

Press release

Monopolies Commission publishes its 11th Sector Report on Postal Markets

"The amendment to the Postal Act: New opportunities for competition"

- **Competition on the letter market remains insufficient, while it is intensifying on the parcel market**
- **Control of abuse of dominance on the letter market should be intensified**
- **Consumer protection is to be strengthened by improving the approval procedure for letter postage and by introducing binding conciliation procedures**

In its 11th sector report on the postal markets published today, the Monopolies Commission states that there is still no effective competition on the letter market. Deutsche Post AG remains dominant with a market share of 86 percent. Although the company competes with several nationwide parcel service providers, it also dominates the parcel market with a share of around 44 percent.

The Monopolies Commission has repeatedly recommended a reform of the Postal Act to strengthen competition on the letter market. The key points of the reform, as proposed by the Federal Ministry of Economics and Energy, are now available. "The planned amendment to the Postal Act offers the opportunity to stimulate competition on the postal markets. This opportunity must now be seized," said Professor Achim Wambach, Chairman of the Monopolies Commission.

Since in the past the Federal Network Agency (*Bundesnetzagentur*) had assessed the fees of Deutsche Post AG as being non-compliant with the Postal Act in several cases, the Monopolies Commission proposes to strengthen the control of abuse of dominance in order to create a level playing field for the competition between postal service providers. In the view of the Monopolies Commission, the Postal Act should grant the Federal Network Agency more extensive information rights, introduce damages claims for market participants in case of violations of competition laws and postal laws and higher fines for those infringements, and should ensure the possibility of confiscating the profits of abusive conduct. In particular, these measures are intended to prevent Deutsche Post AG from making it more difficult for smaller mail service providers to enter the market and acquire customers through abusive pricing ("price dumping").

However, the Monopolies Commission does not expect the competitive situation on the letter markets to change significantly in the short term. In order to protect consumers, it is therefore still essential to maintain the regulation of retail fees and the current approval process for the letter postage.

The Monopolies Commission reiterates its recommendation to structure the fee regulation and approval procedures for letter postage in a cost-oriented manner and to determine the "appropriate profit surcharge" based on the entrepreneurial risk to which Deutsche Post AG is exposed on the letter market. Currently, the return on sales is calculated based on the data of structurally comparable foreign postal companies that, however, are also exposed to little or no competition. During the

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ongoing approval process for the letter postage in March 2019, the German Federal Government amended the Postal Charges Regulation Ordinance (*Post-Entgeltregulierungsverordnung*). Therefore, Deutsche Post AG was able to make postage adjustments that resulted in higher prices. The Monopolies Commission is critical of such changes during a pending fee approval procedure.

The number of consumer complaints due to the loss, damage or late delivery of letters and parcels has risen noticeably since 2017. A functioning and, where possible, legally pre-structured complaints management system at postal companies and the conciliation procedure at the Federal Network Agency are thus gaining in importance. A conciliation procedure is free of charge for the consumer, faster and less time-consuming than judicial enforcement of the often minor claims of postal customers. Since Deutsche Post AG and other postal service providers have refused so far to participate in the conciliation proceedings, the legislator should include a provision in the Postal Act that makes their participation in conciliation proceedings mandatory. Experience in other industries has shown that mandatory conciliation procedures lead to high conciliation rates.

The report can be downloaded immediately from the Monopolies Commission's homepage at www.monopolkommission.de

The Monopolies Commission is a permanent, independent expert body that advises the Federal Government and the legislative bodies in the fields of competition policy, competition law and regulation. One of its statutory tasks is to prepare a sector report that examines the development of competition on the postal markets. The Monopolies Commission consists of five members who are appointed by the Federal President on the recommendation of the Federal Government. Prof. Achim Wambach Ph.D. chairs the Monopolies Commission.