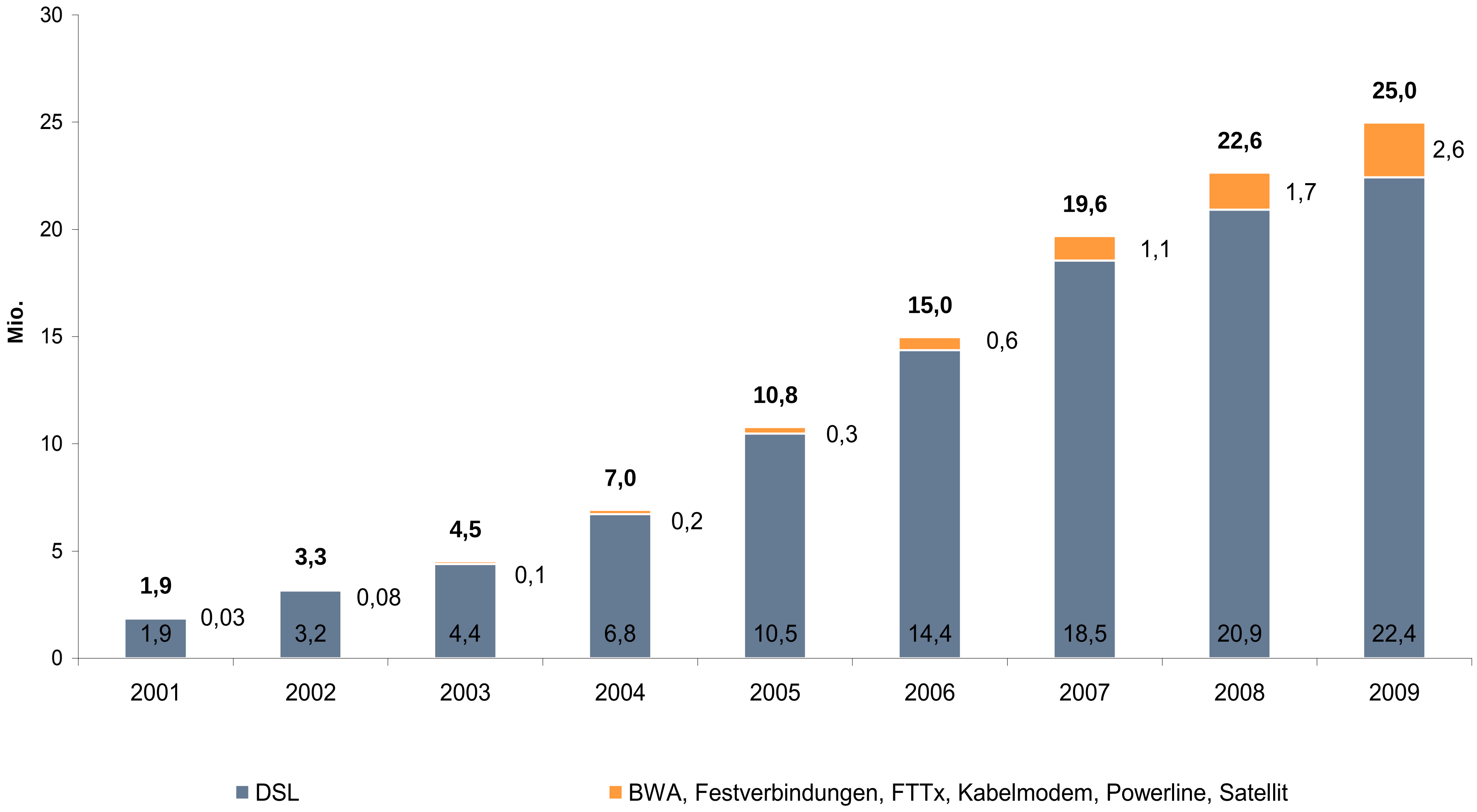
➔ European Regulatory Framework remains fit for purpose as it allows to incentivise competition and investment.

