



**Coming up:**

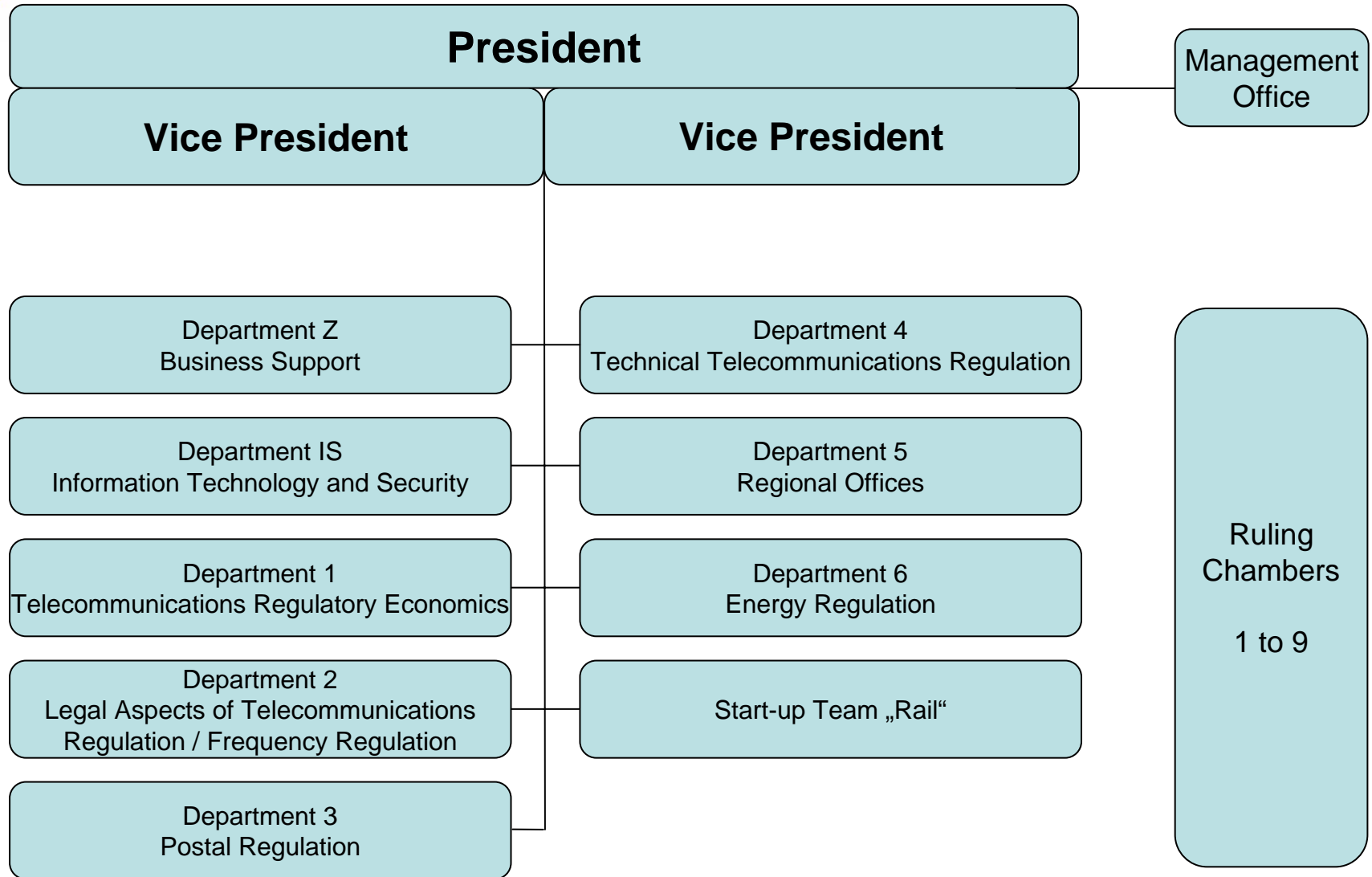
**Regulation of the  
German Railways**

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# Start-up Team „Rail“:

- **Staff today: 25 p.**
- **a team with know-how in legal, economic and technical-operational aspects of the railway business**
- **an experience out of more than 300 proceedings since 2002**





# Agenda:

- Chronological development of the German railway law
- Institutional structure of railway regulation
- regulatory activities with a high priority in 2006 / 2007



# History of legal development

**1993**

**2002**

**2005**

...



