

CASE LAW AND LEGISLATION REVIEWS

Competition Law in the Quasi-Liberalized Postal Service Market: An Overview

by

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Abstract

Postal services in the European Union have been liberalized through three postal directives, namely, 97/67/EC, 2002/39/EC and 2008/6/EC as per the Green paper, which emphasises the necessity of the liberalization of postal services for the development of the single market and the promotion of socio-economic development. Nevertheless, the realisation of this transition is questionable. Although these directives, to remove all barriers for new entrants, have established the necessary legal framework, formerly monopolised national postal operators have retained their dominant positions to a large extent and attempted to abuse it. Therefore, the implementation of competition law provisions plays an important role in the liberalization process. This article seeks to discuss how far postal services have advanced in terms of their liberalization under recent competition law judgments

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Article received: 15 March 2021, accepted: 6 September 2021.

issued against national postal operators such as *La Poste* and *Deutsche Post*, by considering the Universal Postal Union (UPU)'s postal development reports as well as arguing the counter example of the US position.

Resumé

Les services postaux de l'Union européenne ont été libéralisés par trois directives postales, notamment les directives 97/67/CE, 2002/39/CE et 2008/6/CE, conformément au Livre vert, qui souligne la nécessité de la libéralisation des services postaux pour le développement du marché unique et la promotion du développement socio-économique. Toutefois, la réalisation de cette transition est incertaine. Bien que ces directives, visant à supprimer toutes les barrières pour les nouveaux entrants, aient établi le cadre juridique nécessaire, les opérateurs postaux nationaux anciennement monopolisés ont conservé dans une large mesure leur position dominante et ont tenté d'en abuser. Par conséquent, la mise en œuvre des dispositions du droit de la concurrence joue un rôle important dans le processus de libéralisation. Cet article vise à examiner dans quelle mesure les services postaux ont progressé en termes de libéralisation dans le cadre des récents jugements en matière de droit de la concurrence rendus à l'encontre d'opérateurs postaux nationaux tels que *La Poste* et *Deutsche Post*, en examinant les rapports de développement postal de l'Union postale universelle ainsi qu'en argumentant le contre-exemple de la position américaine.

Key words: liberalization; postal service market; competition law.

JEL: K21

I. Introduction

Several states have been involved in the trend to liberalise their postal services in the late-20th-century. Ranganathan and Dey (1996) argued that postal services, as 'one of the last bastions of the last order', are late to liberalise. However, liberalization in postal services is in fact a highly liberal and radical change because according to common belief, changing the monopoly character of postal services seemed unfavourable. Hence, it is not surprising that the liberalization of postal services took a long time. In the status quo, European countries have more or less liberalized their mail systems. However, although EU directives, meant to remove all barriers for new entrants, have established the necessary legal infrastructure, formerly monopolised national postal operators have retained their dominant positions to a large extent and attempted to abuse that market power. This paper, accordingly, analyses the liberalization progresses of selected countries, namely the UK, the US and

some EU Member States (France, Germany and the Netherlands). Along with a liberalization wave in postal services, a counterfactual analysis is provided by demonstrating the strength and weaknesses of the US postal system.

After this preliminary remark, the rest of this paper is organised as follows. Section 2 describes the theoretical and practical contexts of the liberalization stages in postal services. Section 3 analyses EU-level and Member States-level postal liberalization developments by particularly assessing France, Germany, and the Netherlands. It accordingly argues whether a liberal system in postal services has been realised, as former-state-owned postal services are still disrupting competition, as seen in recent competition decisions. Section 4 examines competition law infringements of Royal Mail in the UK, whereas Section 5 investigates the opposing position of the United States Postal Service (hereinafter: USPS). Finally, Section 6 presents the conclusion.

II. The Worldwide Liberalization of Postal Services

The foundation of postal services was laid by the states and these services had remained under the monopoly of the states for many years. Since the late 1980s, the mainstream view concerning the non-profit-making postal administrations, as public utilities, has started transforming towards a profit-oriented structure. During this transformation, it was discussed whether postal services would be provided by private enterprises or by the public hand (Geradin and Humpe, 2002). There were several academic studies (Esposito, 2002; Panzar, 1994; Mizutani and Uranishi, 2003; Kenny, 2006; Strikwerda and Rijnders, 2004) that argued the benefits of providing competition in the postal sector, with the idea that customers benefit from competition, which increases quality and choice while decreasing prices.

