

Competition and Regulation in Rail Transport Markets in Germany

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Structure of this Presentation

1. Introduction: What is the German Monopolies Commission?
2. Part III: Competition in Rail Transport Markets in Germany
3. Part II: Rail Transport Regulation in Germany
4. The Way Ahead

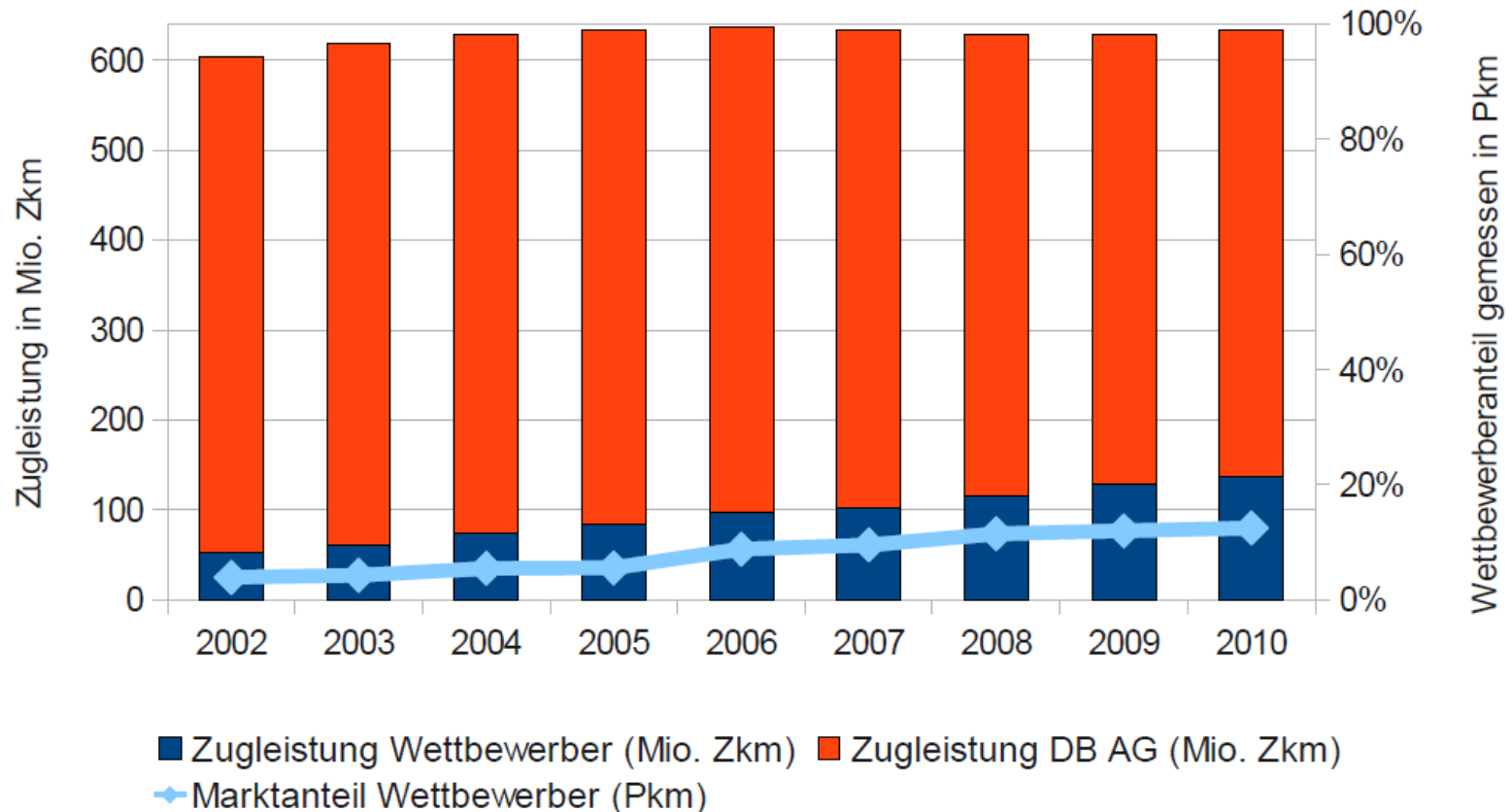
The German Monopolies Commission

.....is an **independent, permanent**, five-person commission, which **advises** the German Government on all issues related to competition policy and regulation (especially of electricity, gas, telecommunications, postal services and rail markets).

