WP2 Synthesis report on liberalisation and privatisation processes and forms of regulation

Liberalisation, privatisation and regulation of postal services in Europe – First international experiences in the run-up to new European regulations

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Introduction

In the early 1990s the European Commission began debating how to introduce a single market into postal services across Europe in line with its other initiatives on creating a single market for goods and services. This led to a green paper in 1992 and a draft directive at the end of 1995 that was finally agreed in December 1997, followed by a further directive in 2002. The main aims of European legislation were to try to establish a standard reserved area for letters and access conditions for licensed operators, to introduce independent regulators in each Member State, to set quality standards and to establish clear principles on pricing. The reserved area was initially set at letters weighing less than 100g or costing less than three times the standard service. These thresholds applied from 1 January 2003 and were then reduced from 1 January 2006 to letters weighing less than 50g or costing more than 2.5 times the standard service. Another review should lead to further liberalisation with the prospect of a fully open market by 2009 (Pond, Richard, 2006: 3).

In this report a descriptive analysis of postal services linked with liberalisation processes in six European countries is given. It is based on postal sector studies produced within the PIQUE project in 2006. One aim is to develop typologies of regulation processes that can be used to identify important variables concerning the effects of liberalisation, privatisation and regulation on competition, quality of services, prices and employment, especially with regard to expected future liberalisation steps in Europe.

The rough structure of this analysis uses variables and graphics (see Hermann 2007) to show experimental characteristics which are based on ongoing discussions among the PIQUE project members.

1. Privatisation steps, ownership and control of major provider

In this section two possibly important variables will be described: the shifting "*ownership and control of the incumbents"* as well as the "*ownership of all providers on the market*"..

1.1 Privatisation steps and ownership of "Post AG" in Austria

In 1996 the Post and Telegraph Administration was hived off from the government administration structures and transformed into a private limited company: Post und Telekom AG (PTA).

The telecommunications and the post-office areas were separated and divided into two separate legal entities (horizontal unbundling) in 1999. First Telekom was floated on the stock exchange, and a proportion of the shares were sold. The Postbus area was sold to the ÖBB (Austrian State Railways) in 2002. Like the majority of post offices in Europe, the Austrian post office owned a bank (Postsparkasse PSK), which in 2002 was sold to the Bank für Arbeit und Wirtschaft (Bawag). The Post AG

remained 100% in public ownership until May 2006. The ownership rights were exercised by the Ministry of Finance (BMF) through the Austrian Industrial Holding Company (ÖIAG).[1]

Finally, on 31 May 2006, 49% of the company shares were sold on the stock exchange and the government held the remaining 51%, which continue to be administered by the ÖIAG. Today, the company is divided into three divisions, letters (letter-post, information mailing, and media post), parcels and logistics (parcels and express services) and the branch network (post-office services, financial services and merchandising).

With regard to the shifting ownership of the incumbent a transformation has taken place *from a "department" (until 1996) to a state owned enterprise (SOEs), where the state has the majority of shares (since 2006*). Regarding the "ownership of all providers on the market" private companies are visible in Austria, whereas the predominately publicly owned Post Ag is market leader (see the graphical representation in section 1.7).

1.2 Privatisation steps and ownership of "De Post" in Belgium

Before the process of liberalisation began, the Belgian company De Post had a legal monopoly in the postal services sector. De Post was initially organised as a company or service falling directly under the responsibility of the central government. The ownership structure was 100% public.

In 1991 De Post was given the status of an autonomous state enterprise. The minister responsible had to appoint a 'commissaire du gouvernement' to supervise the autonomous state enterprise. The management contract and the financing of De Post were two other instruments available to the minister to supervise De Post.[2]

De Post had been remodelled into a limited company according to public law by 17 March 2000.

Since 2005, the involvement of other shareholders has been allowed. There were, and still are, two restrictions. First of all, the direct participation of the Belgian state has to be more than 50% at any time. Secondly, the shares owned by the state give the right to more than 75% of the votes and mandates in all organs of the company, even if there are other shareholders.

De Post is involved in a wide range of activities: mail, express, parcel services, newspaper, retail, financial post, insurance, banking, outsourcing solutions for

[1] The ÖIAG previously exclusively exercised trusteeship of the shareholding rights of the republic in nationalised industries. In 1993, however, its activity was put on a new legal footing and it was tasked with privatising the majority of its holdings within a reasonable period. The ÖIAG thereby became a privatisation agency and holding company.

[2] This reform had several consequences. The company now had the autonomy to change the status of its personnel. This reform also signified that De Post would from then on have a board of directors. It also made the creation of subsidiaries by De Post possible.

companies with large volumes of outbound mail. These services are provided by De Post and its 9 subsidiaries.

With regard to the *shifting ownership of the incumbent* a transformation took place from a "department" without managerial autonomy (until 1990), to a state-owned enterprise (SOEs), in which the state is majority shareholder and has the right to more than 75% of the votes and mandates in all organs of the company. Regarding the *"ownership of all providers on the market"* there are private owned companies in Belgium and the incumbent La post as a private company in public ownership. Before liberalisation began there were already a number of private companies active in certain niches (see the graphical representation in section 1.7).

1.3 Privatisation steps and ownership of "Deutsche Post World Net" in Germany

In 1989, the former publicly owned Federal Postal Service (Deutsche Bundespost) was divided into three state-owned companies: postal services (Postdienst), financial services (Postbank) and telecommunication services (Telekom). The three companies were legally the public property of the Federal Administration (Bundesverwaltung). They were independent in terms of day to day decision making, but despite this autonomy, they were still directly controlled by the former Ministry of Post and Telecommunications (Bundesministerium für Post und Telekommunikation, BMPT).

In 1994 the Basic Law was amended to allow the privatisation of the enterprises. The amendment takes the form of a paragraph stipulating that the Federal Government has to guarantee the nation-wide provision of, and access to, postal and telecommunication services.

On 1 January 1995, each of the three enterprises was transformed into a public limited company (Aktiengesellschaft). In the first instance the German Federal Government retained all shares. The successor to the postal services was renamed the Deutsche Post AG (DPAG). Since 1998, Deutsche Post AG has acquired several other companies.

In November *2000 the material privatisation* of the DP AG began with its initial public offer (IPO). In the course of the IPO the DP AG was renamed the Deutsche Post World Net (DPWN) – a holding company, with the DP AG as the only shareholder.

Since 2005 private investors have held a majority of shares of the Deutsche Post World Net, which is currently the world´s leading logistics group.

All in all the privatisation process was affected by the preparation of further liberalisation measures, which started discreetly in 1989 and gained new dynamism in 1998 and 2005 (see section2).

With regard to the *shifting ownership of the incumbent* a transformation took place from a "department" (until 1998) to a state-owned enterprise (SOEs) (from 1 January 1995) and finally to a private company with a majority of shares in private hands (from 2005). As regards the "*ownership of all providers on the market*" only private

companies are visible in Germany. Before the process of liberalisation started, on the CEP-market there had been some private enterprises focused on parcel services for commodities over a weight of 20 kg, which was not included in the monopoly of the German Post (see the graphical representation in section 1.7).

1.4 Privatisation steps and ownership of "Poczta Polska" in Poland

Up to the end of the 1980s there was only one postal operator active on the Polish postal Market "Przedsiębiorstwo Państwowe Poczta, Telegraf i Telefon" (Post, Telegraph and Telephone National Enterprise/PTTNE) offering services concerning mail, parcels and money orders. The postal services market was linked with the telecommunication services market. In 1987 PTTNE established its own courier service: EMS/Pocztex.

In general the year 1990 brought an end to the period of central economy. The Communication Act of 1991 separated telecommunication and postal services and the national public-service enterprise, "Poczta Polska", was put in charge of postal services. The "State Telecommunication and Mail Inspection" - a body at the Ministry of Communication – was put in charge of controlling activities in the postal domain.

The first regulatory agency was appointed in 2000, which since 2005 has been supervised by the Minister of Transport, namely the "President of Electronic Communication Office". As a public operator, Poczta Polska is obliged to provide universal postal services and has the exclusive right to provide "reserved services". Poczta Polska is shareholder of seven economic companies (Postal bank, Postal data, Pension Found, Financial Services, Leasing Fund, Insurance Company, Philatelic Company), established between 1990 and 2003. Acting on its own initiative, the Chamber of State Control (Najwyższa Izba Kontroli) has had to look into the so-called Poczta Polska "capital group" activity. The aim of the investigation was to evaluate the participation of Poczta Polska in trade law companies and mutual insurance companies and there was negative criticism of the economic reasons for Poczta Polska's participation in trade law subjects. In May 2005 Poczta Polska began restructuring activities to prepare for competition in a liberalised market.

With regard to the shifting ownership of the incumbent a transformation took place *from a "government department" (until 1991) to a public owned company.* Regarding the "ownership of all providers on the market", private companies are visible mostly on the CEP-markets, whereas the incumbent is practically the only provider in the letter market (see the graphical representation in section 1.7).

1.5 Privatisation steps and ownership of "Posten AB" in Sweden

The 350-year-long history of public administration was brought to an end in March 1994, when the "Swedish Post Office" was transformed into "Posten AB" - a joint-stock company, which is still completely public-owned. The aims were that Posten AB should not in any way be subsidized by the state and should compete on an open market. According to Hofbauer (2006) private competitors pay duties to the state,

which are transferred to the incumbent - Posten AB - to co-finance the universal service obligation of Posten AB.