Conclusions (2)

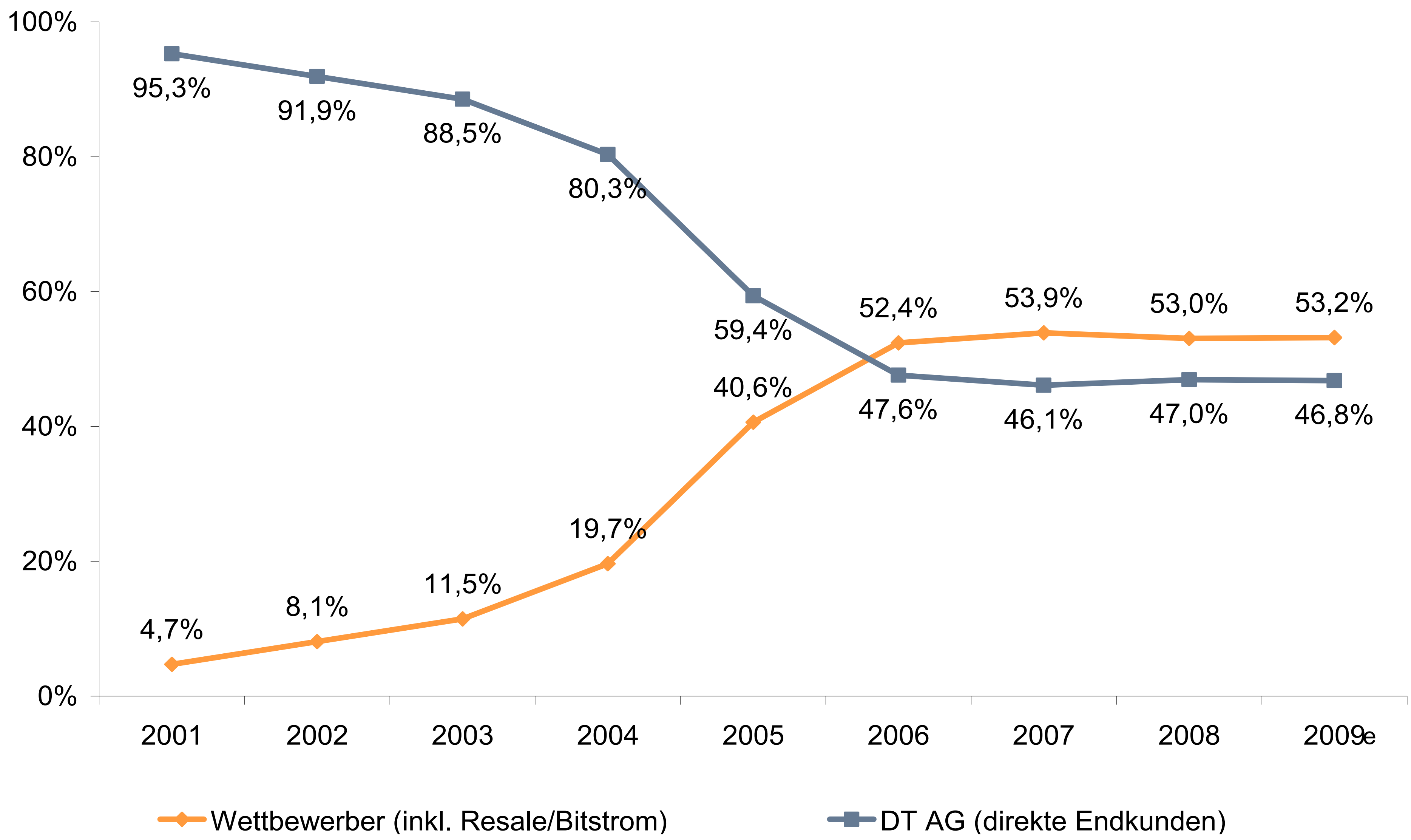
- The **ladder of investment** concept remains valid in an NGA environment as pro-competitive regulation encourages efficient investment
- NRAs need **flexibility** to adjust regulation appropriately as there is not a one-size-fits-all approach for NGA with national circumstances varying largely
- NRAs need to ensure transparency by announcing early on the regulatory strategy as **predictability** is key to give investors the necessary confidence, but investment decisions should be left to operators rewarding the investment with a risk-adequate rate of return
- Above all the competitive gains and perspectives should not get out of sight and NRAs should continue to ensure **non-discrimination and prevent margin squeeze** to enable a competitive NGA roll-out with joint projects where appropriate.