On the other hand, some scholars such as Stiglitz (1993) and Geddes (2004) asserted that postal services should continue to be operated by public administration, with the idea that, if the monopoly disappears, competitors will operate only in profitable regions, and the service to rural areas will be disrupted unless they are subsidized by the state. Therefore, the important role of postal services was pointed out in terms of creating positive externality and eliminating regional development differences. As another justification, it was claimed that the postal service market has the character of a natural monopoly, where a single undertaking protected from competition can serve more efficiently (Sidak and Spulber, 1996; Fritsch, 2007; Panzar, 1991; Panzar and Sherman, 1993). In such markets, ineffective use of resources occurs if more than one undertaking operates in parallel. For this reason, competition

was seen as unnecessary and needed to be prevented in order to maintain the financial structure of the single undertaking. By this way, it was expected that the postal service could compensate its loss from servicing rural areas from the profit generated in urban areas. If allowed, new market players would likely want to operate in profitable areas, rather than rural places and the losses of the postal service delivery to rural areas could not be compensated. Despite these pro-monopolist arguments, Friedman provided a liberal and practical perspective stating the following: ‘It may be argued that the carrying of mail is a technical monopoly [...], which makes it illegal for anybody else to carry mail. If the delivery of mail is a technical monopoly, no one will be able to succeed in competition with the government. If it is not, there is no reason why the government should be engaged in it. The only way to find out is to leave other people free to enter.’ (Friedman, 1962, p. 32) By these words, Friedman argued that states should relinquish their control over postal markets.

The postal service has great importance for the economic and social development of countries, though it represents a traditional means of communication. Postal services have historically been provided by state-owned monopolies until the 1990s, when public postal operators started being privatised. One of the most prominent driving forces for this transformation was the fact that neo-liberalism has become the dominant approach with respect to the market, as this economic mainstream seemed to overcome economic problems by the free-market price mechanism. For some countries, such as Argentina, the liberalization and privatization of postal services was forced under structural reform plans meant to allow them to receive loans from the World Bank regarding the funding of their development. Hence, it is seen that postal markets were liberalized for both political and economic reasons. In the EU, the liberalization process began with the first Directive of the Postal Sector, adopted in 1997 within the scope of the liberalization of the single market, by following words: ‘[...] the establishment of the internal market in the postal sector is of proven importance for the economic and social cohesion of the community, in that postal services are an essential instrument of communication and trade’ (recitals 1 and 2). However, it should be noted that there has been no liberalization in some countries such as the US, where the postal market remains under the monopoly of the United States Postal Service (USPS). This postal monopoly includes restraints for USPS’s main competitors, such as FedEx and United Parcel Service (UPS), to deliver non-urgent letters and not directly ship to US Mailboxes at residential and commercial destinations. The main argument behind this status quo is the understanding that USPS is responsible to provide postal services to every citizen on equal terms; therefore, it has a natural monopoly character and needs to be run by the government. With this understanding, it is desired to

avoid the disruptions in services to be provided to some regions due to the profit maximization purposes of private companies. However, according to the opposing argument, customers living in rural areas should bear the true cost and consider this cost-difference when choosing their places to live (Geddes, 2000). In light of facts mentioned hitherto, liberalizing the postal sector is a political-economic decision, which creates regulatory and practical issues regarding competition law.

From the economic point of view, postal services are important not only for their financial size but also for their huge impact on employment – 5.23 million employees and 267 billion SDR (approximately EUR 327 billion) global revenue (Boffa, Borba and Piotrowski, 2020). From this aspect, postal administrations, which are among the largest employers in many countries, contribute to the social structure as well as the economic life (Rogowski et al., 2017). Therefore, postal development plays a crucial role in contributing to the prosperity of societies, because inexpensive and well-organized postal services can decrease transaction costs and ease accessibility needs (Rogowski, Gerring and Cojocaru, 2016). In this context, Ansón et al. (2013) showed the boosting effect of advanced postal services in economic transactions in terms of establishing an effective delivery network for business-to-consumer and business-to-business transactions. A report conducted by the Universal Postal Union (hereinafter: UPU) (Boffa, Borba and Piotrowski, 2018) empirically illustrated that less people have bank accounts in countries where postal services are poor. This means that postal developments also enhance financial inclusion. Moreover, the same report also emphasised the essential function of postal services when it comes to natural disasters in terms of the timely delivery of humanitarian help and providing information to increase national resilience. Hence, governments are expected to develop their postal services by increasing their investments and creating level-playing-field regulations. From these socio-economic points of views, it is worth noting that postal development also contributes to certain sustainable development goals of the United Nation in accordance with the 2030 Agenda for Sustainable Development through achieving sustainable development goals (hereinafter: SDGs), particularly for the realisation of decent work and economic growth (SDG 8), industry, innovation and infrastructure (SDG 9), ‘sustainable cities and communities’ (SDG 11), and ‘partnership for the goals’ (SDG 17).