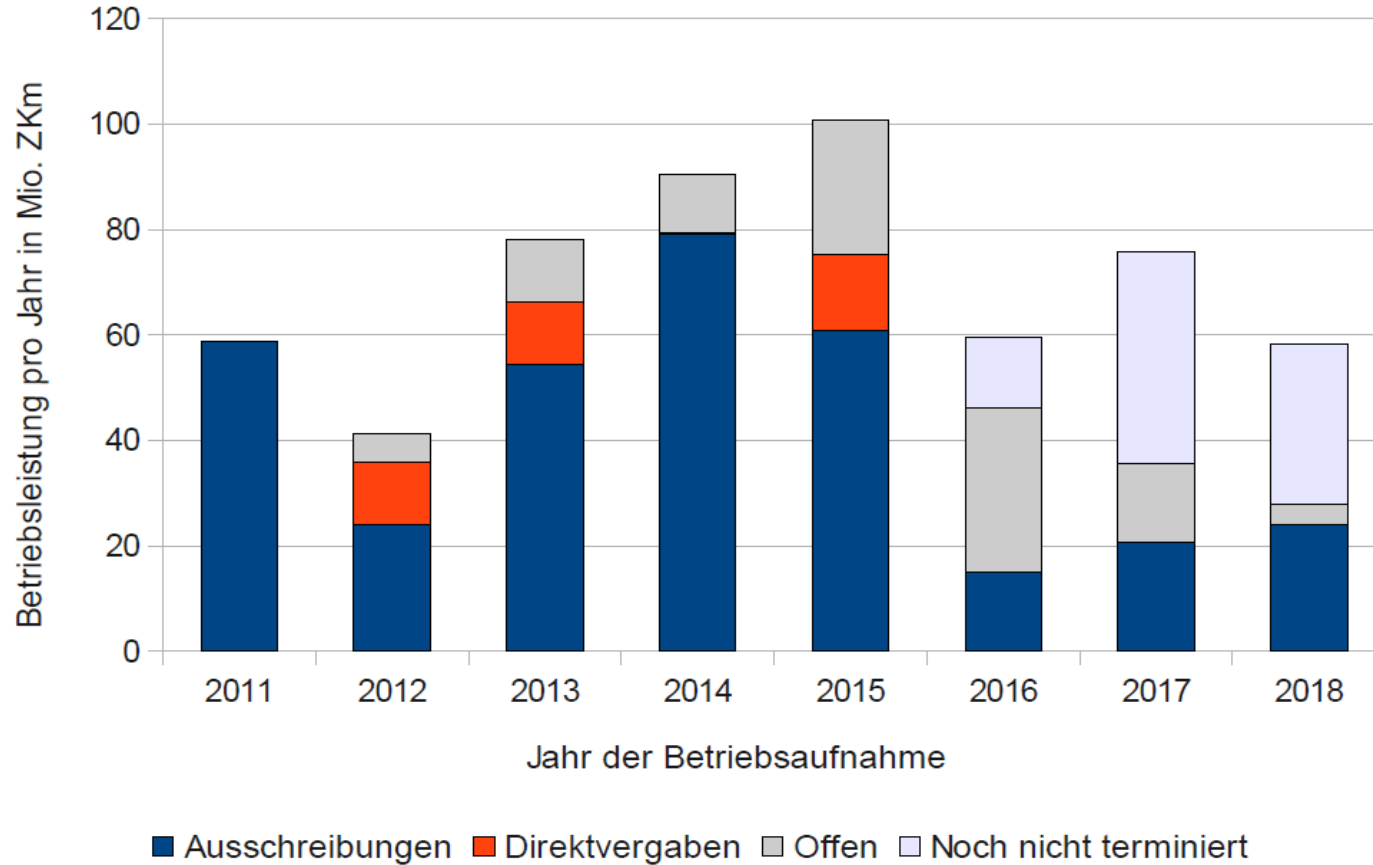
Main Tasks:

- Main reports (every two years) on industrial concentration and conduct of competition policy in Germany,
- Sector-specific reports (also every two years) on competition in telecommunications, postal services, electricity, gas and rail,
- Specific reports in relation to Ministerial override proposals in merger cases or on other competition policy issue.