With regard to the ownership of letter distribution companies, apart from the public-owned incumbent there is the privately owned CityMail AB and 35-40 small private firms (see the graphical representation in section 1.7).

1.6 Privatisation steps and ownership of "Royal Mail Group plc." in the UK

Letter post, parcels, post offices, banking services and telecommunications made up the Post Office, which operated until 1969 as a government department. In 1969 the Post Office became a nationalised industry.

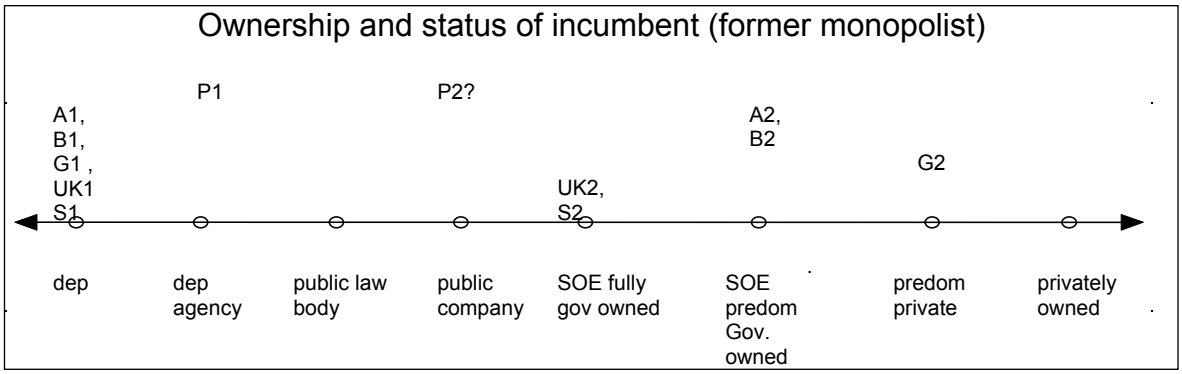
In 1981 the telecommunications division was split off from the Post Office, which was then privatised in 1984. The 1980s saw further restructuring with the Post Office being reorganised into five divisions in 1986 – Royal Mail, Parcelforce, Post Office Counters, Girobank (formerly the Post Office Savings Bank) and Subscription Services, which was mainly the Post Office's responsibility for collecting television licences. Girobank was privatised in 1990.

The main organisational changes since the 1990s have involved the setting up of the organisation as "government owned public limited company" in 2001 and the name change in 2002 to Royal Mail Group plc. Currently there are three public postal services operators - Royal Mail (letters and small parcels), Parcelforce (larger parcels) and Post Office Counters (post offices) - which are subsidiaries of Royal Mail Holdings, a government-owned holding company. With regard to the shifting ownership of the incumbent a transformation took place from a "department" (until 1969) to a "fully government owned public limited company" (since 2001). Regarding the "ownership of all providers on the market" private companies are visible in the UK, whereas the predominately public owned Royal Mail is letter market leader – in contrast to Parcelforce on the parcel market (see the graphical representation in section 1.7).

1.7 Comparing shifting ownership of the postal service provider in Europe

With regard to the shifting ownership of the incumbent - illustrated on the basis of a public-private continuum which takes into account the different levels of managerial autonomy as well as their governance structure (for the more detailed description of the continuum see Annexe 1) - the beginning and end position of the respective countries can be shown on this scale:

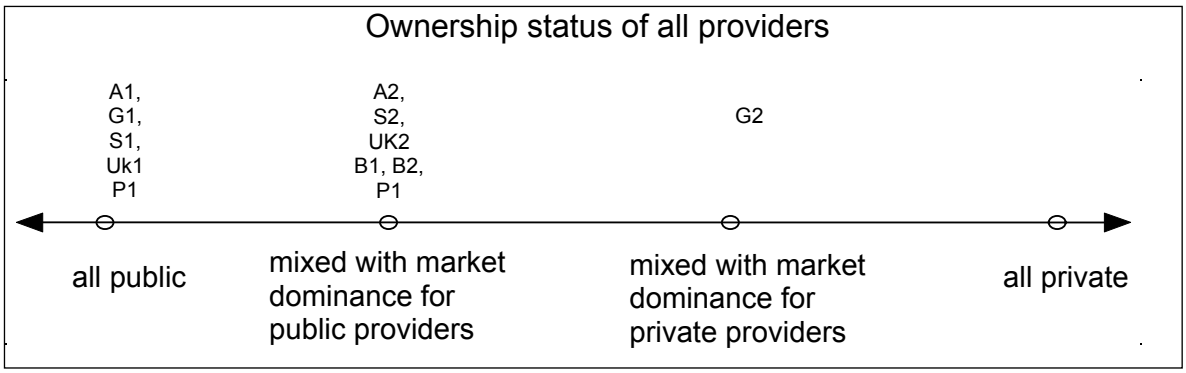
Figure 1: Ownership and status of the incumbent (former monopolist)



Compared to other countries the incumbent in Germany shows the most radical privatisation process. Germany has the only almost completely privatised incumbent, whereas all other countries are predominantly government owned.

Regarding the transformation of the ”ownership of all providers on the market“ the beginning and end position of the ownership status of all postal market providers in the course of the privatisation process of the respective countries can be shown as follows:

Figure 2: Ownership status of all providers



Postal services in all countries analysed to date (on the basis on 2006) reveal that there is a mixed ownership status of all providers on the market with dominance for the incumbents, what is not surprising.

2. Liberalisation steps and changing market structures

In which way has the privatisation process in the different European countries been linked with the liberalisation of the market, more competition and changed market shares?

The interesting variables in this section are the development of the “*number of markets and the linked kind of competition*”, as well as the development of the *“number of postal services provider*” and their “*market shares*”.

2.1 Liberalisation process in Austria

Development of number of markets and kind of competition

Whereas the complete field of postal services was operated by the state monopolies, even *before the start of the EU-initiated liberalisation process there were alternative providers in Austria in the field of parcel and express services and in advertising (a*t the start of the 1990s the parcels service for business customers had already been hived off from the state monopoly).

In accordance with the terms of the EU internal-market directives, the weight thresholds for the monopoly area in Austria have been gradually reduced, and since 1998 have been implemented in the National Post-Office Acts. That means the liberalisation of the postal services took place after its separation into a reserved, protected area and an area open to competition. Since 1 January 2003, all letter post over 100g has been subject to competition and since 1 January 2006 all letter post over 50g. The 50g threshold also applies in Austria for outgoing cross-border post.

All in all in 2007 there is more than one *postal market in Austria:* Firstly the courier, express mail and parcel market (CEP-market) with full "competition in the market", the letter postal market with "competition in the market" and within the letter market the "reserved area" of no competition for letters weighting less than 50 grams.[3]

The development of the Austrian postal services market was a *transformation from a market with no competition (including the telecommunication sector) to multiple markets with competition in the markets and one market with no competition* until 2007 (see graphical representation in section 2.7).

On a scale of "none", "emerging", "substantial" and "intense", a study for the European Commission (Wik-Consult, 2006), describes the degree of competition on the Austrian parcel and express services market as "intense", in the letter post and addressed direct mail as "emerging", for newspapers, magazines and periodicals as "substantial", for daily newspapers as "intense", and for unaddressed post/advertising as "substantial".

Market structure: number of providers and relative market share

Now almost three quarters of the total postal market in Austria is open to competition. In the area of letter post, the incumbent Post AG – according to its own estimates – still holds 98% of the market, for information mailing 85% and for media post 56%.

All the major international parcels companies, such as United Parcel Service (UPS), Thomas Nationwide Transport (TNT), Deutscher Paket Dienst (DPD), Federal Express (FedEx), are active in the parcels and express services field in Austria. However, these are almost exclusively for business customers.

In the area of direct mail and the media, there are two alternative providers: Feibra is only active in the area of unaddressed direct mail. Redmail currently provides

[3] In detail the Austrian report is based on the following division of the postal sector: letter post (letters, postcards, transaction letters), advertising (addressed and unaddressed advertising), media (newspapers, magazines), parcel post (minimum 2kg, max. 20kg), and express and courier services (documents, parcels, letters).

services in the area of direct mail and the media and also plans to enter the letter-post market in the future - and is currently developing an operating system.

Taking into account that now almost *three quarters of the total postal market in Austria is open to competition and that in the area of letter post the incumbent Post AG still holds 98% of shares* the liberalisation was not leading to more competition, whereas on the *CEP-, media- and advertising markets the situation was different*.

2.2 Liberalisation process in Belgium

Development of number of markets and kind of competition

After 1956 the Belgium Post had an exclusive right –established by law - to collect, carry and distribute all correspondence of whatever nature, and lay down penalties for any infringement of that exclusive right. But before liberalisation began, a number of private companies had become established and there was competition in certain areas (e.g. delivery of newspapers and door to door advertising).

The reform of the postal market has been limited to the segment of letters and parcels that do not need special treatment (i.e. consignments collected personally, express delivery and track & trace) during the production phase. In general liberalisation has followed the European calendar of liberalisation.

In short, there is currently still a legal monopoly in the reserved segment of the market and competition in the case of consignments weighing more than 50 grams, the unaddressed consignments and in the express and parcel segment.

The development of the Belgium postal services market was a *transformation from a market with no competition to multiple markets with competition in the markets and one market with no competition* until 2007 (see graphical representation in section 2.7).