Finally, it should be noted that the question of whether the postal service market is actually a natural monopoly is open to debate. A natural monopoly occurs when a sole undertaking is able to provide the most convenient products/services without any competitive pressure, where the sector’s cost structure demonstrates increasing economies of scale. In such cases, the regulatory approach is preferred, instead of allowing free-market mechanism. The main

reasons behind the provision of postal services by state-owned monopolies include the ability to provide universal postal services to all citizens at affordable prices, even subsidizing some regions, and ensuring that postal networks are operated and secured in the whole country. However, there are several problems during the investment and operation phases in these undertakings, such as keeping the cost of infrastructure services low (even below the cost) due to political concerns, inefficient employment policies pursued in light of political concerns, and corruption under the abuse of power (Noll, 2000).

III. EU-level Developments on the Liberalization of Postal Services

Even though the EU has finished issuing the necessary regulations for the full-liberalization of postal services as of 2008 with the third directive of 2008/6/EC, this liberalization has not created a large change in market shares. Institutions that had a monopoly position in the past, such as La Poste in France and Deutsche Post in Germany, enjoy their near-monopoly position in specific markets with a couple of large suppliers, but very limited competition. Recently also, they have been frequently caught on the radar of competition authorities due to their aggressive market strategies. Therefore, the liberalization in the EU is open to debate.

The liberalization wave in the postal sector has been discussed since the 1990s across the world. Countries generally chose to liberalise their postal organizations because of economic pressures; developing countries were required to liberalise their postal services in order to get loans from international economic organisations. In the EU, however, this liberalization process was necessitated by a political goal: the creation of the single market. In other words, the aim of EU policies in the postal sector is to integrate the internal market in the postal service, and to provide effective, reliable and quality postal services at EU level, with an appropriate regulatory structure and at affordable prices for the purchasing power of all EU citizens. Postal services in the EU were liberalized with three postal directives of 97/67/EC, 2002/39/EC and 2008/6/EC as per the Green paper, which emphasised the necessity of the liberalization of postal services for the development of the single market in postal services and the promotion of socio-economic development (Green Paper, p. 234). These directives have determined the basic policies in terms of market liberalization by imposing duties to be complied with by all member states. Although the latest Directive abolished monopoly rights in the European postal sector, very limited progress concerning the competitiveness of postal markets was

observed in Estonia, Finland, Germany, the Netherlands and Sweden, despite the establishment of the legal background for liberalization (Copenhagen Economics 2010, 80). This is because of the non-competitive nature of postal markets, under the universal service obligation, due to the privilege provided to national postal services.

After the postal sector was opened to competition in a gradual and controlled manner, competition law is applied as one of the most instrumental tools to prevent disruptions in this market, one of the most powerful tools for National Competition Authorities (hereinafter: NCAs). In this respect, both the European Commission and NCAs have faced many cases regarding the competition law dimension of the liberalization process and took different approaches to deal with them. The following sections cover some of these approaches.

1. France

La Poste, which is the main legal operator in France in terms of the universal service obligation, was founded by Leon Pajot and Louis Rouillé in 1671 as the basis of today's French National Postal system. However, La Poste's activities in the field of express mail, packages and logistics are conducted in a competitive market. Accordingly, La Poste has expanded its postal home delivery service by penetrating the out-of-home parcel delivery business through establishing drop-off points. Although La Poste was effective in this market, it claimed to not be a leading operator.¹

There have been two significant cases against La Poste. First, in December 2004, the French NCA determined that the discount systems applied by La Poste to large customers constituted a competition law violation and fined the company EUR 600 000 (Conseil de la Concurrence, 2004). Afterward, another investigation of La Poste, which was opened in 2010 due to an alleged abuse of dominance, ended with the acceptance of commitments as of April 2020. These commitments include the termination of loyalty and bundled rebates in parcel deliveries (Conseil de la Concurrence, 2020). Rebate calculations made in line with the detailed implementation of the as-efficient competitor test and commitments played a large share of the delay of the decision. The reasons for the delay of the issuance of the decision can be traced back to the detailed implementation of the as-efficient competitor test and the rebate calculations