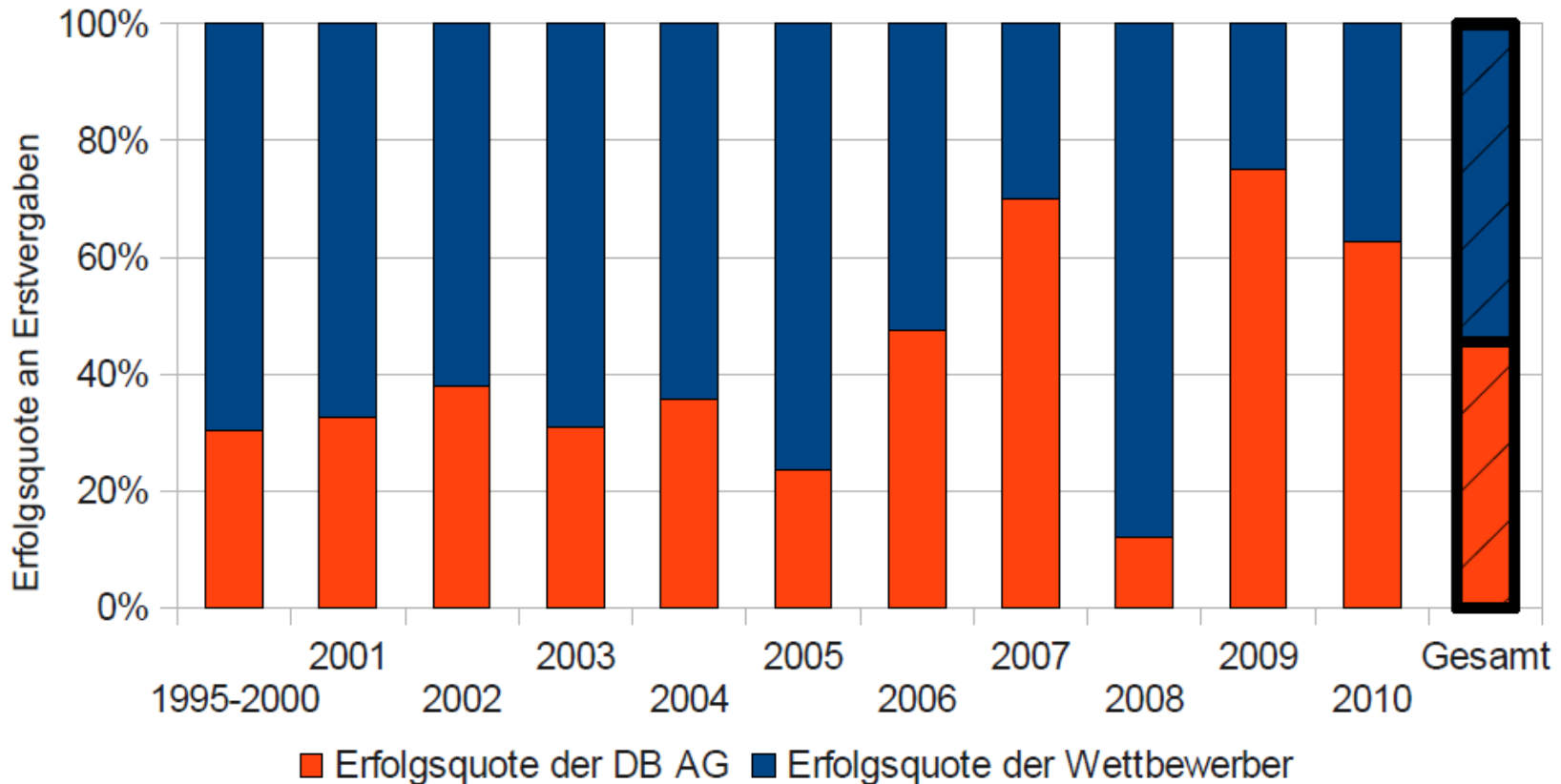
Regional Passenger Rail Transport



