WHITE PAPER | TELECOMMUNICATIONS & DIGITAL INFRASTRUCTURE

# THE FIBRE-OPTIC MARKET IN GERMANY IN TRANSITION

## Causes of the crisis and ways to navigate the wave of restructuring – a joint operational and legal analysis

A joint white paper by Haselhorst Associates and Willkie Farr & Gallagher

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## *Status quo*

For more than a decade, the roll-out of fibre-optic networks in Germany was regarded as a prime example of a capital-intensive growth story. Municipal utilities, city and regional carriers, integrated telecoms groups and – buoyed by the low-interest-rate environment – international infrastructure and financial investors poured double-digit billions into the nationwide network expansion. The narrative was clear: 'Homes passed' first, monetisation later. Whoever builds quickly and secures territory wins.

Since 2024, this logic has visibly begun to falter. Although the availability of fibre-optic connections has exceeded 50 %, the profitability of the business model remains, for many operators, well below the assumptions set out in their business plans. The result is apparent in restructuring practice: Cases from the fibre-optic sector are hitting two groups almost simultaneously – the financing banks, which are negotiating the reorganisation of loan commitments worth billions, and the restructuring, corporate and M&A lawyers, who must reorganise financing documentation, creditor structures, directors' duties and transactions in the midst of the crisis.

The country's largest alternative network operator marks the provisional high point: Deutsche Glasfaser was at times no longer able to fully service the interest burden on its approximately €7 billion debt and negotiated with a consortium of around 50 lenders regarding the structural subordination of some €2 billion, as well as a comprehensive debt restructuring. The agreement reached in early 2026 – involving around €1.2 billion in fresh capital, provided by the owners EQT and Omers as well as the financing banks – secured the company's continued existence, but left the industry's fundamental question unanswered: is this a temporary liquidity dip – or the beginning of a structural market shake-out?

This white paper identifies the causes of the sector's crisis, derives a hypothesis for the restructuring of the fibre-optic sector from these causes and – as a distinctive feature of this joint paper – addresses the legal dimension: Which decisions relating to company law, restructuring law and M&A law will determine the success or failure of restructuring efforts in the fibre-optic market in the coming years?

## *Causes of the sector crisis*

The crisis in the fibre-optic sector is not due to a single cause. It is the result of several mutually reinforcing factors which, taken together, reveal a clear pattern.

**1. The marketing gap as a key issue**

The crucial disconnect lies between roll-out and connection. Whilst around 53% of households are theoretically eligible for fibre-optic coverage, only around 27% are actually connected. However, revenue is generated exclusively by active customer connections – not by the laid cable. Take-up rates remain well below planning assumptions because many households see no urgent reason to switch, given that their existing copper and cable connections are functioning. Fresh capital alone will not solve this problem; the primary shortage is not of money, but of fibre-optic connections.

**2. The interest rate shock to a capital-intensive model**

The roll-out was predominantly financed by borrowed capital and calculated on the basis of long payback periods and low cost of capital. The reversal in interest rates has undermined this basis for calculation: high levels of debt are compounded by increased interest rates and connection figures that fail to deliver the forecast cash flow. Business models that appeared viable during the low-interest-rate phase are, in many cases, no longer viable today.

**3. Over-deployment and duplicate roll-out**

The parallel roll-out in identical areas – in particular, Deutsche Telekom's selective roll-out in attractive locations – undermines the scale economies on which Pure-Play FTTH[1)] operators in particular rely. Whilst an alternative operator must fully roll out a region to realise its customer potential, an integrated provider with existing copper and wholesale businesses can target particularly profitable sub-regions. The conflict has escalated: VATM[2)] and BREKO[3)] issued an ultimatum to the Federal Network Agency in early 2025, demanding that it initiate an abuse of market position proceeding, and threatened to lodge a complaint with the European Commission.

**4. Cost pressures in underground construction, skills shortages and a backlog of planning permissions**

The biggest cost driver in the roll-out is underground construction. Rising construction and material costs, persistent shortages of underground construction capacity and protracted planning permission procedures are driving up roll-out costs and delaying commissioning and, consequently, monetisation.

**5. Withdrawal of investors**

The willingness of banks to provide financing has deteriorated noticeably. Since the restructuring of the largest market player, the banking sector has been operating with considerably greater caution; planned expansion projects are being delayed or cancelled due to a lack of financing. Existing shareholders are being forced to inject additional capital themselves, as new investors cannot be found on the basis of the old valuations or the high level of existing debt. According to an industry survey, more than two-thirds of providers will require new financing within 24 months.