Market structure: number of providers and relative market share

The reserved market is served by De Post. More than half of the turnover of De Post now comes from the segments open to competition. However, since the postal market has opened up gradually, the number of companies active on this market has grown steadily: Belgian subsidiaries of Deutsche Post Welt Net and TPG Post are now active in a few specific niches, respectively cross-border consignments and magazines/newspapers. There is, however, more competition in the segment of parcel and express services. Five companies possess 62% of the market in Belgium, leaving the remaining 38% to a few hundred smaller companies. The five large companies are the four integrators (DHL, Fedex, TNT and UPS) and Belgian railway-subsidiary ABX. In addition to these large companies, there are a number of smaller companies active in the Belgian market. Finally, numerous small courier services are operating locally. In sum, there are about 1,000 companies active in the sector.

Until now liberalisation has not led to more competition in the area of the *CEP-, media- and advertising markets, whereas the situation on the letter market is affected by the reserved area*.

2.3 Liberalisation process in Germany

Development of number of markets and kind of competition

Before the liberalisation of the postal sector began, the Postal Act of 1969 had granted the German Post (Deutsche Bundespost) a monopoly for commodities weighting less than 20 kg, which was linked to an obligation to provide universal services.

The process of liberalising the German postal market began in the middle of the 1980s. In 1984 the German authorities opened the express business market to competitors, and since 1985 the monopoly area has no longer been extended to the sector of cross-border express and courier mail. In 1989 with the organisational separation of the Deutsche Bundespost into three units the monopoly of the Deutsche Bundespost was maintained and continued to apply to the Deutsche Bundespost Postdienste, although letters, whose portage price exceeded the tenfold price of a standard letter, were excluded from the monopoly.[4] The *first significant steps of liberalisation* took place as a result of the Postal Act of 1998, which transposed the first European Postal Directive (Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997) into national law. Via a policy of a gradual opening of the market the postal sector was liberalised in consistence with the EU time frame. However, Germany went further than it was obliged to do by lowering the weight limit for the reserved letter post market down to 200 grams instead of the required maximum limit of 350 grams. In 2003 cross border mail was completely opened up to competition and the weight limit for items of correspondence was lowered to 100 grams, and then in 2006 to 50 grams. The exclusive licence for the DP AG is planned to be finished by the end of December 2007, whereas the last proposal of the EU commission for full competition in Europe was set for 2009.

In 2007 *three different postal markets can be identified in Germany*:[5] Firstly the courier, express mail and parcel market (CEP-market) having full "competition in the market"; Secondly the letter postal market which is regulated by licences issued by the regulatory agency (the so-called "licensed sector"), and has "competition in the market" (the so-called "competition area"); Thirdly within the letter market the "reserved area" of no competition, with the DPAG as owner of an exclusive licence for letters up to a weight of 50 grams and a price limit of 1.38 euros.

Until 2007 the development of the German postal services market was a *transformation from a market with no competition (including the telecommunication*

[4] The newspaper service was already an area of competition before 1989.

[5] According to the Postal Act of 22 December 1997 (§ 4 No.1) two fundamental postal services can be distinguished. The first service is that of portage of letter post items, whilst the second service is that of portage of postal packages. To that effect the postal sector consists of two subordinated markets: the letter post market (divided into three sub-segments: infopost, press mail and items of correspondence) and the courier, express mail and parcels market (CEP-market). In this report with regard to official statistics and data sources a distinction will subsequently be made only between the CEP-market and the letter post market, whereas the letter post market has to be related either to the reserved area or to competition area of the licensed letter post market.

sector) to multiple markets with competition in the markets and one market with no competition (see graphical representation in section 2.7).

Market structure: number of providers and relative market share

The postal service market in total (CEP- and letter market) had a turnover of 23 billion euros in 2006. More than 75% of this market was open for competition. In 2004 the incumbent DP AG was responsible for two-thirds of the turnover (16.6 billion euros). The CEP-market with 13 billion euros turnover was bigger than the letter market and controlled by an oligopoly of seven companies (DP AG, UPS, DPD, GLS, Hermes, Trans-o-flex, TNT). The letter market had almost 10 billion euros turnover: 6.5 billion in the reserved area and 3.4 billion euros in the competition area.[6]

Figure 3: Market structure in Germany

	Before the process of liberalisation (before 1989)	Status quo of the process of liberalisation (since 2003)
Letter post market	Deutsche Bundespost 100%	DP AG (93.1% market share total; 83.2% in the competition area) 2,030 new providers (e.g. Pin-Group. TNT-Post, Jurex) (State: 2006)
CEP-market (Courier, Express mail, Postal packages) (unlicensed area)	Deutsche Bundespost (market leader) Hermes (active since 1972), DPD (active since 1976), UPS (active in Germany since 1976)	DPWN Group (Post-subsidiaries, DHL) (26%), UPS (11%), DPD (LaPoste) (10%), GLS (The Post Office) (5%), Hermes (4,8%), Trans-o-flex (with DHL Worldwide: 4%) (4.7%) TNT Post Group (TNT Logistics, TNT Express) (3%), other local providers (rest) (State: 2003)

Source: Bundesnetzagentur (2006 : 21,24), Klaus (2004: 130)

In 2005 the DP AG had a market share of circa 93.1% of the whole postal letter market. Until 2005 42% of the letter market was open to competition. The market share of the DP AG in the competition area was 83.2%. The new competitors achieved a share of 6.9% in the letter market and 16.8% in the competition area (although none of them was – or is to date - the owner of a nation-wide infrastructure), mostly due to "high-order services"[7] (Bundesnetzagentur 2006a: 9, 13, 21, 24, 31; Bundesnetzagentur 2006b: 114).

[6] In 2005 the potential of the competition area of the letter market reached a turnover of 4.2 billion euro and it is expected that in 2006 the turnover will amount to 5 billion euro due to the new weight reduction for the reserved area (until 50 grams).

[7] The weight and price thresholds for the reserved market are not valid in some cases , e.g. for the so-called D-license for "high-order services" (e.g. the same-day delivery). Due to "high-order services" (which are a German construction and not based on any EU Directives concerning exceptions in the reserved area and which are subject to controversial discussions) competitors of the DP AG reached a turnover of 367 million euros in 2005 (input consulting 2006: 17, 22). The total turnover of the competitors of the DP AG in the letter market in 2005 was 532 million euros. With regard to these exceptions in the reserved market there is "competition in the market within the weight- and price-thresholds of the reserved area".

Figure 4: Share of the competition area and of new provider in the letter market (in % of the turnover)

	Share of the competition area in the letter market (in %)	Share of new provider in the competition area (in %)	Share of new providers in the letter market (in %)
1997	< 3	no data	no data
1998	~ 23*	3,4	0,8
1999	~ 23*	5,5	1,3
2000	~ 23*	7,4	1,7
2001	~ 23*	10,6	2,4
2002	~ 23*	12,7	3,0
2003	33	11,7	3,9
2004	34	15,7	5,3
2005	42**	16,8**	6,9**
2006	50**	no data	no data
2007	50**	no data	no data
2008	100**	no data	no data

Own calculations; Source: Bundesnetzagentur (2004: 14; 2005: 61; 2006: 9, 21, 24); * = average 1998-2002, ** preliminary

The increase of market share achieved by the new private suppliers was linked with an enormous increase in the number of licences. Between 1998 and 2005 the regulatory authority for telecommunication and post had awarded 2,030 licences to private enterprises (only 10 applications for a licence were not authorised), about one third for small local providers. But 656 corporations "left" the market because of their insolvency (Bundesnetzagentur 2006a: 30). Regarding the development of the number of companies and their market shares, it can be seen that on the one hand small companies (with a turnover of <500.000 euros) chose merger agreements, and on the other hand there was an increase in the number of small companies that were bought out. The aim being the construction of a supra-regional network (Bundesnetzwerkagentur 2006b: 119). A stronger market adjustment can be expected in the future. In this respect major new players are the PIN-Group, a subsidiary of publishing companies, and TNT-Post.

Figure 5: Number of companies and turnover from 2000 to 2006

	Less than 10,000 €	10,001 -100,000 €	100,001 - 500,00 €	0.5 mill. - 1 mill. €	> 1 mill. - 10 mill. €	> 10 million €
2000	91	178	129	23	15	4
2002	96	186	149	32	41	7
2004	181	263	175	53	77	10
2005	127	209	152	47	91	12
2006	110	196	147	51	118	20

Source: Bundesnetzwerkagentur (2006b: 119)

To sum up, until 2005 the liberalisation process in Germany, which was clearly linked to the material privatisation of the incumbent, had not led to a marked increase of competition regarding market shares, but this might change in future. In 2005 there is still a market dominance of the incumbent DP AG in the letter market with 93.1 % market shares, and 83.2% in its competition area. Concerning the expected future market allocation in Germany between DP AG, the Pin-Group and maybe TNT-Post,

the increase in the number of providers was probably not as important as their financial power as far as market share is concerned..

2.4 Liberalisation process in Poland

Development of number of markets and kind of competition

Up to the end of the 1980s there was only one postal operator active on the Polish postal market with a monopolist position and offering services concerning mails, parcels and money orders.

In 1992 Poczta Polska's monopoly was reduced to items weighting less than 2,000g. Due to the Communication Act of 1995 the postal services market was divided into three parts: 1) reserved, including universal postal services, 2) services that require concession, 3) free services.