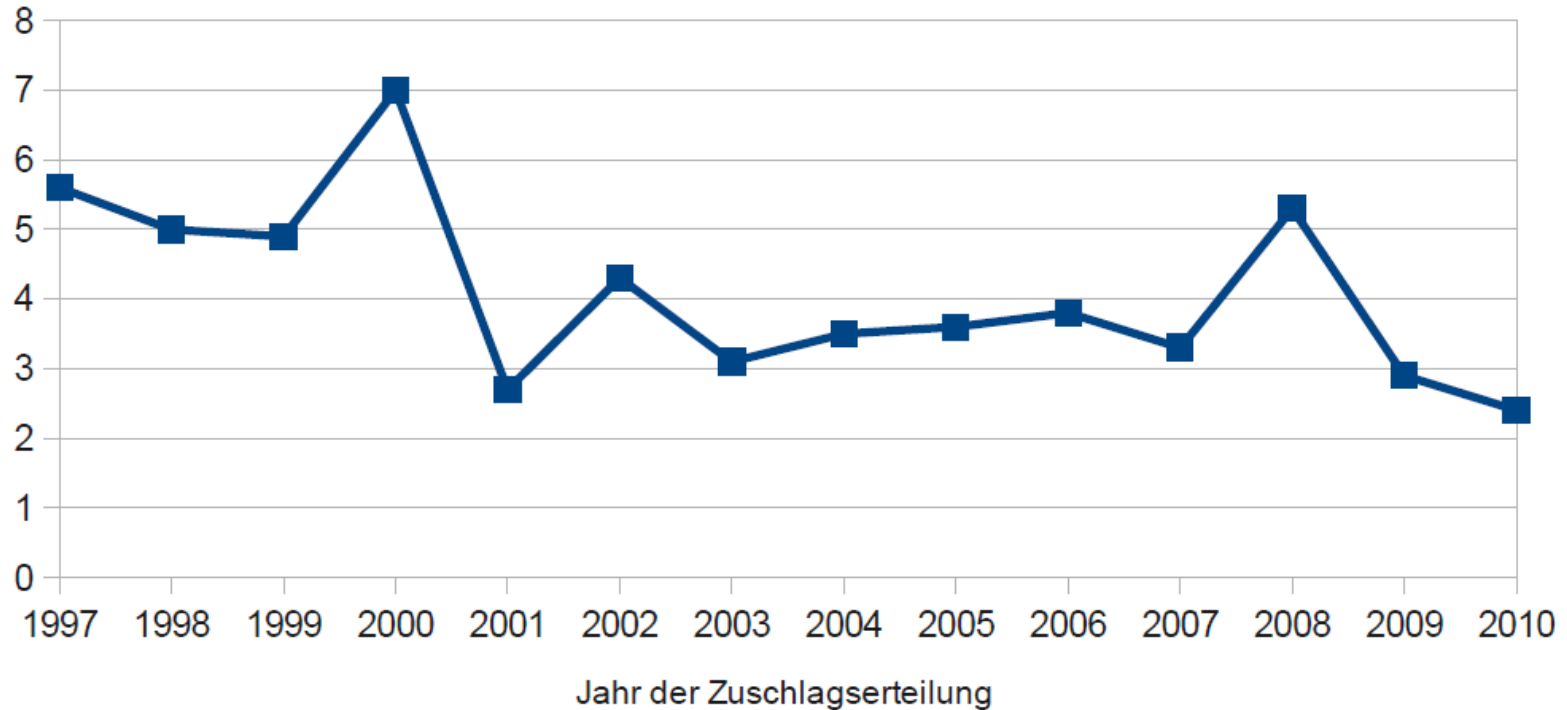
Future Procurement of Regional Passenger Transport