### 6. Fragmentation and lack of scale

With an estimated 250 providers, the market is highly fragmented. Many operators are too small to realise economies of scale in marketing, network operations and raising capital – a structural weakness that weighs particularly heavily in a restrictive financing environment.

### 7. Regulatory and legal uncertainty

The Gigabit subsidy scheme is regarded as bureaucratic and lacking in transparency. With regard to the migration from copper to fibre, Deutsche Telekom enjoys a privileged position, as it is currently the only operator that can apply for the decommissioning of old copper lines. Added to this is a tightening of the law by the highest court: following a ruling by the Federal Court of Justice, fibre-optic contracts now commence upon confirmation of the contract rather than upon activation of the connection – with immediate consequences for operators' revenue models and contract drafting. At the same time, consumer complaints relating to fibre-optic connections are rising significantly (January to November 2025: over 4,000 complaints, an increase of around 55% compared with the same period last year).

*Key figures on the current situation (2025/2026)*

**Households within reach ('homes passed'):**
around 53% of households

**Actually connected:**
around 27%

**Number of providers:**
over 200

**Refinancing requirements:**
more than two-thirds of providers within 24 months

**Consumer complaints:**
up by approx. 55% compared with the previous year

## *The hypothesis*

From the perspective of the expert teams at Haselhorst Associates and Willkie, the situation facing the fibre-optic industry is **not a temporary liquidity shortfall that can be bridged with fresh capital, but rather a structural crisis affecting both the business model and the balance sheet.** Fresh capital buys time, not sustainability.

The key lever for restructuring is therefore not further roll-out (more 'homes passed'), but the **monetisation of existing infrastructure:** activating connections, increasing utilisation and ARPU[4)], and maintaining rigorous cost and investment discipline. We expect the coming wave of restructuring to be **value-oriented and creditor-driven:** it will separate those operators who can convert passive infrastructure into active, cash-flow-generating connections from those whose equity effectively no longer offers any prospect of recovery.

The result will also be a **consolidation towards fewer, larger and better-capitalised platforms.** The real turning point lies less in the capital structure than in the management model: in the transition from a **logic of expansion to one of utilisation and marketing.** Those who fail to make this transition will not survive the shake-out – even if capital is still available in the short term.

## *The legal dimension: company law, restructuring law and M&A law*

The operational assessment has a direct legal counterpart. Fibre-optic restructuring is, to a particular extent, determined by legal factors: complex, often international financing documentation, a large group of creditors, subsidised expansion areas and a regulated market. Four areas of law characterise this practice.

### Company law: Directors' duties set the pace for restructuring

Managing directors of fibre-optic companies are subject to a duty, backed by liability, to detect crises at an early stage and take corrective action (Section 1 StaRUG), as well as to continuously assess the risk of insolvency (Section 17 InsO) and over-indebtedness (Section 19 InsO). Of particular relevance to the sector: the positive twelve-month going concern forecast required to demonstrate the absence of over-indebtedness regularly depends on the likelihood of **continued financing** – that is, in the best-case scenario, on robust, documented financing commitments, but in any event on highly probable commitments from financing partners. If, in future, credit facilities, waivers or standstill agreements expire without follow-on financing being sufficiently secured or being highly probable, the prognosis may be overturned; the obligation to file for insolvency (section 15a InsO) and the payment prohibitions under section 15b InsO – with corresponding personal liability and D&O implications – then immediately come into focus. Instruments such as a **qualified subordination of claims** can eliminate over-indebtedness and create room for manoeuvre; the subordination of liabilities observed in the market is, in this respect, not merely a matter of financial architecture but also a form of crisis prevention under company law. Added to this are conflicts of duty and interest within multi-tiered investment and financing structures (upstream security, capital preservation, cash pooling), which require particular care during a crisis.