¹ According to data provided by Owler, La Poste's most recent revenue was announced as \$38.3B, whereas its close competitors, Deutsche Post DHL Group and Swiss Post, announced \$31.5B and \$8B, respectively; available at: <https://www.owler.com/company/la-poste#competitors> (accessed 18.08.2021).

made in line with the commitments (François, 2020). After the ten-year-long market test, it was understood that La Poste is an indispensable provider of parcel delivery to clients because of loyalty and bundled rebates, since La Poste determined its rebate thresholds according to the total number of parcels or turnover by considering home deliveries and out-of-home deliveries jointly. As shown by these cases, and the data provided by Arcep (Autorité de Régulation des Communications Électroniques et des Postes), the postal market is still not competitive enough (Jakubowski, 2018, p. 40). Finally, in terms of state aids, La Poste, as a fully-state-owned financial institution, can benefit from state emergency liquidity schemes with ease. However, ‘the state must respect the limits set by EU competition law as [La Poste] operates in a competitive business environment’ (Fitch, 2020).

2. Germany

As per Article 1 of the German Postal Act (Postgesetz, hereinafter: PostG), ‘the purpose of this Act is, through regulation of the postal sector, to promote competition and to guarantee appropriate and adequate services throughout the Federal Republic of Germany.’ Therefore, German postal regulation prioritised workable competition in the regulatory context: this is emphasised by Article 2 PostG which states: ‘the aims of regulation shall be (1) to safeguard the interest of customers and to maintain postal secrecy, (2) to ensure equal-opportunity and workable competition, in rural as well as urban areas, in postal markets, (3) to ensure provision throughout the Federal Republic of Germany of basic postal services (universal service) at affordable prices, (4) to safeguard public safety interests, and (5) to meet social requirements.’ To achieve these aims, the PostG provided three instruments: access to the network (para. 28 PostG),² access to PO box facilities and to information on address changes (para. 29 PostG),³ and the requirement to submit contracts (para. 30 PostG).⁴

² ‘Where a licensee has a dominant position in a market for postal services subject to licence, it shall, given demand, provide parts of its overall conveyance offering separately, if this is economically reasonable.’

³ ‘Where a licensee has a dominant position in a market for postal services subject to licence it shall undertake, provided demand exists, to allow in this market other postal service providers, against payment of a fee, to convey postal items to the PO box facilities it operates unless this is not objectively justified.’

⁴ ‘All contracts on work sharing services according to §28 of this Act and all contracts on the shared use of PO box facilities or access to information on changes of address according to §29 of this Act shall be submitted to the Regulatory Authority by the dominant provider within a period of one month of concluding the contract.’

According to the study conducted by the Bundesnetzagentur (2013), despite the abolition of the exclusive license provided for Deutsche Post AG (hereinafter: DPAG) in 2008, DPAG still holds more than 90% of the postal market share. Although the German postal market was one of the earliest markets to be liberalized in the EU, the monopolistic features are still strikingly obvious (Masri, 2014, p. 113). In other words, while DPAG's market share has decreased over time, its market power remains unchanged because competitors are obliged to cooperate with DPAG (competition through cooperation) due to their insufficient infrastructure (Masri, 2014, p. 98, 109).

So, despite the liberalization, DPAG, which is the universal postal service provider in Germany, has also been subjected to several competition law decisions regarding the abuse of its dominant position (Eccles, Leroux and Lima, 2020). For example, it was determined that DPAG has abused its dominant position because of the loyalty rebates that it gave to companies by the cross-subsidisation of its services in the package services market, with its monopoly revenues; consequently, it faced a EUR 24 million fine.⁵ Furthermore, DPAG's discriminatory and destructive pricing practices were also terminated with the intervention of competition law. All in all, although recent decisions related to different kinds of competition law violations, they confirmed the still-dominant position of DPAG.⁶

Along with the liberalization in the postal services sector, mergers and acquisitions are common among enterprises trying to expand their postal network and activities. In this context, postal companies are trying to acquire transportation and logistics companies in particular, in order to meet competitive pressures. Accordingly, DPAG has also bought many logistics enterprises.⁷ These concentrations may have competitive benefits, as well as lay the groundwork for anti-competitive behaviour. As stated by Groebel (2019), '[G]iven that markets are more dynamic and that we see cross-market and cross-sectoral providers and new business models, it is important to make an integrated analysis taking into account the effects and impacts from other markets and other sectors.' Therefore, efforts should be made to ensure that cooperation between undertakings with significant market shares does not cause discriminatory, exclusionary and exploitative practices that reduce competition.