In 2003 the Postal Law transposed the EU-Directives into national legislation, thus paving the way for a competitive market, but until the end of 2005 Poland benefited from a transition period regarding the opening up of the letter market. However, the maximum weight threshold for the reserved area was reduced to 350g in 2004, and from 1 January 2006 the weight level was lowered to 50g.

Market structure: number of providers and relative market share

In 2004 the market share of Poczta Polska was 99.1%. The share of private operators was 0.9%.

The market for courier services is fully competitive and dominated by only some private and foreign operators. In 2004, 87% of this market was held by six companies: DHL and Servisco (28.15%), GLS (20.1%), MS Stolica (17.14%), Masterlink (11.04%), UPS (10.43%). Only two Polish companies have significant shares, i.e. the share of Poczta Polska's courier services, EMS/Pocztex, is also relatively small.

In the period between 1996 and 2005 the number of private operators grew from 15 to 113.

To sum up, the *liberalisation was not linked with a material privatisation of the incumbent and has not led to an increase of competition regarding market shares* on the letter market (99.1%). So there was a formal but not a factual liberalisation. However, this might be temporary and has to be evaluated with current data for 2006

2.5 Liberalisation process in Sweden

Development of number of markets and kind of competition

The only part of postal services that had a monopoly before liberalisation was the letter market.

The liberalisation process was launched by the centre-right government that was in office 1991-94. The previous Social Democratic government had already facilitated the transformation. In 1991, the centre-right coalition, arguing that the opening-up of the market to competition should quickly show benefits for the customers, presented

a new Government Bill (1992/93). The Bill did not come into force until March the next year, which meant that the first steps towards privatisation and liberalisation were actually taken in a state of legal limbo. Therefore the *complete opening-up of the postal market took place between 1992 and 1994*, when the Swedish Post Office was both transformed into an independent, but still state-owned company and also exposed to competition.

Market structure: number of providers and relative market share

To date there is only one significant competitor to Posten AB on the letter market, namely the company CityMail, and also that competition is rather limited. In 2003, that is ten years after liberalisation took off in practice, Posten AB still held 92.9 per cent of the total market shares. CityMail held 6.6 per cent and other competitors together 0.5 per cent. The number of competitors in the business has varied considerably, but seems now to have stabilised at slightly below 40. In 2004 there were 35 competitors.

Alongside Posten AB on the CEP- and newsletter market there were approximately 260-70 small firms in 2005. All companies were however small in size.

Nevertheless, in postal services *it is barely possible to identify any serious changes after the liberalisation, either in the letter market or in the distribution of other postal items that were open for private enterprises even before 1993*.

All in all, since 1993 there has been one *postal market in Sweden* with full "competition in the market", which is regulated by licences. The development of the Swedish postal letter market was a *transformation from one market with no competition to multiple markets with competition in the market, but this without an important influence on market structures.*

2.6 Liberalisation process in the UK

Development of number of markets and kind of competition

Royal Mail had a monopoly over letter and parcel delivery until 1981 when the monopoly was restricted to letters costing less than £1.00 to deliver. This led to the entry of a very large number of competing firms into the parcel and express delivery market and a rapid erosion of Royal Mail's market share in this part of the business.

The Postal Services Act of 2000 is the key piece of legislation, which set out the process of market liberalisation and, along with the Postal Services Regulations of 1999, ensured that the UK complied with European law on postal services. In 2002 the regulators (Postcomm) initially planned a three-stage opening up of the postal services market and started with bulk mail of 4,000 items or more from 1 January 2003. But in September 2005 the regulator decided to fully liberalise the market from 1 January 2006.

All in all in 2007 there is one *postal market in the UK* with full "competition in the market". Within the letter and parcel market there is one area, which is regulated by licences. The development of the UK postal services market was a *transformation*

from a market with no competition (including the telecommunication sector) to multiple markets with full competition from 1 January 2006.

Market structure: number of providers and relative market share

Royal Mail is responsible for 96% of the regulated letter and packet delivery sector, which accounts for 72% of the total postal services market in the UK. So far there has only been a very small development in the extent of licensed operators dealing with the complete end-to-end service - accounting for 0.2% of total end-to-end business in the licensed sector. The majority of licensed operators uses the access to Royal Mail's network by dealing with collection, sorting and transportation to delivery centres leaving Royal Mail responsible for final delivery to individual addresses.

In the parcels and express delivery sector (competition since 1981) there are as many as 4,000 companies that compete with Parcelforce. Many of these are small, local firms but there are also major companies like TNT and DHL which are now much larger companies than Parcelforce, which has a 30% share of the two-day and more delivery market.

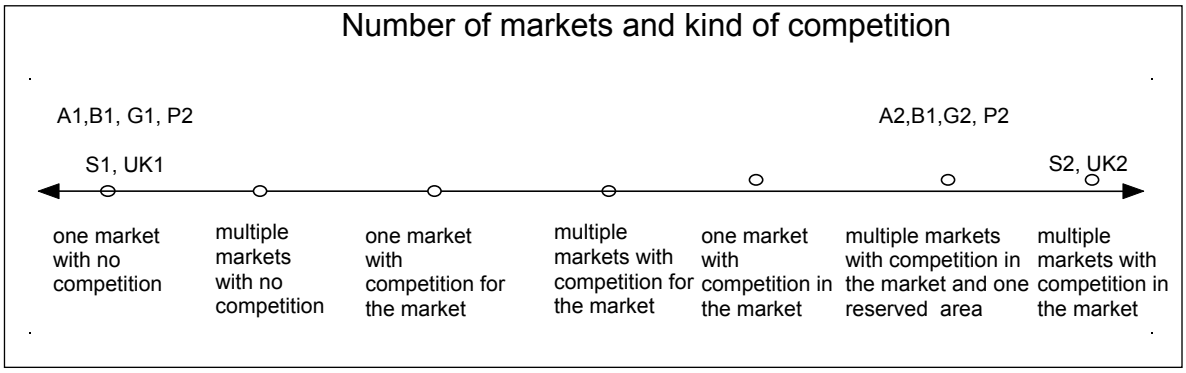
Post Office Counters Limited is made up of a network of 600 directly owned and 16,900 franchised local post offices. It deals with a range of letter and parcel related mail services and it also has a major role in the administration of a number of government transfer payments (e.g .child benefit, pensions etc.).

To sum up, the *complete liberalisation in 2006 was not linked with a material privatisation of the incumbent and has only led to a modest increase in competition regarding market share* in the letter market (96%). So there was a formal but not factual liberalisation. But this might be temporary and has to be evaluated with current data for 2006.

2.7 Comparing liberalisation steps and market effects

The changing "number of markets and kind of competition" can be presented on a scale ranging from "one market with no competition" to "multiple markets with competition in the market". This does not indicate real competition with regard to changed market share, i.e. only formal competition is mentioned in the figure:

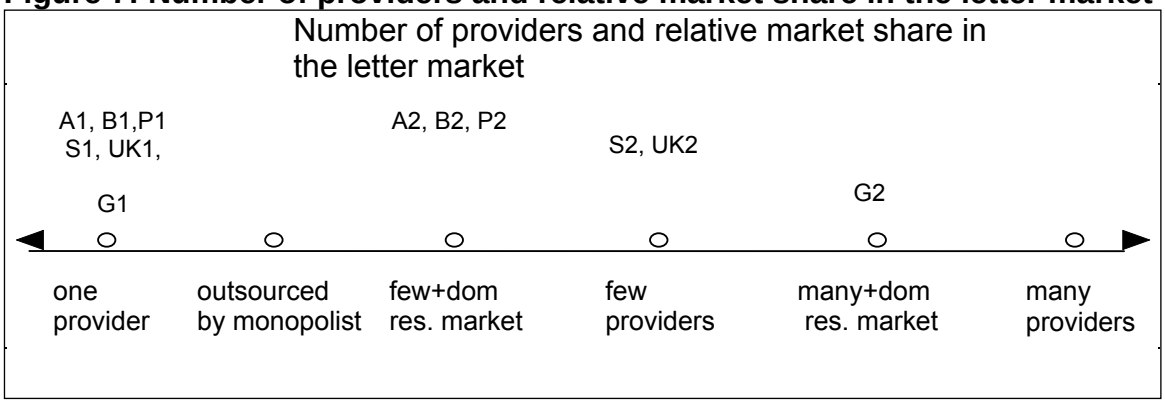
Figure 6: [8] Number of markets and kind of competition on the letter market



Sweden and the UK letter markets have been completely opened up (in 1992 and 2006 respectively). In Sweden this has not led to more competition regarding market share. Data for 2006 is not yet available for the UK.

The number of providers and relative market share combined with the beginning and end position of the liberalisation process in the respective countries can be shown on a scale, here with regard to the letter market:

Figure 7: Number of providers and relative market share in the letter market



(dom: market dominance for one provider; res. market: reserved market)

Concerning postal services this continuum shows that liberalisation did not lead to a larger number of postal providers. Germany seems to be an exception, but nonetheless there is very strong market concentration in Germany. Everywhere the market share of the incumbents is very high. The highest share is held by the incumbent “Poczta Polska” in Poland with 99.1% (2004), and the “lowest” share can be found in Sweden: “Posten AB” (which was completely liberalised in 1992) with 93% market share in the letter market, as well as the incumbent “DP AG” in Germany with also “just” 93 %. However, DP AG shows a strong decrease of market share in the competition area: 42% of the German letter market in Germany was open for

[8] Graphic was modified for postal services: “Multiple markets with competition in the market and one reserved area” was added!

competition (in 2005) and the share of the incumbent declined to 83.2% (in the competition area).

