

## The water industry in BDEW

BDEW  
Bundesverband der Energie- und  
Wasserwirtschaft e. V.  
(German Association of the Energy  
and Water Industries)  
Division Water/Wastewater

Reinhardtstr. 32  
10117 Berlin  
Germany  
phone +49 30 300199-1213  
fax +49 30 300199-3213  
info@bdew.de  
www.bdew.de



## BDEW Water Program

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## 2008 Water Program

The founding of BDEW has given the German water industry a powerful voice. The industry has therefore taken this opportunity to update the 2005 Objectives in the Water Sector [»Wasserprogramm 2005« – available only in German] drawn up by BGW. The 2008 Water Program documents the dynamic development of the German water industry's status and goals. The program embraces future needs and will be updated over coming years.

### What audience does the Water Program address?

The Water Program addresses decision-makers in the German states, at German Federal level and in Europe.

### What is the current situation?

In *Germany*, parliament and government decided to modernize the regulatory framework, since politics has recognized that liberalization of the water market is not meaningful both from an economic as well as a technical, ecological and hygienic perspective. The European Parliament expressed a similar view in 2004.

At *EU level*, the competition debate is currently in progress. Keywords are: the discussion about services of general interest, the question of new provisions for EU-wide tendering, Brussels' call for increased competition.

Nevertheless: »Water is not a commercial product like any other but, rather, a heritage which must be protected, defended and treated as such.« (recital (1) of the Water Framework Directive, 2000/60/EC). Water is a renewable good which is not consumed but used in the natural cycle. The Water Program is based on these principles.

### BDEW: Objectives and responsibilities

The water industry in BDEW represents the interests of all water supply and wastewater disposal companies in the association – at regional, national and European level. The member companies come in all legal forms and sizes, they are publicly and privately organized, large and small, and operate in drinking water supply and/or wastewater disposal.

The German water industry meets five specific performance characteristics:

- ▶ Long-term security of supply and disposal,
- ▶ High drinking water quality and high wastewater disposal standards,
- ▶ High customer satisfaction,
- ▶ Sustainable utilization of water resources, and
- ▶ Economic efficiency.

The »Profile of the German Water Industry« documents and regularly updates these characteristics and other essential information (most recently in 2008, and prior to that 2005).

Honorary and full-time structures ensure that the specific interests of the water industry are taken into account in BDEW. The *drinking water sector* has a greater number of private-law organizations than the *wastewater sector*, where

public enterprise structures clearly predominate. Thus, the water industry in BDEW reflects the structural diversity of the German water sector, but nevertheless takes a common position on almost all issues. Opinions only differ on two topics (wastewater taxation and contracting out of the duty to perform water supply and disposal obligations); these are discussed in this brochure.

All companies have a common key goal, namely to maintain the high quality and reliability of water supply and wastewater disposal while meeting economic and ecological criteria.

I. Quality, sustainability, security of supply and disposal:  
Maintain the high quality standard of drinking water supply and wastewater disposal

**1. Level playing field for environmental standards:**

The aim of the EU Water Framework Directive is to attain »good status« for water bodies throughout Europe based on a common definition. Individualistic national approaches are to be avoided; instead, the European Union's environmental law must be implemented with equal consistency in every Member State. It is up to the EU Commission to press for this implementation.

**2. Investments for generations:** The water industry plays a special role as regards services of general interest, since it holds a responsibility across generations. Consequently, water supply and wastewater disposal facilities are designed for a long service life. Companies need a reliable framework for their investments in the construction, maintenance and operation of these facilities, e.g. within the scope of a German »Environmental Code«.

**3. Pollutants, polluters and cost:** The protection of waters is primarily a public task. Water resources are mainly polluted by nitrate and pesticides. Neither the EU Nitrates Directive nor the German fertilizers ordinance has led to a noticeable reduction in nitrate content. Non-natural, persistent and non-degradable substances are explicitly not tolerated, because the removal of these substances incurs costs for the supply and disposal utilities and thus for the population. Substances released into the environment by third parties ultimately find their way into raw water (drugs, cosmetics, ferti-

lizers). Consequently, it is manufacturers who have a responsibility to take action, not the water and wastewater works. The EU Water Framework Directive has determined that polluters have to pay the cost they cause. As a general rule, prevention is better than cure. Precautionary water protection means taking action for the sake of future generations.

**4. Agriculture:** Going forward, liquid manure, mineral fertilizers, sewage sludge and residues from biogas plants must be assessed on the same footing in order to protect waters and soil. Assessment and control must be based on uniform standards, preferably combined with a quality assurance or quality approval scheme for all fertilizers and residues produced from biogas plants. The aim should be to achieve clear regional substance cycles which are regularly controlled and monitored. Environmentally benign sewage sludge can be utilized by the agricultural sector. Compensation payments to farmers must be based on the success achieved in terms of sustainable water quality improvements.