Success in Procurement Procedures

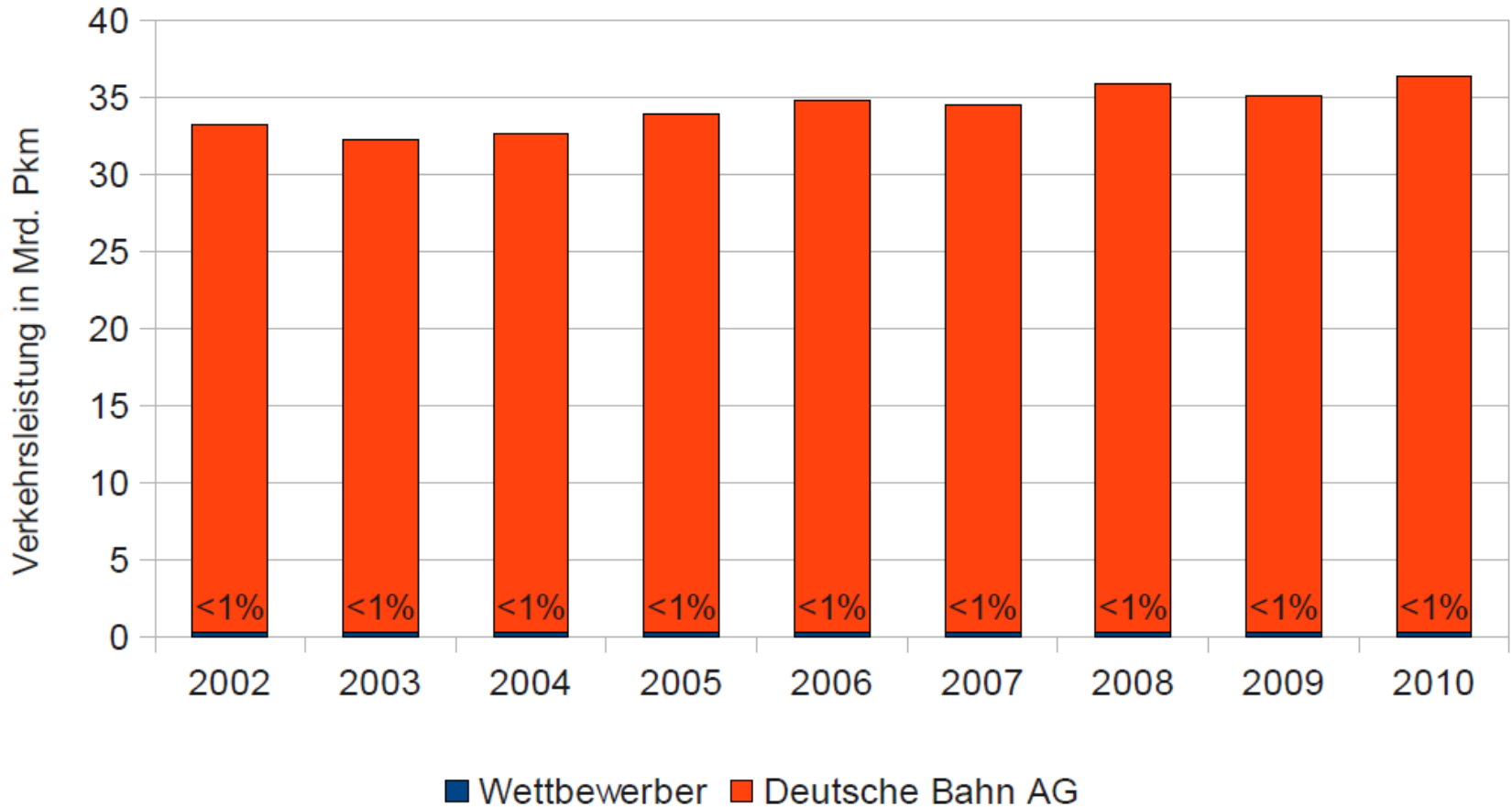


Average Number of Bidders

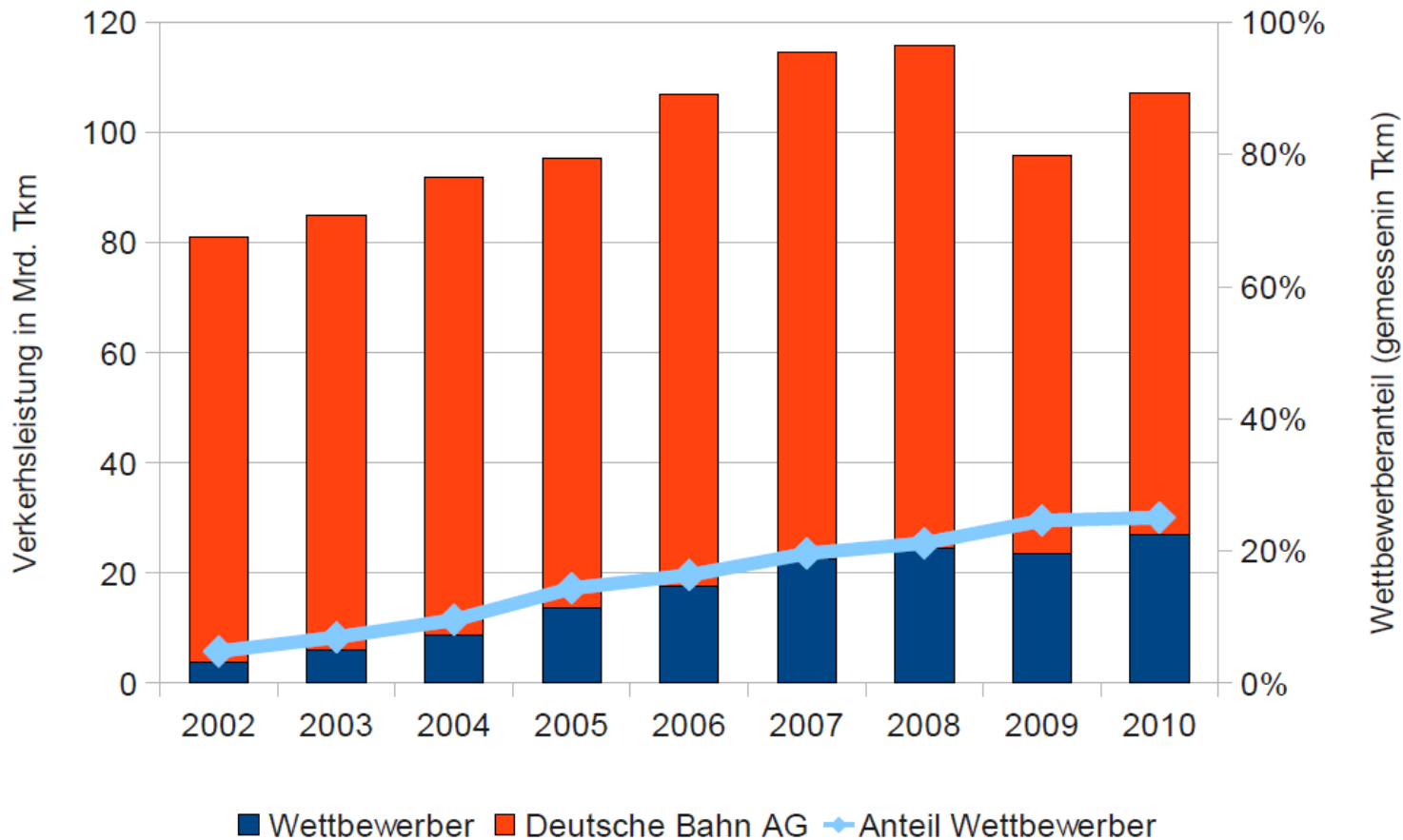


■ Durchschnittl. Anzahl der Bieter pro Vergabeverfahren (nach Zkm gewichtet)

Long-Distance Passenger Rail Transport



Freight Rail Transport



Regulation of Rail Transport Markets

- Federal Network Agency (Bundesnetzagentur- BNetzA) as “economic” regulator since 2005,
- Federal Rail Office (Eisenbahnbundesamt) as “technical” regulator,
- “Regulation” by contract (LuFV) for infrastructure investment,
- Problems identified:
 - Vertical integration of infrastructure and rail transport services,
 - Pricing principles and standards (height) for infrastructure and service facilities have to be notified ex ante and can be controlled ex ante and ex post by BNetzA, but significant leeway for infrastructure providers,
 - Discrimination is extremely difficult to control

Regulation of Rail Transport Markets

- Problems identified (cont'd):
 - Pricing standard is full cost recovery, no incremental cost standard,
 - No efficiency cost standard and no incentive regulation,
 - For service facilities the pricing standard is based on the prohibition to abuse a dominant position (weaker standard),
 - Pricing principles are rather complex (various building blocks),
 - Track pricing system (of 2003) declared void by BNetzA in 2010 due to “regional pricing factors”,
 - Passenger station pricing system (of 2005) declared void by BNetzA in 12/2009.

Regulation of Rail Transport Markets

- Problems identified (cont'd):
 - Lack of regulation of rail electricity,
 - Unequal access to information about delays, construction etc.
 - Lack of transparency of track allocation process,
 - Financing of rolling material.
 - ...

Draft New Rail Regulation Law

- The Ministry of Transport has recently published a draft of a revised rail regulation law,
- Access prices should be based on the efficiency cost standard, but no incentive regulation is proposed,
- Investment and maintenance cost not subject to regulatory oversight,
- Strengthens the position of the German regulator (Bundesnetzagentur) – more powers regarding conduct market monitoring and inquiries,
- Clarification that rail electricity is part of electricity grid regulation – Bundesnetzagentur has just lowered network charges by 23%,
- No further vertical separation/ownership unbundling,
- A number of other issues...

Thank you for your attention!

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