

Press Release

Monopolies Commission publishes Special Report on the situation of competition in the postal sector

- The Monopolies Commission finds stagnating competition and partially persistent (quasi-)monopolistic structures in the postal sector.
- The Monopolies Commission calls for the reduction of the remaining significant impediments to competition and for the effectivation of the agencies' competition oversight.

The German Monopolies Commission (Monopolkommission) has submitted its 8th Special Report under Sec. 44 of the Postal Law today, bearing the title: **“Post 2013: To effectively protect Competition!”** („Post 2013: Wettbewerbsschutz effektivieren!“). The report analyses impediments to effective competition on the German letter and parcel markets and gives a number of recommendations on how to solve current problems on the political and on the administrative levels.

“The **development of competition in the letter markets has been stagnating for years**“, says the chair of the Monopolies Commission, Prof. Daniel Zimmer. Alternative service providers would become more competitive in at least in many market segments, if the remaining significant impediments to competition were cut back. On the parcel markets, already today a certain degree of competition can be observed. Competition, while often remaining hidden, has already brought about visible benefits for consumers and enterprises. The **protection of existing competition** by means of a modernisation of market oversight continues to appear necessary.

Divestiture of the German Government's financial interest in the private company Deutsche Post AG should be realised swiftly. The 21% stakes remaining with the federal State do not convey substantial influence on that company and should be sold. Furthermore, in the short term, the **VAT-exemption for Universal Service providers should be granted without discrimination**. In the long term, the abolition of this exemption should be pursued. Overall, from the experiences of regulatory practice and for transposition of EU-Law, a **reform of the postal Law** seems imperative.

On the administrative level, above all an **effectivation of market oversight** within the existing framework appears promising. For that matter, the cooperation between the competition and the regulatory agencies (Bundeskartellamt and Bundesnetzagentur) should be expanded. A Market Monitoring as comprehensive as possible could improve the agencies' market overview decisively. This effort should be based on data sets, preexisting and to be created; third parties should be involved in an effective manner. Political and scientific discussion could not least benefit from such data basis.

Monopolkommission

The Monopolies Commission's Recommendations for the Postal Sector

The Monopolies Commission calls upon the responsible protagonists to give more consideration to the potential of competition in the postal market.

In particular, the politically responsible persons resp. the Legislator should

- adapt the postal Law's norms to the experiences of the last years and to the requirements of an effective protection of competition; notably introduce a duty to submit large customers' fees to the regulatory agency, allow for a formal right of petition with the regulatory agency for market participants, extend the inquisitorial powers of the regulatory agency onto adjacent markets, transpose the Postal Services Directive from 2008, and update the postal Law's norms referring to the Telecommunications Act;
- abrogate the unviable reference to labor market conditions within the postal Law's list of objectives as well as the consideration within the framework of fee regulation of special social costs and of costs of the Universal Service;
- measure the relevant factors as comprehensively as possible and fully accommodate the potentials of competition when reforming the Universal Service;
- refrain from reintroduction of a minimum wage specific to the postal sector;
- determine the public financial benefits for Deutsche Post AG and make them transparent;
- sell the remaining 21% stake in Deutsche Post AG still held by the federal Government;
- in a first step grant the VAT-exemption for Universal Service providers without discrimination, in a second step work towards the abolition of this exemption on the European level.

In particular, the competition agency should

- initiate a sector inquiry according to Sec. § 32e Act against Restraints of Competition.

In particular, the regulatory agency should

- review workshare rebates and large customers' fees as comprehensively as possible;
- further verify the data and prognoses on which regulatory decisions are based, especially in relation to the necessity of accepted costs, the rate of productivity enhancement, the calculation and allocation of common costs and the adequate returns on capital; in this respect, the Monopolies Commission recommends the use of an analytical cost model;
- allow only for net additional costs resulting from special duties;

- modernise and effectivate its ongoing collection of data from dominant companies for regulatory purposes; particularly collect random data samples from the internal records of parties to proceedings in a first step, and in a second step progressively automatise regulatory data collection;
- modernise its market data collection and render it more comprehensive on the basis of a substantially effectivised involvement of external experts, of an intensified use of IT, of the internet's potential and last not least of a reinforced integration of data from other sources;
- collect additional data within the framework of its inquiry of labor conditions in the postal sector.

In particular, the regulatory and the competition agencies should

- expand their cooperation, fully making use of the legal framework;
- conclusively and swiftly investigate reasonable grounds for suspecting in the parcel markets, and open formal proceedings if necessary;
- more closely monitor markets adjacent to and affecting postal markets, especially in relation to electronic mail rooms and hybrid mail;
- confer more effectiveness to cost measures which hitherto are rather theoretical, on the basis of new technological possibilities, and resolve remainig rule fuzziness;
- publish up-to-date guidelines for tendering procedures in the postal sector.

The Monopolies Commission is a permanent, independent expert committee, which advises the German government and legislature in the areas of competition policy making, competition law and regulation. Its legal responsibilities encompass, among others, the preparation of a Special Report analyzing the development of competition in the postal markets. The Monopolies Commission has five Members appointed by the Federal President based on a proposal of the German government. Prof. Dr. Daniel Zimmer of Bonn University is the chair of the Monopolies Commission.