Nevertheless, the competition in the CEP-markets increased enormously in all countries examined, but these markets had often mostly been objects of liberalisation before the liberalisation process of letter markets was induced by the EU-Directives.

3. Varying the regulation of postal services in Europe

A formal liberalisation process was not always accompanied by more competition (e.g. no reserved area in Sweden and in the UK and no competition). Thus a future abolishment of the reserved areas in European countries must not only be the decisive variable for market structures, but a precondition.

Also the nature of regulation of postal services has effects on the extent and kind of possible competition. According to a proposal made by Hermann (2007) two important dimensions can be distinguished: One important dimension of regulation is the "*comprehensiveness of regulation"*, ranging from "rather narrowly focused regulation with emphasis on economic regulation" to "rather comprehensive regulation which also encompasses elements of social regulation".[9] A second important dimension is the *"extent to which regulations are controlled and enforced"*. There could be "weak control and enforcement" or rather "strong control and enforcement".[10] To start with, *the actors, the content and the instruments of regulation* will be analysed in this section.

In which way have the different kinds of regulation been linked with the kind and extent of competition, the quality of postal services, consumer prices and employment effects?

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[9] *Economic regulation* is used when there is insufficient competition on the market. Instruments used for economic regulation are competition law, public ownership, competitive public franchising and price and quality regulation. Competition law is the primary instrument for proscribing anti-competive practices and thereby preserving or enhancing the competitiveness of markets. Where, however, it is deemed appropriate – generally because the conditions for a 'natural monopoly' apply – for there to be a single supplier, legal measures must be introduced to control the price and quality of products and services (Ogus, 2002: 635-638). The other area of regulation is that of *social regulation.* This deals with such matters as employment, health and safety, environmental protection and consumer protection. It tends to be justified by reference to externalities and asymmetric information. Instruments used for social regulation are amongst others: prior approval, mandatory standards, information disclosure and economic instruments (Ogus, 2002: 630-634).

[10] However, this dimension is probably difficult to analyse based on the information in the country reports. Another way would be to give a narrative account of the kind of instruments that are used:

- regulation and control by public ownership,
- regulation and control by rules, norms and standards,
- regulation and control by contract(s)
- regulation and control by independent regulatory bodies

3.1 Regulatory player, content and instruments of regulation in Austria

Before the process of liberalisation began the letter market was considered to be a natural monopoly. Public ownership was the dominant regulatory form (until 1 May 1996 the Austrian Post AG was part of the federal administration), so there was a "strong control and enforcement" of regulation itself. Until 1996 postal charges were among the "fixed prices" that were set by parliament according to socio-political and regional political criteria. This indicates a "rather comprehensive regulation with elements of social regulation".

Following the Post Office Act (PostG 97) the universal service provider and the monopoly area became an object of a new regulation. In detail: the approval and scrutiny of tariffs for the monopoly service (standardised tariffs), the approval and scrutiny of the general business conditions for the monopoly service, the fixing of the general conditions for the universal service provider (number of post offices, letter boxes, opening times of post offices, delivery times for letters and parcels) and the scrutiny of the delivery-time targets and fixing of the basis for the accounting system of the Austrian Post AG. The provision of private postal services was not subject to any conditions, but since the coming into force of the amendment of the Post Office Act on 1 March 2006, the regulations cover all providers of postal services that are active on the postal market.[11] Nevertheless for new competitors there are currently few or no competition or employment-law obligations: "With advancing liberalisation and the increase in deliverers this, however, is leading to problems both from the perspective of consumers and of competition" (Chamber of Labour 2006: 39). Also the question of securing the guarantee of supply and the ensuring of a nationwide postal service in the area of the universal service provider – in particular after full liberalisation – remains unanswered. The vague formulated conditions in the Post Office Act on quality and provision have already become a problem, as far as the closure of post offices is concerned: There is no provision in the Post Office Act for the number and distribution of post offices, but only a vague formulation that nationwide provision must be ensured.

The regulatory authority (Post and Telephone Supervisory Authority) is currently not able to act autonomously and will still come under the Ministry of Transport, Innovation and Technology until 2008.[12] A post-office price commission made up of representatives of the ministry recommends and approves universal service tariffs and an ombudsman hears complaints against the universal service provider. The final decisions are taken by the minister, who can also set conditions. From 1 January 2008 an independent regulator is to be set up, which will have arbitration powers in disputes.

[11] In particular they include the following obligations: obligation to notify provision, change in or ending of a postal service, the publication of general business conditions for service in the universal area, the establishment of a complaints and redress procedure, the establishment of deposit facilities, the identification of workers in the delivery service and the labelling of the mail they deliver.

[12] Currently it is has only four posts.

To summarize, in the course of the (partial) privatisation and liberalisation process the ownership of the incumbent Post AG stayed public. In addition, there was a *transformation "from strong to weak control and enforcement"* of (market) regulation, *with is a "narrow regulation with emphasis on economic regulation"* (elements of social regulation disappeared).

With regard to the *effects of the new regulation on the extent and kind of competition* it has to be mentioned that the incumbent Post AG still has a market monopoly in the letter market (98%). Nevertheless there was a strategy aimed at lowering working costs through a considerable *reduction of the number of employees* (the Post AG staff level – on full time basis - in 2001 was 30,357; in 2005 it was only 25,192)[13] and a *restructuring of employment forms (*e.g. the increase of part-time employees[14]). New providers have indeed created jobs in the same period, but the job cuts have only been partly compensated for, mainly through the creation of precarious and atypical employment with private franchise holders (e.g. jobs on a self-employed basis), which are subject to no collective-agreement regulations).[15] With regard to the *development of tariffs*, it should be noted that the universal postal service provider Post AG has increased the prices for letters and postcards and the *number of post offices decreased* dramatically (2005: 2,357 post offices, in 2008 1,338 post offices).

3.2 Regulatory player, content and instruments of regulation in Belgium

Before liberalisation, the competent Ministry handled the regulation (e.g. prices and quality) of postal services in public ownership. In 2002 a reform of the Belgian Institute for Postal Services and Telecommunications (BIPT) - which was appointed as the regulator of the postal - was decided. However, the Institute is still represented and managed by the ministry. The law determines that the Minister dictates all management decisions and that the daily management is the responsibility of the leading civil servant to whom the minister delegated competence.[16] In fact, of the 218 staff members of the BIPT, only 10 persons are involved with the postal sector. Taking into account that also the incumbent is largely public owned, the "extent to which regulations are controlled and enforced" can still be described as a *"strong control and enforcement"*.

Currently, the universal service obligations are in the responsibility of the monopolist De Post. The universal service obligations for the postal services in Belgium include

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[13] The reduction took place primarily through early retirement and other rather unusual practices concerning the more expensive civil servants – some of whom are not subject to notice. Most of the costs for reducing the workforce were thus borne by the state.

[14] The number of part-time employees at *Post AG* had grown from 6% of the total staff in 1996 to around 18% in 2004. According to the Austrian post-office trade union, 40.71% of the female employees at *Post AG* work part time and only 2.35% of the male employees.

[15] The Post AG is now starting to create similar kinds of jobs (especially in the advertising and media area).

[16] The Institute has an advisory role with regard to the policy of the federal government towards the postal sector. It also has the general task of supervising and controlling the post market. In addition, it is in charge of transposing the European directives. Finally, it also has an advisory role with regard to conflicts between the different operators on the market.

a very wide range of services.[17] The obligations are stipulated in detail in the "management contracts" concluded between the Belgian state and De Post. Until now, De Post has used its revenues generated by its monopoly in the reserved part of the market to pay for its universal service obligations (but this will no be possible in 2008). De Post is also subjected to quality standards based on the norms of the EU level.[18] Price regulation is also used in the case of the incumbent. There is no legal price ceiling in Belgium. However, tariffs have to be based on the real costs. Furthermore in the management contract it is stipulated that De Post, together with the Belgian Institute for Postal Services and Telecommunications, has to organise regularly and at least once a year a survey with regard to the satisfaction of the customers. Based on the results, De Post has to formulate an action plan for improvements. Also in the contract there are clear guidelines on how many post offices there should be and what services they should deliver. Other guidelines are given with regard to the opening hours and the number of staff of the post offices.

Finally, licences and notification procedures are instruments used to regulate the liberalised segment of the market: Since 2006 companies need to have a licence if they want to be involved in activities with regard to the universal service obligations. The companies applying for a licence have to meet several quality standards.19 Post operators that want to deliver postal services that are not a part of the universal service obligations have to notify the BIPT. Finally, the postal sector is also subjected to general competition law.

All in all, also after the liberalisation process there is a "rather comprehensive regulation which also encompasses elements of social regulation" (e.g. large range of elements of universal services and quantification). However, there is no explicit regulation of working conditions by the sector regulation.

Regarding the *effects of the new regulation on the extent and kind of competition* it has to be mentioned that the new regulation led to more competition in the area of the *CEP-, media- and advertising markets.* Only t*he letter market is affected by the reserved area*. Prices for letters rose sharply between 2002 and 2006 compared to other European countries (Bundesnetzagentur, 2007: 120). Downsizing was achieved through natural fluctuation and done modestly: in 1990, De Post had around 48 000 employees, currently, De Post employs 42 000 people.