**Restructuring law: From consensus to the StaRUG**

The standard approach remains a consensual solution: standstill, covenant reset, extension of the term, new collateral structure, fresh capital in exchange for recovery mechanisms. However, with larger groups of creditors, 100% approval is often unattainable. This is precisely where the StaRUG's preventive restructuring framework comes into play: A restructuring plan can be adopted with a majority of 75% of the voting rights within each group and enforced – even against individual obstructive creditors or groups of creditors – via the cross-group cram-down; stabilisation orders can temporarily suspend enforcement and the realisation of security, but have no positive impact on the debtor's liquidity position or going concern prognosis. For the fibre-optic industry, with its broad consortia, the StaRUG is therefore a realistic implementation tool and an effective negotiating framework for a consensual approach. Where financing is governed by English law or another foreign law, the choice of restructuring forum (StaRUG, English Restructuring Plan, Dutch WHOA) must be made strategically at an early stage. In addition, the following applies: rescue loans and the provision of security during a crisis must be based on a robust restructuring plan (in practice, typically in accordance with IDW S6) – to protect lenders from liability and avoidance risks, as well as to safeguard the company's governing bodies. New financing arrangements within the framework of StaRUG proceedings also enjoy statutory privileges. Only when these avenues prove unsuccessful do self-administration and protective shield proceedings constitute the orderly fallback option – with the insolvency plan serving as the restructuring instrument, for example for debt-to-equity structures under the restructuring privilege.

**M&A law: Consolidation under challenging conditions**

The expected market consolidation will largely take place through transactions: sales of entire platforms, carve-outs of individual network clusters (asset deals with the familiar associated issues, such as the transfer of operations under Section 613a BGB), joint venture and open-access partnerships, as well as distressed M&A processes arising from restructuring or self-administration – right through to pre-arranged solutions ('pre-packs') via restructuring or insolvency plans. Three particular aspects merit attention. Firstly, investment control: telecommunications networks are classified as critical infrastructure; the acquisition of significant shareholdings by non-EU investors is subject to cross-sector scrutiny under the Foreign Trade and Payments Ordinance with lowered trigger thresholds – given the international buyer landscape (infrastructure funds, pension funds), this is a key factor for transaction certainty and timing, alongside traditional merger control. Secondly, funding regulations: in areas receiving development grants, grant notifications containing restrictions on the use of funds and change-of-control clauses must be scrutinised; ill-considered transaction structures can trigger clawback risks and jeopardise funding. Thirdly, risk allocation: in distressed situations, the scope of guarantees is naturally limited; W&I insurance solutions, thorough vendor due diligence and a clear definition of the transaction scope (network, customer contracts, IT, rights of way) are decisive for feasibility and price.

**Regulatory Overlap**

All the workstreams mentioned are subject to telecommunications law: the migration regime from copper to fibre-optic cables, open-access and shared-use issues, ongoing proceedings by the Federal Network Agency regarding over-the-top infrastructure, and the latest Federal Court of Justice (BGH) case law on the commencement of contracts have a direct impact on planning projections, contractual arrangements and, consequently, on enterprise value. Restructuring and transaction plans that do not incorporate this regulatory dimension from the outset are not viable in the fibre-optic sector.

## *Integrated operational and legal restructuring*

The fact that fibre-optic cases land simultaneously on the desks of banks and lawyers is no coincidence, but rather the hallmark of these restructurings: they are always both a balance sheet event and a legal event. Capital structures verging on over-indebtedness, subordination agreements and the threat of write-downs – right up to the valuation of equity at zero – raise the question of recapitalisation and a new financing architecture – whilst directors' duties, creditor majorities, funding conditions and regulatory requirements define the legal framework within which any solution must be viable.

This leads to the authors' central shared conviction: a solution that is purely financial, purely operational or purely legal falls far short of the mark. Viability is only achieved when operational turnaround (asset utilisation, capacity utilisation, cost and CapEx discipline), financial restructuring (capital structure, new capital, creditor coordination) and legal implementation (directors' duties, StaRUG compliance, transaction and regulatory certainty) are brought together from the outset under an integrated mandate. In practice, the proven approach for this is the interplay between operational management responsibility – for example, as part of a CRO & Team approach – and specialised legal support, all working together at the same table with shareholders, banks and, where applicable, the restructuring court.

## *Recommended actions*

There is a clear need for action on the part of decision-makers in fibre-optic companies and their investors. The starting point is an honest assessment of the current situation: Is the business plan based on realistic connection rates – or on 'homes passed'? Are key performance indicators and incentives already geared towards activation, ARPU[4] and utilisation rather than purely the number of kilometres of network rolled out? Is the company's funding for the next twelve to 24 months documented as secure or highly probable – and, consequently, is its going concern assumption also secure? Is the company prepared for consolidation, both on the assets and liabilities sides? What role might the company play in a consolidation? As a consolidator or as a potential target?