⁵ Commission Decision of 20.05.2001, Case COMP/35.141 *DeutschePostAG*, OJ 2001 L 125, p. 27–44.

⁶ Cologne Administrative Court judgment of 26.03.2019, Case No. 25 K 3396/12; Cologne Administrative Court judgment of 30.08.2019, Case No. 25 K 5770/16; Cologne Administrative Court judgment of 23.02.2018, Case No. 22 L 3577/17.

⁷ Commission Decision of 07.02.2000, Case COMP/M.1794 *Deutsche Post/AirExpress International (DP/AEI)*; Commission Decision of 17.02.1999, Case COMP/M.1410 *Deutsche Post/Danzas*; Commission Decision of 21.10.2002, Case COMP/M.2908 *DeutschePost/DHL*.

3. The Netherlands

In the Netherlands, PostNL (formerly TNT N.V.) is the dominant firm in the national postal market, despite its full liberalization was realised in 2009. Since 2009, PostNL has been legally required to grant downstream access for senders and other postal operators on non-discriminatory and transparent conditions and tariffs as per Article 9 NL Postal Act. Rather than classic postal services, the Dutch NCA (*Autoriteit Consument and Markt*, hereinafter: ACM) demonstrated that the parcel market is exponentially growing. Therefore, attention needs to be drawn to competition in the Dutch parcel market. As seen from the table indicated below, PostNL has been dominating the majority of the market with a market share higher than 55%. In terms of volume-based market share, PostNL is still the leader, having more than 90% of postal volume and turnover (ACM, 2021, p. 10).

Table 1. Domestic Market Shares Based on Volume (in %)

	2016	2017	2018	2019	2020
PostNL	60–65	60–65	60–65	60–65	55–60
DHL	20–25	25–30	25–30	25–30	30–35
GPD	5–10	0–5	0–5	0–5	0–5
GLS	5–10	5–10	0–5	0–5	0–5
UPS	0–5	0–5	0–5	0–5	0–5
TNT	0–5	0–5	0–5	0–5	0–5

Source: Autoriteit Consument & Markt, 2021

According to the report published by the ACM (2016), competition on the Dutch parcel market is restricted reflecting the fact that the domestic market for parcel deliveries is dominated by PostNL, and the market concentration level has not notably changed in the last decade. Moreover, PostNL has a competitive advantage due to a VAT exemption in terms of the universal service obligation (hereinafter: USO). Recently, even though the merger between *PostNL ve Sandd* was approved by the Minister of Economic Affairs and Climate Policy, the Dutch NCA annulled this merger deal in order to prevent a postal delivery monopoly. According to the ACM, PostNL is controlling around 70% of the Dutch postal market, whereas Sandd controls almost all of the rest.⁸ Therefore, it can be argued that the Dutch postal market is also not

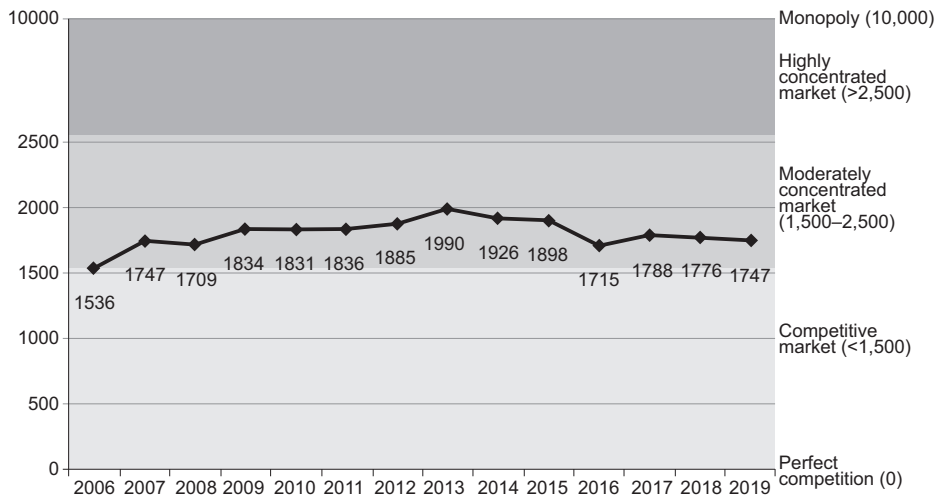
⁸ Autoriteit Consument and Markt, 'ACM verleent geen vergunning voor overname Sandd door PostNL' (2019); available at: <https://www.acm.nl/nl/publicaties/acm-verleent-geen-vergunning-voor-overname-sandd-door-postnl> (accessed 18.08.2021).