[17] They include not only the collecting, sorting, transport and distribution of postal matters. They also comprise the delivery of newspapers, the disbursement of pensions and the responsibility for the delivery of electronic mail services.

[18] At least 93% of the mail at the 'prior'-tariff has to be delivered on the first working day after the sending off of the mail, on the condition that the mail was posted before the last collection of the day. 82 % of the newspapers have to be delivered before 7.30 am.

[19] First of all, the operator must guarantee a regular service. A complaint procedure has to be set up and applied. The operator must be reliable – ie: the operator must apply the necessary means to supply the postal services that do not fall under the reserved part of the market. Moreover, the confidentiality of the mail must be guaranteed. Finally, the tariffs are subject to a number of principles, such as transparency and non-discrimination

3.3 Regulatory player, content and instruments of regulation in Germany

Before the process of liberalisation began public ownership was the dominant regulatory form, i.e. a "strong control and enforcement" of regulation itself. It was a "rather comprehensive regulation which also encompasses elements of social regulation" with regard to employment conditions (the employees were mostly civil servants). The postal sector was considered to be a natural monopoly, which was justified by the maintenance of the universal service and the interests of the employees. The monopolist was obliged to provide area-wide services and had to transfer its surpluses to the national budget. The Federal Ministry of Postal and Telecommunications Sector had the political and entrepreneurial responsibility.

The (latest) Postal Act (of 1998) is focused on the letter post market and the possibilities to enter this market, the regulation of the prices of the incumbent, the regulation of the access for competitors to the networks of the incumbent and the universal service obligations (USO) until 2008. These regulations have been administrated by the regulatory agency, which was enacted from the beginning of 1998 in order to safeguard the transition from monopoly to competition. The regulatory agency is under the formal control of the Ministry of Economics, has specific authorisations to control misuse and in fact - regarding postal services acts relatively autonomous towards pressure of the incumbent to the favour of the competitors. The access to the letter market is regulated by licences, which are subject to several conditions, which are in praxis - with regard to almost no refusals of applications for a licence - merely formal and not factual conditions (e.g. working conditions of the competitors). Also only the tariffs of the incumbent are affected by an (ex-ante) price regulation (price-cut system).[20] The Postal Act obligates the incumbent to grant every competitor - on specific conditions– access to its own networks. In 2002 the DP AG was directly obligated to provide universal services (USO) during the term of its exclusive licence.[21] The quality regulation, which covers the content and extent of the universal services, minimal standards of the quality of postal services and the prices for universal services, is defined by the so-called Post-Universal services order (PUDLV).[22]

To sum up, in the course of the privatisation and liberalisation process there has been a *transformation "from strong to weak control and enforcement" of market and company regulation, with a "rather narrowly focused regulation with emphasis on economic regulation"* (the new elements of economic regulation do not exceed the minimal standards of the EU framework targets). Even though elements of social regulation disappeared (e.g. regulation of working conditions in praxis are weaker - to

[20] The EU has not laid down extensive specifications for the required form of price regulation.

[21] In case of a non-fulfilment of the USO, the regulatory agency could oblige one or several corporations to provide universal services. For financing the verifiable deficit the rest of the licensees, provided that their turnover exceeds 500,000 €, would have to pay an equalisation tax

[22] 80% of the letters are to be delivered after one day and 95% after two days22. Via this order the DP AG is obligated to keep at least 12,000 post offices and thereof at least 5,000 with company-own employees until the end of 2007.

the disadvantage of employees - than before the liberalisation process), it can be noticed that the deregulation with respect to liberalisation of the market is at the same time accompanied by an increase of regulation (and bureaucracy).

With regard to the *effects of the new regulation on the extent and kind of competition* it has to be mentioned that the new regulation led to competition for lower working costs and prices through *wage dumping* (labour costs are the most decisive variable in this game), *reductions of employment* and a *restructuring of employment forms*[23] in which also the incumbent DP AG increasingly takes part. On the other hand, consumer tariffs in 2005 were 5 % lower compared to 2002 (price-cut regulation),[24] but the number of postal offices decreased. Until 2005 the incumbent reduced the number to 13,000 offices – that means within 13 years the German Post closed over 9,000 offices.

3.4 Regulatory player, content and instruments of regulation in Poland

The postal law of 2003 transformed the EU-Directive of 2002. Besides the mentioned reductions of the reserved area, the incumbent was obliged to provide universal services, e.g. the duration for delivery of mails should no be later than the 4th or 6th day respectively after the day of posting (fast/regular mails).[25] The provision of universal postal services provided by the public operator was regulated differently than for private operators. The market entry is regulated by permissions.

The Chamber of State Control (Najwyższa Izba Kontroli) was responsible for controlling the so-called Poczta Polska "capital group" activity. In general there are personal networks between employees of the regulation body and the dominant operator and strong relations between the ministry, the regulation office and Poczta Polska. Poczta Polska itself not only regulates the quality standards, there is also a clear lack of price regulation mechanism in Poland: The President of the regulatory agency was not empowered with the right to veto in case of incorrect prices for universal postal services in the public operator's tariff. In practice the prices are established by the General Director of Poczta Polska without any formal control! The prices established by the public operator form the basis both for defining the reserved area for the public operator and for setting the prices of universal services performed by non-public operators.

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[23] Between 1990 and 2001 the turnover increased to 350%. The gain was 2.55 billion euros in 2001 alone. This development was mainly based on a massive job cut - within 11 years a minus of 160,000 jobs. The share of civil servants decreased from 50% to less than 30% (Völlings, Hermman 2004: 77, in: Lorenz , Frank/Schneider, Günter: Wenn öffentliche Dienste privatisiert werden).

[24] In contrast - in the large majority of other European countries prices have been increased (Bundesnetzwerkagentur 2006b: 120).

[25] In Poland the provision of universal postal services includes: obtaining, transport and delivery of registered letters of a weight of up to 2,000g, insured letters of up to 2,000g, letter parcels and handling money orders in national and international rotation.

All in all, before and after the process of liberalisation public ownership was, and is, the dominant regulatory form, i.e. a “strong control and enforcement” of regulation itself. It is hard to analyse the dimension “comprehensiveness of regulation”, but it seems to be rather “economic regulation” than “social regulation”.

Regarding the *effects of the new* regulation on the extent and kind of competition it has to be mentioned that the new regulation has not led to more competition in the letter market. The quality of services improved, but increasing prices imposed by the public operator may affect and limit social access to postal services.

3.5 Regulatory player, content and instruments of regulation in Sweden

Before liberalisation, the “Swedish Post Office” was in public ownership and there was a legal monopoly for letters. Important fields of regulation were price and quality regulation.

During the process of liberalisation there was a judicial limbo regarding accepted distributors of mail between January 1993 and March 1994. After the process of liberalisation the following fields of regulation are determined by five different laws and decrees (established from 1993 to 2003), in which guiding directives from EC legislation have been inaugurated: universal service obligations, quality regulation, price regulation, access to ‘a rich variety of postal services’ and access to postal services for the disabled. The incumbent Posten AB had to take over most of the Swedish Post Office’s obligations (unlike the ‘free’ competitors), i.e. provide five days a week services to the whole population. Interesting is the fact that private providers pay duties to the state that are used for the co-financing of the universal service.

In Sweden a governmental body exists that monitors whether Posten AB fulfils its obligations or not (Post and Telecomunication Board, PTS). The guidelines for PTS are decided by the Swedish parliament and directed through annual so-called ‘regulation letters’ from the Swedish government. The specific targets are to control quality, that prices remain reasonable and that a rich variety of services is retained. An even more specific aim is to guarantee postal services for the disabled.

The latter indicates a “rather comprehensive regulation which also encompasses elements of social regulation” and the public ownership indicates a still “rather strong control and enforcement” of the postal services regulation after the early, short and complete liberalisation.

How have the regulations been linked with competition, the quality of postal services, and consumer prices? This is not clear in detail. According to Andersson/Thörnqvist the monopoly in the letter market was too strong to be seriously challenged by private interests, and the new company, Posten AB, picked up the thinking, jargon and behaviour of a privately owned firm. With regard to effects on people’s everyday life the closing-down of all post offices has to be stressed. Today in Sweden there are only small ‘postal stores’ for economic transactions, while sending and receiving items too big for a mailbox, buying stamps and envelopes, and so on are now

handled by supermarkets and convenience stores. Also consumer prices increased between 2002 and 2006, although they already had been at the highest level in Europe (Bundesnetzagentur, 2007: 120).

3.6 Regulation in the UK

Before the process of liberalisation began, public ownership was the dominant regulatory form – and remains so until the present day. The Post Office, operated until 1969 as a government department and became a nationalised industry in 1969. There was a rather "strong control and enforcement" of regulation itself, where the aims had been given as "key targets" by the government. The regulation also encompassed "elements of social regulation" with regard to employment conditions (the employees were civil servants).

The Postal Services Act of 2000 led to the Post Office becoming a publicly owned corporation under the Companies Act with the government as the sole shareholder in 2001. This gave the organisation a certain degree of independence, with the government agreeing to a five-year plan with the Post Office and setting certain social and environmental objectives. The Act also gave the Post Office more commercial freedom, allowing it to borrow in order to invest or expand through takeovers, joint ventures, alliances or partnerships.

