



University of Zurich
Zurich Open Repository and Archive

Winterthurerstr. 190
CH-8057 Zurich
<http://www.zora.uzh.ch>

Year: 2008

Does a liberalized postal market need a sector specific regulator?

Finger, M; Trinkner, U

Finger, M; Trinkner, U (2008). Does a liberalized postal market need a sector specific regulator? *Network Industries Quarterly*, 10(1):18-19.

Postprint available at:
<http://www.zora.uzh.ch>

Posted at the Zurich Open Repository and Archive, University of Zurich.
<http://www.zora.uzh.ch>

Originally published at:
Network Industries Quarterly 2008, 10(1):18-19.

Does a liberalized postal market need a sector specific regulator?

Abstract

For different reasons, most actors in liberalized postal markets call for sector specific regulatory bodies. However those should disappear over time along with an increasingly market-oriented definition of universal services.

POSTAL

Does a liberalized postal market need a sector specific regulator?

Matthias Finger and Urs Trinkner

For different reasons, most actors in liberalized postal markets call for sector specific regulatory bodies. However those should disappear over time along with an increasingly market-oriented definition of universal services.

Sector specific regulation in the postal sector has rarely been questioned so far. However, with the total opening of the European market now foreseen between 2011 and 2013, and in some countries already in place, we should think again.

To recall the context, specific regulation in the postal sector is an invention of the European Community back in 1997. The regulation was a copy of what at that time had already been set up for the telecommunications sector. Indeed the Postal Directive (97/67/EC) required every member country to set up a postal regulator. The regulator's main functions were: firstly to make sure the Universal Service Obligation (USO) and corresponding quality criteria are fulfilled; and secondly to watch on possible cross-subsidies resulting from the monopoly, which in turn was designed as a means to finance the USO.

Abolition of postal monopoly

With the new Postal Directive of the European Community (2008/6/EC), the monopoly will be abolished in 2011 with exceptions granted to some member countries in 2013. Finland, Germany, Sweden and the United Kingdom have already abolished (at least *de jure*) their monopoly protection, while the Netherlands delayed full market opening because of continuing barriers to entry in Germany. Outside the European Union, Switzerland might open its postal market completely to competition by 2012, while Canada thinks on deregulating outbound mail.

Against this background, cross-subsidies as a reasoning of regulation disappears as soon as a postal market is opened fully to competition. The issue is more subtle in terms of USO.

While European Commission's definition of USO stated in the First Framework Directive remains valid, many countries have in turn allowed for substantial flexibility when it comes to delivering it, namely in terms of products required, pricing, quality standards or accessibility to post office networks. By doing so, many incumbents such as Sweden's Posten AB have found ways and means to fulfill USO without having the historical costs associated with it. This, of course, was a necessity given that the monopoly protection to finance this USO was going to disappear.

Much could still be done in terms of redefining a USO that is adapted to the communication needs of the modern citizens. Nonetheless most countries have implicitly and sometimes explicitly adapted the USO to the new financial situations of the incumbents, which in turn have learned to provide the USO in a commercially viable way. In other words, the very *raison d'être* of traditional sector specific postal regulation—that is, cross-subsidies resulting from monopoly protection and the guarantee of a historically defined USO—have now vanished, and so should sector specific regulation. The world's leading example is the deregulated postal market of New Zealand. It lacks a postal regulatory body as well as price regulation, whereas the (market oriented and the self-financing) universal service is ensured by a loose Deed of Understanding, a contract between New Zealand Post and the government.

Some actors and interests, however, are in favor of perpetuating sector specific postal regulation, not the least the postal regulators themselves, along with competitors, sometimes incumbents, and the numerous consult-

ing firms which have made sector specific regulation their business model.

The lack of competition

The most often used argument for sector specific regulation today is the lack of competition in the mail letter market. It is indeed true that despite partial or even total market opening incumbents maintain market shares of 85 per cent or sometimes above 95 per cent in the letter market. However, in economics, measures such as market shares do not reflect the degree and effectiveness of competition, as the results on contestable markets indicate.

*The very **raison d'être** of traditional sector specific postal regulation has vanished, and so should sector specific regulation.*

Even so, many actors take the viewpoint that sector specific regulation is needed for two reasons. The first argument states that market distortions in the form of hidden subsidies (such as exemptions from value added tax (VAT) for historical operators) or structural disadvantages remain. The second argument says that the postal delivery network can be equated to a monopolistic bottleneck, analogous to electricity distribution network for example. Therefore access to this network should be granted to the competitors for competition to emerge. The United Kingdom has become the first and so far single example of access regulation. Needless to say that such access regulation requires a strong regulator.

Incomparable postal sector

The fact of the matter, however, is that the postal sector cannot be compared to railways, telecoms or electricity. There are no such monopolistic and physical bottlenecks involving large sunk costs as railway tracks, under-

ground cables or electricity grids to which access has to be regulated. And as access regulation in those network industries is the justification for sector specific regulation, there is no reason for a sector specific regulation either. However this does not imply that there are no impediments to competition.

The postal sector has no such monopolistic and physical bottlenecks involving large sunk costs to which access has to be regulated.

As a matter of fact, the specialized literature has identified two main such impediments, namely postal boxes on the one hand and address changes on the other. It is generally agreed today that for competition in the postal market to work, competitors should be allowed to access postal boxes and made available address changes, which historically only the incumbent had. However these two interconnection issues do not justify sector specific regulatory institutions, as access to both postal boxes and address changes should before all be negotiated against a few basic principles as laid down in legislation. If a competitor feels discriminated by the incumbent, the competition

regulator is well equipped to handle such issues.

This is also the case for negotiated access agreements to the incumbent's postal network. Indeed, in many countries, competitors negotiate with the incumbent for the usage of its network, for instance transportation or delivery services. Again, if one competitor feels discriminated, the competition regulator is well equipped to handle the issue and no sector specific regulation is necessary. Interestingly the most successful competitors do not rely on access at all. Instead they have built up their own collection, sorting and delivery networks. Note that in contrast to other networks, postal networks are the very product itself. (One can even argue that the only physical networks used by posts are streets which are free of charge).

As for other market distortions such as asymmetric VAT exemptions (favoring the incumbent) or labor conditions (favoring generally the competitors because of the incumbents stranded costs or asymmetric labor market regulations), these are bound to disappear over time. Indeed the most significant market distortion till today, VAT, is generally tied either to the monopoly protection, or to the USO. In the first case, it will disappear

along with the monopoly such as in Switzerland. In the latter case, VAT exemption is a hidden subsidy for the provider of the USO so as to make USO provision more attractive. On the European level, this distorting measure was not eliminated by the new directive. Member states such as the United Kingdom, Germany, France and Italy continue to grant a VAT privilege to their historic operators. However it would be wrong to compensate such advantages by other, new regulatory distortions. Instead the original distortion has to be tackled directly.

In short, with the total liberalization of the postal sector, it is only natural that the sector specific regulator—which may well have been needed in a transition phase—should disappear over time along with an increasingly market oriented definition of universal postal services. ★

About the authors

Matthias Finger, full professor at the Swiss Federal Institute of Technology, Lausanne, Switzerland, holds the chair on Management of Network Industries. Email: <matthias.finger@wanadoo.fr>

Urs Trinkner is a research associate and lecturer at the University of Zurich, Switzerland, and head of regulatory strategy, Swiss Post. Email: <urs.trinkner@isu.unizh.ch>