yet competitive. Likewise, according to the report issued by the Dutch Ministry of Economic Affairs (2016), a return to a monopoly structure is expected in the following years due to the increasing demand of universal service obligations.

4. The UK

The UK has left the EU as of 2021, but its policies still bear a resemblance to European paradigms. In this regard, the UK, which has a well-established and deep-rooted postal organisation, was one of the precursor member states to promptly implement a decision regarding the liberalization of its postal sector. There is currently no concern about making changes to assure a competitive structure of postal markets after Brexit. Regarding the liberalization of the postal market for parcels, recent studies showed that the British parcel market is still not competitive, even though it has not been influenced by a monopolistic pressure. The Herfindahl-Hirschman Index (HHI) presented below proves this claim by demonstrating the market concentration level.

Table 2. UK Parcels Market Competitiveness: Herfindahl-Hirschman Index



Source: Proud and Chapman, 2020, p. 4.

The HHI could be calculated with the sum of the square of all businesses’ market shares in percentage. As the HHI value has been between 1536 and 1747 since 2006, the UK parcel market could be defined as moderately concentrated. Therefore, this means that a full-liberalization of postal services has still not been achieved. However, one can argue that a fully competitive

parcel market is an achievable target in accordance with the downward trend seen in the last five years.

When it comes to recent competition law decisions, OFCOM has fined Royal Mail £50 million for the abuse of dominance against its main rival, Whistl, concerning the delivery of bulk mail from big businesses such as bank statements and utility bills (OFCOM, 2018). Regarding the bulk mail delivery market, it was found that Royal Mail has an overwhelmingly dominant position in the bulk mail delivery market because any business wishing to collect bulk mail has to work with Royal Mail for conveying large volumes of letters to anywhere in the UK.⁹ On the other side, Whistl initiated its bulk mail delivery service in London in 2012¹⁰ and planning to expand its services to 40% of the UK.¹¹ The weakness of its delivery network gave Whistl no choice but to use Royal Mail services. In response, according to changes made by Royal Mail in 2014, businesses started being charged 0.25p more per letter than companies that solely used Royal Mail if they wanted to deliver bulk mail in some parts of the country, as Whistl did.¹² This means that Royal Mail kept its competitors out of the competition, so that bulk mail delivery prevents new competitors from entering the market. As a result of this analysis, the contested conduct was determined as a breach of Section 18 of the UK Competition Act and Article 102 TFEU.¹³ In 2019, Royal Mail's appeal of this fine was dismissed by the Competition Appeal Tribunal.¹⁴ Another decision against Royal Mail was issued in 2019 concerning the market/consumer share agreement between Royal Mail and the SalegGroup. Therein, OFCOM (2019) found that the parties violated Chapter I of the UK Competition Act 1998 and Article 101 TFEU by distorting competition regarding downstream network access (that is, mail is collected and distributed by competitors, but is delivered up to Royal Mail collection points in order to go through the sorting process at their local delivery offices) in the relevant period from 5 August 2013 to 25 May 2018. Regarding Brexit, no major change is expected in terms of letters sending to and from the UK. However, for the parcel market, the UK – as a third party country in the context of EU customs – was affected by an increase in the tax burden.

⁹ Ofcom, Decision of the Office of Communications, 'Discriminatory Pricing in relation to the supply of bulk mail delivery services in the UK' [2018] (CW/01122/01/14) para. 6.3 and para. 7.14.

¹⁰ *Ibidem*, para. 1.14.

¹¹ *Ibidem*, para. 1.13.

¹² *Ibidem*, paras. 1.17, 3.56 and 7.150.

¹³ *Ibidem*, para. 10.132.

¹⁴ Competition Appeal Tribunal judgment, *Royal Mail plc v Office of Communications and Whistl UK Limited* [2019] CAT 27.