# History of legal development

- **1993 railway reorganisation law:**
  - implementation of the right of non-discriminatory use of **federal** railway infrastructure for railway undertakings
- **2002 second railway law**
  - regulatory body to supervise **all** infrastructure managers within Germany
  - Growth of competences:
    - to react **ex officio** and **on application of undertakings (as well RU / as IM)**
    - But: a reaction **only ex post** legally allowed



## History of legal development

- **2005 third railway law**
  - Ex post regulation as well as
  - Ex ante regulation
  - Fundamentals for an economic regulation
  - Immediate execution of regulatory decisions



# Main Tasks of the Federal Network Agency

- to supervise the legal provisions for the access to rail infrastructure, especially:
  - to observe the capacity allocation procedures
  - to observe the access to services
  - to observe of the network statements, of the access charges and charging principles
- to prevent any infringements of the legal provisions, committed by infrastructure managers





# Objectives of the German railway law

German “General railway law” (AEG) defines in § 1 (preamble) the crucial legal objectives:

- to ensure a safe operation and an attractive offer of transportation on the rail
- to ensure a fair and efficient competition on the rail

These essential objectives have to be applied for all railway undertakings and infrastructure managers (tracks and service facilities).



# Objectives of the German railway law

Implementation of the EU-„First Railway Package“  
into the German railway law:

- Directive 2001/14/EC is completely implemented
  - on the allocation of infrastructure capacity
  - the levying of charges for the use
  - safety certification
  
- Interpretation of difficult issues in the light of the  
European directives



# Competences of the Federal Network Agency

## General legal provisions

- the right to enter offices and facilities of railway enterprises
- the right to get any required information from the infrastructure managers as well as from railway undertakings.

## Legal methods:

**ex ante regulation:** a time period before a decision of the infrastructure manager

**ex post regulation:** a time period after a final decision of the infrastructure manager



## ... legal methods in detail:

### ex ante regulation

- objecting to intended decisions of IM's
- giving guidelines to the IM's for their new decision

### ex post regulation

- obliging the IM to change a decision
- deciding on conditions of contract
- deciding on validity of contracts between IM / RU
- declaring contracts void



# Market participants in the railway sector

## - The infrastructure managers

... are obliged to grant access:

- Operators of the railtrack systems
- Operators of service facilities, like ...
  - refuelling facilities,
  - passenger stations,
  - freight terminals,
  - marshalling yards,
  - storage sidings,
  - maintenance facilities,
  - ports.



## Market participants in the railway sector

### - The authorised applicants:

- railway undertakings
- owners of rolling stock
- public services, responsible for regional passengers transport
- enterprises, which want to transport goods via railway-undertakings (shippers, freight forwarders, combined transport operators)



## Network statements

- **Operators of rail track systems** are obliged to set out and publish network statements,
  - including the general rules, deadlines, procedures and criteria concerning the capacity allocation
  - including charging principles
  - including a description of the rail infrastructure and of all the access conditions, also technical & operational
  - including the “General Terms and Conditions”
- **Operators of service facilities** are obliged to set out and publish conditions of use, too.



## ... Network statements

### First experiences:

- inadequate description of the rail infrastructure and of the access conditions
- inadequate description of the charging principles
- capacity allocation process contradicting mandatory legal provisions
- provisions still facilitating „grandfather rights“
- undefined provisions are potentially discriminatory





## ... Network statements

- The Federal Network Agency objected to the network statements of the Deutsche Bahn AG infrastructure companies in a large scale in the beginning of this year.
  - Proceedings were pending in court.
  - parallel: Intensive high-level talks between the Deutsche Bahn AG and the Federal Network Agency
- The Federal Network Agency obliged the DB IM's to use these network statements until April 2007.



## Current key activities (2006/2007):

- Getting a database of all infrastructure managers, railway undertakings and authorized applicants in Germany. The Federal Network Agency sent out more than 1.000 questionnaires in May 2006.
- Supporting the IM`s in the process “Making of Conditions for usage of infrastructure” esp. maintenance facilities.
- Supporting the IM´s in the process of including their Technical access conditions in the Network Statement.



**Thank you for your kind attention!**

**You can contact our Team by mail at any time:**

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