Annex

Broadband lines - total

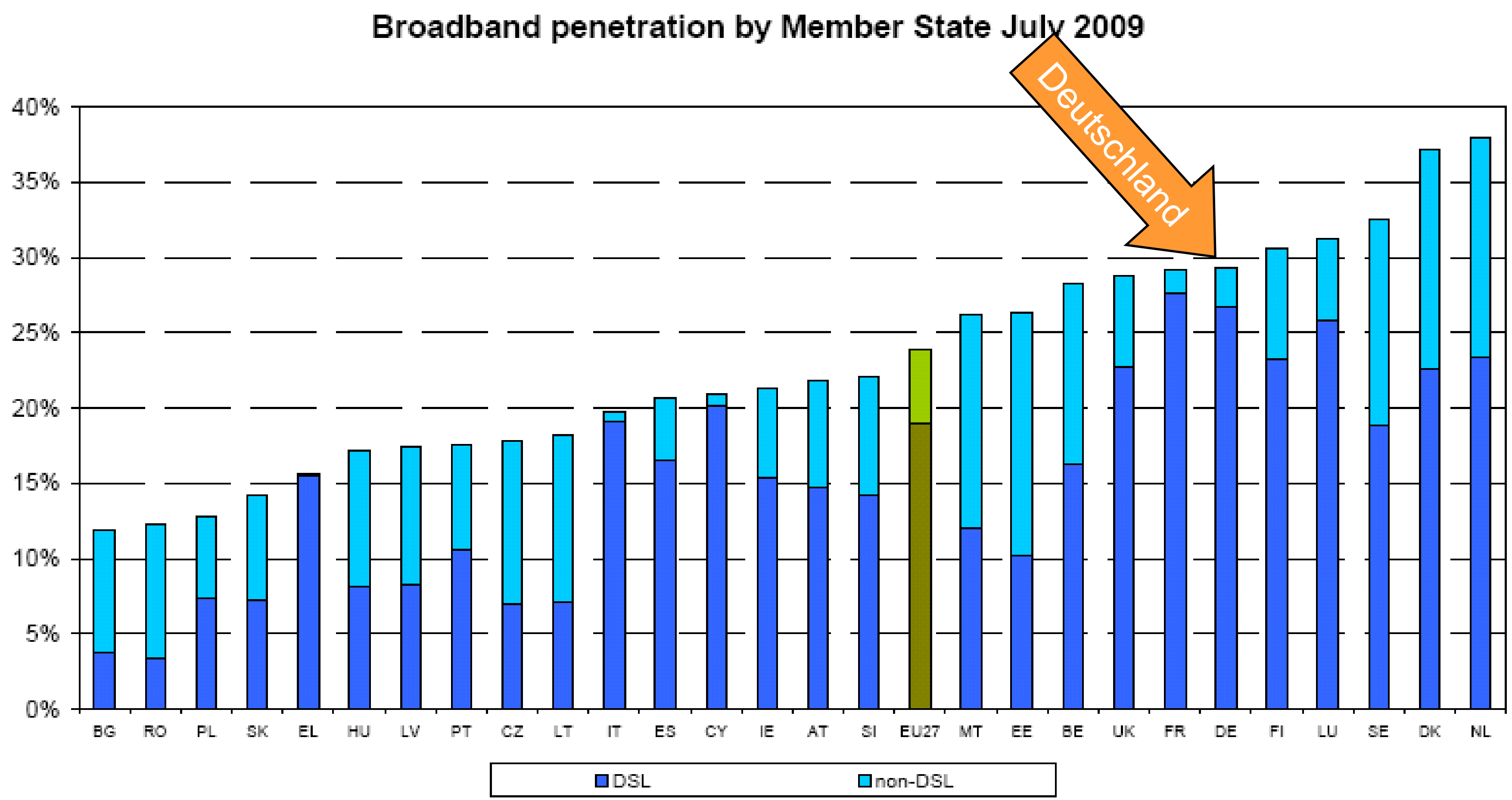


BB market shares

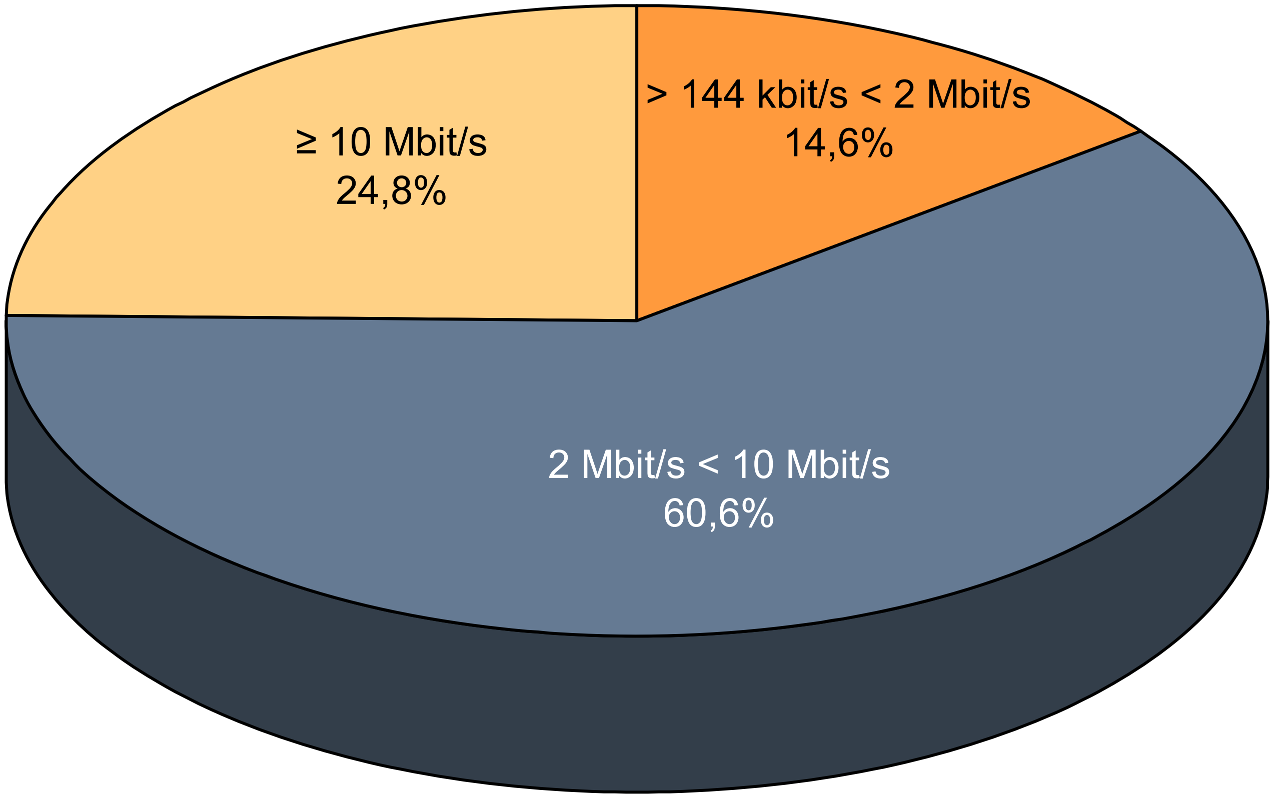


Quelle: Bundesnetzagentur

Breitbandpenetration in Europa (EU 27)



Download rates



Basis:
25 Mio. BB lines (end of 2009)

Data volume in mobile broadband traffic