The Post Services Commission (Postcomm) was the regulatory body established by the Act in July 2000.[26] Its main duties are to promote competition, establish quality of service standards, regulate prices of the incumbent and ensure that the Post Office can provide a universal service at a uniform price.[27] Postcomm has also to ensure that other licensed postal service operators can gain access to the Royal Mail delivery network. An important part of Postcomm's work is the issuing of licences. Postal operators that wish to compete with Royal Mail in the regulated letter market must get a licence and there are several conditions, which define quality standards in great detail.[28] Royal Mail also has to get a licence and has already been subject to fines as the result of anti-competitive practices and failure to meet quality of service targets. As stated Postcomm has a say in Royal Mail's prices by setting limits on pricing over a specific period. This takes account of the investment needs of Royal Mail and any other important issues affecting its financial position.[29] Postcomm also

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[26] It is interesting that there was already plenty of UK experience in the regulation from the telecommunications, gas, electricity, and water industries. And Postcomm was the first organisation set up to regulate what was still a wholly publicly owned industry. It has a board which is appointed by the government.

[27] The provision of universal services covers: priority and non-priority letters and packets, a non-priority service for parcels weighing up to 20 kilos; a registered and insured service; a range of support services to ensure the safety and integrity of the mail; and an international outbound service. Postcomm also decided to include two bulk mail services in the universal service.

[28] Such as setting up systems to deal with customer complaints, commitments to comply with codes on mail integrity or following certain procedures when dealing with franchisees, agents or subcontractors. In addition there are procedures regulating what licensed operators should do to deal with reposted, mis-posted or mis-collected mail. They also need to ensure that mail meant for their network has a mail identification number so that it can be correctly routed.

[29] Investments in modernisation of the network and tackling the Post Office Pension Fund's deficit. As part of this agreement Royal Mail is required to improve efficiency by 3% a year.

advises the government on what to do about directly owned and franchised post offices and sub-post offices. The main issue is the extent to which Royal Mail and the government should subsidise the network in order to maintain post offices that are running at a loss, particularly in rural areas.

To sum up, compared to other countries there is a “rather comprehensive regulation which also encompasses elements of social regulation” (no information about employment conditions) and a rather “strong control and enforcement of regulation” itself.

With regard to the effects of the new regulation on the extent and kind of competition it has to be mentioned that although the market is completely liberalised the new regulation has not led to much more competition in the letter market. Also the quality regulation is at a very high level. Consumer prices increased between 2002 and 2006, but they are still very low in international comparison (Bundesnetzagentur, 2007: 120). Whereas there is no proof for employment reduction at Royal Mail, the workforce at Parcelforce was strongly reduced (In 1990 Parcelforce had around 13,000 employees -by the end of 2006 only 4,092.). All in all, quality based competition can be found in the UK.

3.7 Comparing kind of regulation and effects on employment, prices and quality

Figure 8: Instruments and kind of regulation in 2007

	Austria	Belgium	Germany	Poland	Sweden	UK
Public ownership	x	x		X	x	x
Rules, norms, standards	x	x	x	X	x	x
Licences	x	x	x	X	x	x
Contracts		x				x
own regulatory bodies[30] and influence	from 2008 on, currently low influence	x (since 2006), small influence	x (since 1998), strong influence	x (2000) very low influence	x	x (since 2001), very strong influence
Weak (w.) or strong (s.) control and enforcement of (market) regulation*	weak control of market regulation	strong	weak	strong	strong (?)	strong
Economic regulation[31]	x	x	x	x	x	x

[30] The Commission made it clear in the Green Paper of 1992 on an internal market in postal services that operational and regulatory tasks needed to be separate. This recommendation was made an obligation by Directive 97/67. However, the directive left it up to the Member States to decide whether regulatory powers should be given to a ministry or an independent organisation.

[31] Instruments used for economic regulation are competition law, public ownership, competitive public franchising and price and quality regulation.

Social regulation[32]		x (excluding working condition)	x (working conditions only formal)		x	x (excluding working condition)
Quality regulation	very modest	x	x	x by the incumbent	x	x high standards
Price regulation	x (incumbent)	x (incumbent)	x (incumbent: price-cup system)	x by the incumbent!	x (incumbent: price-cup system?)	x (incumbent: price-cup system)

First, with regard to the influence of the regulatory bodies it can be stated that a strong or weak influence is not systematically linked with a weak or strong control and enforcement of regulation. Undoubtedly public ownership is a precondition for a strong control and enforcement of regulation, but public ownership can also be linked with the same thinking and behaviour as a private company.

Concerning social regulation the standards seem to be very different. Only in Germany[33] are working conditions an element of the licensing practice of the regulatory body regarding private providers (but which in fact was not proved until the beginning of 2007). Even more the quality regulation has very different levels (especially in the UK the standards are very high). The price regulation in Germany, Sweden and in the UK is based on a price-cut system, but Germany was the only country where consumer prices decreased. In the UK they are at a very modest level and the quality level is very high.

Figure 9: Effects on employment, prices, quality and availability of postal services linked to the transformations

	Austria	Belgium	Germany	Poland	Sweden	UK
Employment	- reduction - more part-time - more atypical forms	- modest reduction	- very strong reduction - more part-time - more atypical forms	?	?	- modest
Prices of postal services	higher	higher	lower	higher	higher	higher on low level
Availability of services	lower in rural areas	(no info)	Lower in rural areas	low	very low	stable
Quality of services (USO)	modest	EU-level	higher range of products	higher than before, low regarding EU-level	?	high

With regard to the employment effects in the UK and in Belgium there were no - or only very modest reductions in the workforce, whereas in Austria and especially in Germany, which is the country with a completely privatised incumbent, there was a

[32] Social regulation deals with such matters as employment, health and safety, environmental protection and consumer protection. It tends to be justified by reference to externalities and asymmetric information. Instruments used for social regulation are amongst others: prior approval, mandatory standards, information disclosure, and economic instruments (Ogus, 2002, p. 630-634).

[33] Also in Switzerland.

strong reduction of the volume of employment Except for the UK the availability of services (e.g. postal offices and letter boxes) decreased everywhere.

4. Pace, radicalness of the transformation processes and linked conflicts

Two dimensions in the process are interesting:

1) The "pace of the process and the radicalness of changes", with positions between two extremes "quick and radical" and "slow and reluctant" (i.e. forerunner or latecomer of privatisation and liberalisation, as well as change of market structures).
2) The "level of conflict during the process" (with regards to conflicts at the political level, social conflict and conflicts between regulators and those regulated), with positions between two extreme positions "strong conflicts" and "highly consensual and pacified".

4.1 Radicalness of change and conflicts in Austria

In Austria the lowering of weight limits did not go beyond the minimum requirements of the EU liberalisation. The start of the material privatisation in 2006 was late compared to other countries. The effects on competition regarding market structures were very modest in the latter market and very strong with regard to CEP, media and print markets. In general the political process was rather consensual.

Conflicts in Austria: very consensual and pacified

In the drawing up of new regulations in the liberalisation process the attempt has been made – in the Austrian political tradition – to achieve consensus: The discussion and debate around the *massive closure of post offices* plays a central role. At the end of 2004, a second wave of closures was announced, which led to greater public criticism and caused the ministry/regulator to intervene and to involve Post AG in a major discussion with representatives of the municipalities, the cities and the social partners ("round tables"). However, it was not possible to prevent further post offices being closed.

The massive personnel cuts as a result of the hiving off and rationalisation measures, the new competition in working conditions (dumping), the increased uncertainty and the pressure of work on individual employees were met with *protest from the post-office union and the Chamber of Labour*. [34] The post office union organised protest actions and protest marches in the context of the partial-privatisation and flotation of Post AG in spring 2006. Massive job cuts were feared as a result of privatisation. In

[34] For the unions – with the entry of new providers and the restructuring of Post AG – the change in industrial relations is problematic: The area of the sector covered by the collective agreement is shrinking rapidly, as the current collective agreement on the one hand only applies to the universal service provider and on the other the extension of atypical and precarious employment contracts are not subject to any collectively agreed regulation.

order to dissipate the concerns of the staff, in a discussion with the leaders of the post office union the finance minister offered shares to the employees.[35]

The *SPÖ* (Social Democratic Party of Austria) *is fundamentally for privatisation but criticises the speed* with which the right-wing conservative government is pursuing it.

4.2 Radicalness of change and conflicts in Belgium

The pace of this whole liberalisation process was determined by the European Union. The privatisation process was rather reluctant and slow. The political process was partly conflictive with regard to local strikes by the employees.

Conflicts in Belgium: party conflictive

To be in a better position to face the newly introduced competition in this sector, De Post decided to reorganise its organisation. For instance, the Georoute-system was introduced in order to make the mail delivery more efficient and the employees were obliged to adapt to new working methods. The result was several local strikes that led to a general strike in Brussels and the Walloon region on 28 July 2003. Two years before that, when the reform programme was being drafted by the management, De Post already had to face several strikes by its personnel. And even in 2006, there was also a strike caused by the introduction of the Geo-route in Ghent (2006).Although some of the social conflict was caused by the threat of dismissal, the reduction of personnel has been achieved by natural fluctuation.

4.3 Radicalness of change and conflicts in Germany

Germany was a forerunner of the liberalisation process: the lowering of weight limits was stronger than required from the EU and full competition in Germany will be achieved by 2008 (throughout Europe by 2009). The privatisation process was rather quick and radical. The liberalisation process was affirmative, but within the EU time schedule (partly more radical). The effects on competition regarding market structures were rather modest in the latter market and very strong concerning CEP, media and print markets. In general the political process was rather consensual, but not without conflicts.