IV. An opposing understanding of Postal Services: the US paradigm

In contrast with the liberalized European postal service markets, the US has always stood for the United States Postal Service (USPS) as a publicly governed postal service, which provides 48% of the total mail volume worldwide (Postal Facts, 2020). The USPS is currently the largest public enterprise in the US with approximately 600.000 employees working in above-average conditions concerning their salaries, pensions and healthcare accesses (Martin and Titolo, 2020, p. 23). The main reason why the whole postal market was left to the USPS is to ensure public benefit by providing reasonable shipping costs for all citizens regardless of their locations (Sawicky, 2020, p. 7; Gallagher, 2020). So, the USPS has a special notion to bind the nation together, and in this regard, local post offices are considered as social capital (Sawicky, 2020, p. 11–13; Dayen, 2018; Cremer et al., 2008, p. 28).

The postal service market in the US is considered as a natural monopoly, since it would not be cost-efficient if more than one provider reached the last mile. Therefore, the USPS has the exclusive right in letter transportation within the framework of the ‘private express status’ (Sawicky, 2020, p. 6–7). Considering that the US is one of the firmest advocates of free (open) competition, its pro-monopolist standpoint for postal services, in terms of distributing letters and having mailboxes, creates a fundamental conflict with its core values. Sidak and Spulber (1996) pointed to this irony by stating that attempting to compete in postal mail is a crime, whereas engaging in monopolistic competition is not. This issue was further discussed amidst scholars. On one hand, there is an argument that the US should create a free competition environment by making the necessary regulations towards liberalization like the EU did, since both the federal government and taxpayers have had to compensate losses incurred by the ineffective functioning of the USPS in recent years (Edwards, 2020). On the other hand, there are also opposing studies showing the liberalization of postal services within the EU as ‘a euphemism for downsizing’ (Sawicky, 2020, p. 19–23).

The effective provision of postal services has a high social and economic impact on the development of society, and such services are classified by the US as services that cannot be provided without public intervention, particularly in terms of the universal service obligation. The US, accordingly, allows the monopoly of the USPS in the postal sector to guarantee funding for these obligatory services by specifying the limits of the protection area. To sum up, the predominant American opinion is that the social benefits of postal services could only be maximised under the monopoly of a government-owned postal institution. This claim has gained strength in terms of rural development

via postal banking as well as, in the time of the pandemic, by enabling and facilitating mail-in ballot voting and mail-order pharmacy (Hussaini and Alexander, 2020, p. 3699). Hence, social benefits have been considered just as important as economic ones (Morrissey, 2020).

V. Conclusion

The postal services sector is historically known for its big monopolies and, consequently, it has not been easy to ensure free competition in these markets (Kjølbye and Malamataris, 2016). Nevertheless, as can be seen from the Postal Freedom Index, which provides an evaluation of the liberalization and competitiveness of different postal markets prepared on a yearly basis by the US Consumer Postal Council, the countries that have made the most progress in the postal sector are EU member states. However, on the other hand, serious problems still exist. It is expected that liberalization by ensuring a competitive market in the postal services area will increase innovation and lower prices.

In spite of the fact that mail, which could be considered as the basic service of postal services, is decreasing in volume with the emergence of different communication tools such as e-mails (International Post Corporation, 2019, p. 8), countries are still responsible to ensure the delivery of mails due to the universal service obligation. It is open to debate if the ever-shrinking mail market is still profitable, and worth investing in research and development. Despite the fact that the letter market seems currently less attractive for private businesses, it should be sustained to safeguard the universal service obligation. Therefore, arguments pro liberalization would likely weaken versus state-owned postal services in case private entities show no interest. Nevertheless, liberal arguments have solid foundations for markets other than that for letter delivery. On the contrary, a competitive market may also result in cream skimming, which means competitors will focus on profitable areas with specialised services tailor-made to particular geographic areas. Creating the legal background in order to achieve liberalization in postal markets has impacted the competitive structure of the market to some degree, where a fluctuation in the number of rivals has been seen over time. Especially in the first years, the number of rivals increased sharply, but in the long term, the number decreased and monopolies prevailed once again (Bares, 2009). Hence, even though full market opening in the EU postal sector was achieved (Crew and Kleindorfer, 2010) more than a decade ago, the level of competition in the market has not yet been sufficiently increased. However, it should be

noted that EU Member States still have a lot of strength to achieve the full liberalization of their postal markets through the instrument of the three postal directives, as long as their policies support this liberal transformation.

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