**5. Regions and climate change:** Unlike many other EU countries, Germany is rich in water bodies so that the population will continue to be supplied with water in future. There are regional differences in the impact of climate change, such as torrential rains, on companies in the German water industry. Adjustment strategies therefore need to be developed on a regional or local level to ensure both the quantity and quality of water resources. The regional structure of the German water industry guarantees targeted local measures in this regard.

**6. Drinking water primacy:** Drinking water is a foodstuff provided by German water supply companies. Water protection areas are an important instrument for the protection of raw water resources. Conflicts, e.g. with the agricultural and forestry sectors, regarding the utilization of resources occur. Water rights for water supply must therefore be guaranteed on a long-term basis. Drinking water supply is one of the core tasks of services of general interest and must be given priority anchored in legislation and enforced in fact.

**7. Technology, standards and rules:** The standard of drinking water supply and wastewater disposal in Germany is very high. Profitability and efficiency should be decisive factors for the introduction of new technologies. The German water industry takes responsibility for drawing up rules, cooperating with technical-scientific organizations such as DVGW, DWA and DIN and at the same time relieving the government of the rule-making burden. For this reason, practice-oriented solutions should be codified because they are meaningful in a long-term technical and economic context. The German water industry owes its top European and international position to such practice-oriented solutions.

## II. Prices and charges: Water and wastewater pricing based more fairly on the causation principle

**1. Cost-based structures:** In the German water supply and wastewater disposal sectors, the principle of cost recovery is a reality. Including all costs provides the economic basis for sustainable supply and disposal. Cost recovery ensures the water industry's independence and is a prerequisite for objective comparisons of water prices throughout Europe. The European Union must consistently enforce the principle of cost recovery in the Member States.

**2. Reversal of price structures:** A great number of technical facilities are required to supply people, industry and agriculture with water and to dispose of wastewater. The share of fixed costs compared to variable costs is therefore particularly high. However, this is not at present reflected in the break-down of water and wastewater prices. Hence, price structures should be reversed: there must be stronger weighting of base rates, e.g. by raising the base rates while simultaneously reducing the volume price. Drinking water and wastewater price structures must be oriented to the cost structure of supply and disposal companies.

**3. Controls:** Prices and charges are subject to statutory provisions and multiple controls. For municipal utilities, legal control is the remit of the municipal supervisory authorities. The customer may initiate a review of charges (fees under public law) or prices before civil or administrative courts. Supply utilities charging the customer directly for their services via prices (charges under private law) are at all times subject to supervision by the cartel authorities. The existing control instruments are comprehensive and adequate.

**4. Comparable performance parameters:** Greater consideration than is presently the case must be given to quality, security of supply, customer satisfaction and sustainability, state subsidies and tax levels when making national and European comparisons of water prices and wastewater fees in Europe. The VEWA Survey (Comparison of European Water and Wastewater Prices, 2006), according to which the German water industry performs very well, developed a methodology for this purpose. Using cubic meter prices as the only parameter for national and European comparisons is not acceptable, as this approach fails to take account of important differences such as quality, estimated per-capita volumes and regional circumstances.

**5. Levies and taxes, and »polluters pay principle«:** In a country rich in water bodies, the water cent, water abstraction levies and other water taxes are inconsistent with the causation principle and should therefore be abolished. The steering effect of these levies and taxes is not apparent. As long as these taxes are levied, the resources thereby collected must be exclusively earmarked for water protection. Where such specific use has not been stipulated by law, this should be remedied now. Compensation payments must be based upon the success achieved in terms of sustainable water quality improvements. Using these resources for purposes other than water protection represents an unjustified extra tax. Furthermore, water supply and wastewater disposal companies in Germany make a disproportionately high cost contribution to the protection of the environment and resources compared to other sectors and other European countries.

**6. Wastewater levy:** The wastewater levy has lost its steering effect and should therefore be abolished.

**7. Forest industry:** The water industry and the forest industry have common interests in some areas since they are both dependent on the protection of natural resources. The forest industry should not be entitled to claim compensation payments from the water industry for measures serving the pursuit of its own goals. Levies paid to the forest industry inevitably raise water prices.

### III. National regulatory policy: Internal modernization and external transparency

**1. Autonomy:** It is imperative to preserve the decision-making autonomy of municipalities and regions concerning the organization of water industry tasks for all legislation projects. The water industry in BDEW advocates municipal self-government and neutrality of ownership form. The Federal government must support the continuation of this decision-making autonomy in the debate and decisions on European regulatory policy.

**2. Profile of the Water Industry:** Since 2005, BDEW in cooperation with other associations has compiled a voluntary and comprehensive report on performance in the water industry: The »Profile of the German Water Industry«, which was updated in 2008, also includes several international comparisons. Five performance characteristics are used as benchmarks: These are customer satisfaction, long-term security of supply and disposal, quality (high drinking water quality and wastewater treatment standards), sustainability and economic efficiency.