Conflicts in Germany: rather consensual and pacified

With regard to conflicts at the political level - after the first postal reform (1989) - the Social Democrats and the German Postal Workers Union (DPG) initially both rejected the idea of the privatisation of the German Post. The Unions even started a campaign in order to prevent the privatisation of the German Post. However, in the run-up to the second postal reform in 1994 the Social Democrats affirmed a constitutional amendment and thus made the privatisation of the German Post possible. As it became clear to the unions that a fundamental opposition to these processes was hopeless they changed their strategy and began to cooperate - in order to maintain the rights of the post office civil servants, prevent operational redundancies and

[35] Similar in Germany the employees of the DP AG are often owners of shares of their own privatised company. Especially the management is partly paid by shares.

maintain regular labour conditions. In the course of this process the former monopolist reduced nearly 47% of its staff – in spite of increasing market shares.[36] The majority of the unions were in favour of a regulated liberalisation that via social standards would prohibit distortion of competition. Few conflicts were visible during the reduction of the number of post offices. Until 2005 the incumbent had reduced the number to 13,000 offices – that means within 13 years the German Post closed over 9,000 offices. Other conflicts occurred between the European Commission and competitors of DP AG on the one hand and the incumbent on the other concerning the market behaviour of the DP AG. The Commission launched several infringement proceedings against the German Post; one proceeding referred back to a claim made by the competitor UPS. The latter wanted the Commission to bar DP AG from financing activities in the private sector through benefits gained in the monopoly sector. In this context it is worth mentioning that from 1997 to 2002 DP AG initiated circa 800 legal proceedings against the regulatory agency. Appeals against regulation decisions formed the basis of these proceedings. The most recent proceeding against Germany was launched by the Commission on 10 April 2006 (IP/06/484) and concerned the exemption from value-added tax (VAT)[37]. It demands the cancellation of the exemption from VAT. Since January 2007 the Unified Service Union – ver.di – has been running a campaign against the practice of the regulatory agency not to consider working conditions regarding the licensing of private providers. The strategy together is to achieve a quality-competition which is no longer based on wage-dumping (regarding the abolishment of the reserved area in 2008). But the regulatory agency accuses the DP AG of being hypocritical due to their own working conditions regarding the sharp increase of outsourcing measures (contracting out) and atypical employment.[38]

4.4 Radicalness of change and conflicts in Poland

Compared to other countries Poland was a liberalisation late-comer due to Poland's accession to the European Union and the linked transition time. The privatisation process was rather modest. The effects on competition regarding market structures until now have been extremely modest in the latter market and very strong concerning CEP- markets.

Conflicts in Poland: rather consensual

A close relationship and a personal network between the ministry, the regulation office and Poczta Polska have been pointed out. Only the main trade union for postal workers lobbied against the further opening of the market.

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[36] Indeed, since 1998 employment has risen due to acquisitions and the DPWN today employs circa 450,000 people - although more than 60% of them are employed abroad (Wehner 2005: 239). Furthermore, more than 50% of the new jobs in private companies are part-time jobs.

[37] In Germany all postal services of the former monopolist DP AG in the reserved area are exempt from VAT, whereas private providers are fully taxed.

[38] Due to this dispute and a strong lobbying especially from the United Service Union directed towards the politicians on the advisory committee of the regulatory agency, the working conditions of all competitors were examined at the beginning of 2007 with the aim of evaluating and probably modifying the retiring licence practice.

4.5 Radicalness of change and conflicts in Sweden

Sweden is a forerunner in the liberalisation process, which took place before the liberalisation process was introduced by the EU throughout Europe. The privatisation process has been moderate (still public ownership). Until now the effects on competition regarding market structures have also been rather moderate.

Conflicts in Sweden: very consensual and pacified

The Swedish state itself has been by far the most important actor in the liberalisation process, due to a strong political consensus about the need for productivity increases in the public sector. Other stakeholders did not press for changes.

4.6 Radicalness of change and conflicts in the UK

The UK is a forerunner in the liberalisation process. The privatisation process was rather modest (still public ownership). Until now the effects on competition regarding market structures have been moderate in the latter market. There was a very high level of quality regulation in the postal services sector.

Conflicts in the UK: rather consensual and pacified

The unions for the postal sector are affiliated to the Labour Party and were therefore party to the "Warwick agreement" in the lead up to the 2005 general election that included certain general guarantees about the future of postal services, among them a statement that there were no plans to privatise Royal Mail. The union has lobbied hard against privatisation and the increased commercialisation of postal services. The union has also had to deal with considerable staff cutbacks over the past five years which have been implemented mainly through voluntary redundancy, natural turnover and outsourcing.

4.7 Comparing radicalness of processes and conflicts

Figure 10: Major liberalisation and privatisation steps

	Austria	Belgium	Germany	Poland	Sweden	UK	EU-Directives
1980-1985						81: restriction of the monopoly to letters (less than £1.00	
1986-1990			84/85/89 reductions of monopoly: e.g. parcels				
1991-1995	parcels were excluded from monopoly		95: formal privatisation	91: organisational reform (formal privatisation?)	92-94: complete opening-up of the postal market		

					94: formal privatisation		
1996-2000	96: formal privatisation	98: reserved area > 350 grams 00: formal privatisation	98: reserved area < 200g 98: regulatory agency 00: start of material privatisation				98: reserved area < 350g
2001-2005	03: reserved area < 100g	03: reserved area> 100 grams 05: start of material (partial) privatisation	03: reserved area < 100g 05:Private investors with majority of shares	04: reserved area < 350g		01: fully government owned plc. 03: reserved area: not for bulk mail > 4,000 items	03: reserved area < 100g
2006-2010	06: start of material (partial) privatisation 06: reserved area < 50g	06: reserved area> 50 grams	06: reserved area < 50g 08: full competition	06: reserved area < 50g	06: reserved area < 50g	06: complete liberalisation	06: reserved area < 50g 09: full competition?

Figure 11: Pace, radicalness and conflicts of the processes

	Austria	Belgium	Germany	Poland	Sweden	UK
Pace of the liberalisation process	slow	slow	rather quick	slow	quick	quick
Radicalness of changes: reluctant (re) or radical (ra) regarding privatisation and liberalisation	reluctant privatisation reluctant liberalisation within the EU time schedule	reluctant privatisation reluctant liberalisation	Radical privatisation reluctant liberalisation within the EU time schedule (partly more radical)	reluctant privatisation reluctant liberalisation	reluctant privatisation radical liberalisation	reluctant privatisation radical liberalisation
Effects on competition regarding market structures (letter- and CEP market)	very modest in the letter market very strong concerning CEP, media and print markets	very strong concerning CEP, media and print markets	modest (until now, also concerning market structures in the competitive latter market), very strong concerning CEP markets	very modest on letter market very strong concerning CEP, media and print markets	modest on letter market	modest in the letter market
Conflicts: consensual (cons), conflictual (conf)	very consensual	rather conflictual	rather consensual	rather consensual	very consensual	rather consensual

Only in Sweden and in the UK was there a quick and radical liberalisation process. In both countries that has not led to more competition or negative employment effects. Especially in the UK the standard of quality regulation is very high. Germany is the privatisation forerunner displaying extremely negative employment effects. The UK and Belgium do not show negative employment effects, and only in Belgium have conflicts (local strikes by the employees) occurred several times.

Altogether, the liberalisation steps have led almost everywhere to higher prices and a lower degree in the availability of postal services. In general, liberalisation has not led anywhere to advantages for the consumers but has made complex new regulations necessary. Concerning privatisation - the forerunner Germany provides a negative example.

Even though the liberalisation processes have not led to complete material privatisations of the incumbents everywhere, in every country the liberalisation process has necessitated a comprehensive reorganisation of employment conditions for the incumbent, which have been legitimized with competition pressure and thereby often made the reductions of employees and service availability possible.

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Annexe: Public-private continuum of managerial autonomy and governance structure

- First discussion proposal from Koen Verhoest (Belgium) -

With regard to **privatisation**, I would suggest the following **public-private continuum** which takes into account the **different levels of managerial autonomy** as well as their **governance structure (who controls them).**

- First on the continuum are the departments/ministries without managerial autonomy, without legal identity and without a Board of Directors.
- Second we have a range of public agencies with different levels of managerial autonomy
    - A first category of autonomous public agencies is the category of departmental agencies, which have no legal identity and no Board of Directors and fall directly under the control of the minister.
    - A second category of autonomous public agencies is that of the public law agencies, that do have legal identity and managerial autonomy.
    - A final category is of autonomous public agencies that of the public companies, with public law statute.
- Situated after the agencies are the State Owned Enterprises (SOEs) that most of the times are corporatised and have the form of a company with limited liability. The SOEs can again be divided into different categories.
    - A first category comprises the SOEs that are owned completely by the State.
    - Secondly are the SOEs where the State has the majority of the shares.
    - The following category of SOEs are those in which the State has a minority of the shares. However, the State does have a golden share with the right to veto decisions.
- Finally, situated at the 'private end' of the continuum are the companies that have a private law status with the majority of the shares in private hands. In these companies the government has no special right of control, different from other minority shareholders. These are then followed by the companies that are completely in private hands.

Continuum Public-Private

Public Departments/ministries – Departmental agencies – Public Law Agencies – Public companies – 100% owned by the State SOEs - SOEs with state as majority shareholder – SOEs with golden share – Companies with private law status and majority in private hands - 100% private companies **Private**