The measures derived from this can be grouped into four key areas. Firstly, the reorientation of the business model from a focus on network roll-out to one centred on marketing and utilisation, including densification of the existing network and the consistent halting of unprofitable roll-out projects. Secondly, operational restructuring with a focus on connection activation, as well as cost and investment discipline in civil engineering. Thirdly, financial restructuring with a realistic capital structure, early coordination with creditors and – where necessary – the use of the preventive restructuring framework or corresponding non-German reorganisation procedures; managing directors should adequately document early crisis detection, liquidity planning and financing commitments, and regard these as sub-elements of the going concern assumption. Fourthly, strategic consolidation into scalable platforms – with early examination of investment control, merger control and state aid law issues, so that transactions do not fail due to avoidable completion risks. Lenders, for their part, should link capital commitments to operational performance rather than to a mere injection of liquidity, and should organise themselves at an early stage for multi-creditor solutions.

## *Outlook*

The market consolidation in the German fibre-optic sector has not failed to materialise – it has begun. The question is no longer whether it will happen, but how orderly the process will be. As a first step, we anticipate a further increase in creditor-led restructuring and a growing role for the StaRUG and non-German restructuring procedures as tools for implementation and negotiation in the near future; as a second step, over the coming years, we expect consolidation into a small number of well-capitalised platforms. The operators that will prevail are those who transform passive infrastructure into active, cash-flow-generating assets, consistently align their management model with this objective – and consider the legal feasibility of their restructuring from the outset. For all others, the shake-out will not be abrupt, but it will be inevitable.

In this phase, the decisive factor will be the ability to manage operational restructuring, financial restructuring and legal implementation in an integrated manner and with strong execution capabilities. It is precisely at this interface that the integrated collaboration between leading commercial restructuring consultants and leading legal restructuring consultants comes into play.

**About Haselhorst Associates**
Haselhorst Associates is one of Germany's leading restructuring consultancies and forms part of the growing H&Z Group. A team of around 40 internationally experienced consultants and partners provides end-to-end support to companies in exceptional circumstances – from analysis through to the restructuring plan and its operational implementation. When restructuring companies in the fibre-optic sector, Haselhorst Associates assumes three clearly defined roles. Firstly: creating transparency and a basis for decision-making. Within a short timeframe, we develop robust liquidity planning, carry out a critical validation of the business plan, determine connection rates and the expansion portfolio, and draw up viable restructuring plans to serve as the basis for banks' lending decisions and shareholders' contributions. Secondly: taking responsibility for the operational turnaround. This includes marketing and activation programmes to close the take-up gap, cost, working capital and CAPEX measures with measurable effects on earnings and liquidity, as well as a streamlined implementation PMO with clear responsibilities, milestones and proof of effectiveness for stakeholders. Thirdly: assuming leadership responsibility. With the CRO & Team approach, Haselhorst Associates provides – where necessary – the Chief Restructuring Officer: either in an advisory capacity or as a managing director appointed by the company's governing body, with full decision-making and accountability for results, including ongoing communication with shareholders, banking consortia and other stakeholders. In this way, the restructuring is not merely devised, but implemented within the company.

**About Willkie Farr & Gallagher**
Willkie Farr & Gallagher is an international law firm with around 1,300 lawyers across 16 offices worldwide, including German offices in Frankfurt, Munich and Hamburg. The German restructuring practice advises investors, shareholders, banks and banking consortia, steering committees, insolvency practitioners and companies in special circumstances – on complex financial and operational restructurings, distressed M&A and enforcement scenarios, both in and out of court, and on both a national and cross-border basis.

***Note***: *This white paper is intended solely for general information purposes. It does not constitute legal or other advice in specific cases and cannot replace such advice.*
***Sources (selection)***: *BREKO[3)] Market Analysis 2025; Börsen-Zeitung; Handelsblatt; heise online; joint fibre-optic study by Deutsche Telekom and EY (January 2025); Federation of German Consumer Organisations (vzbv). Market data as of: 2025/early 2026.*

**Footnotes**
1) FTTH = Fiber to the Home
2) VATM = Association of Providers in the Digital and Telecommunications Market (in German: Verband der Anbieter im Digital- und Telekommunikationsmarkt)
3) BREKO = Federal Association for Broadband Communication (in German: Bundesverband Breitbandkommunikation e. V.)
4) ARPU = Average Revenue per User

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