**3. Benchmarking:** Together with other associations, we advocate voluntary and confidential benchmarking. The aim is to learn from the best performers in selected corporate processes on a case-by-case basis, to optimize workflow and cut costs without impacting on the quality of service. Benchmarking is supported by experts and carried out according to professional international standards. We not only recommend our members to participate, but also encourage implementation of the benchmarking process (Association declarations of 2003 and 2005), for example through the realization of a large number of projects in the German Federal states.

**4. Capacities and climate change:** Water bodies are to be found almost all over Germany. Even climate change is not likely to lead to a water shortage in the country. Moreover, water consumption is decreasing due to water-saving behaviour, demographic change and changes in industrial production processes. Nevertheless, capacities must be kept available to cover almost unchanged peak demand. The water-saving target in Germany has been met. A continuation of the savings policy will lead to increased costs, e.g. for water pipe flushing.

**5. Principle of locality:** The principle of locality should be loosened in order to facilitate effective operations on the boundaries between water supply and wastewater disposal regions at the request of municipalities, thus establishing equality of opportunity. This also applies with reference to intensified international engagement.

**6. Contracting out of the duty to perform water supply and disposal obligations:** While public utilities are opposed to contracting out of the duty to perform water supply and wastewater disposal obligations on the part of municipalities, some private companies approve this procedure.

**7. Customer relations:** Relations between the customer and the water company should be flexible. An ordinance on the general conditions for wastewater in the context of mandatory or private wastewater disposal should be issued.

**8. Wastewater taxation:** While public utilities, which represent the clear majority in the wastewater disposal sector, reject taxation of wastewater disposal, the majority of private companies advocate such taxation, though only at the reduced VAT rate.

**9. Water removal:** The decision on local water abstraction or alternative water removal or a combination of both based on supply, quality and economic efficiency criteria must be taken by the water supply utility itself in consultation with the approval authorities.

**10. Exporting expertise:** We support the activities of German drinking water supply and wastewater disposal companies in other countries. German companies have many years of practical experience in terms of cooperation with local municipalities and the administrative sector and with regard to governance structures. We support closer cooperation between the Ministry of Economics, the Ministry for Development, the Ministry for the Environment and the Ministry of Education. We regard ourselves as cooperation partners and a point of contact, and support the German Water Partnership.

IV. EU regulatory policy: Ensure the autonomy of EU Member States to decide on whether and how to provide services of general interest and the self-government of municipalities with regard to the organization and structure of water supply and wastewater disposal

**1. EU water policy as a cornerstone:** In a Europe of nations, new regulations must take account of the prime importance of the following three factors: different natural conditions for the water industry, municipal decision-making autonomy and self-government, and the principle of subsidiarity.

**2. Concessions:** The principles of non-discrimination, transparency and equal treatment as well as the principles of proportionality and mutual recognition of national standards must already be taken into consideration today when concluding concession agreements. For this reason, further provisions over and above these principles are not required.

**3. Public-private partnerships:** The current legal situation in Europe offers little flexibility for establishing, realizing, expanding and continuing public-private partnerships and in-house business. However, the water industry requires this flexibility particularly in the context of the customer-oriented, root-and-branch performance of the industry's tasks.

**4. Municipal cooperation:** When municipalities cooperate with one another and establish common forms of organization, these are decisions relating to the organization of tasks. This does not constitute any form of procurement activities as defined by public procurement law and is therefore not subject to a mandatory tendering procedure.

**5. Role of the EU:** The key issue at European level is market relevance. If a Member State creates a market for certain water services, EU competition law applies. That also holds true if water or wastewater is classified as being »services of general economic interest«, but does not apply if these are classified as »services of general interest«. It is the Member State itself and not Brussels that decides on this classification.

The Water Framework Directive clearly states that »water is not a commercial product like any other...«. With regard to services of general interest, water supply and wastewater disposal differ in many respects from liberalized sectors of industry. In Germany and in many other EU countries, water is common property. Moreover, water is the only grid-based foodstuff. Liberalization, whether in terms of TPA for water or competition for supply and disposal areas, is inconsistent with this special status.

The Protocol to the Lisbon Treaty, which strengthens the role of Member States and of regional and local authorities in terms of services of general interest, is therefore clearly to be welcomed. The extension of EU powers resulting from the Treaty to cover services of general economic interest must be based on the contents of the Protocol.

A European Framework Directive on services of general interest would not bring any improvement, either, because it is the duty of Member States and not the European Union to provide services of general interest. The German water industry calls on the German Federal government and the European Parliament to defend the existing regulatory framework and national decision-making autonomy.

## Editorial Information

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