

# Newsletter

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EDITORIAL

## More certainty, but for whom?



Philippe Bodson

*The recent vote in the European Parliament on the proposed directive for further liberalisation of the postal market should make us feel more certain about free and fair competition in the postal market. But does it really?*

*The agreement that has been reached by the member States and approved by the European Parliament ensures that until 2006, national postal operators in practice will be able to continue to enjoy monopolies in the letter mail market. The proposed levels of market openings are probably not significant enough to encourage competitors to invest. The FFPI has always pointed towards the need to have a final date for full liberalisation to create the necessary incentives for substantial investments in the mail market.*

*In light of the Parliament's vote, the FFPI believes that the Commission should put the appropriate resources in place to monitor that the requirements of Article 7 in the 1997 Directive are met with. Article 7 of the current postal directive clearly states that postal monopolies can only be used to the extent necessary to fund the universal service obligation. It is crucial that the Commission stays vigilant and makes the necessary controls to ensure that the Member States only grant their postal operators the reserved areas that are strictly necessary. Unfortunately, most the Member States will probably not themselves ensure that Article 7 is met with.*

*Recent developments in the UK are encouraging in this regard. The Independent British Postal Regulator, PostComm, has proposed full liberalisation by 2006 as the best tool to*

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## VIEWPOINT

By Gregor Mc Gregor,  
Chief Executive of PostWatch



Gregor McGregor, Chief Executive of Postwatch, the UK consumer watchdog for postal services, explains why competition is good news for customers and how it neither threatens the universal service, nor puts Consignia at risk from huge loss of business and revenue to 'cherry-pickers'.

"Consumers want choice, reliable service and value for money. Competitive markets encourage the innovation and efficiency that respond to customers' needs and liberalising the UK mail market will improve services, not destroy them.

Much has been made of the threat to the universal service with the argument that a daily delivery to every address in the UK at a uniform and affordable price will not be possible in a competitive market because the cost of delivering to rural areas is greater than to urban areas and must be met by cross subsidy.

The truth is, that services even in the most remote areas, cover their direct costs. The cost of mail is not driven by distance or population density but by how many times it is handled. Sorting by hand is more expensive than by machine and sending a parcel across London may cost more than to Aberdeen if it has to be handled more often.

In fact, the universal service is a benefit not a burden. Consignia has an unrivalled distribution network, which gives it a unique competitive advantage. Big mailers, such as banks, will want their mail delivered to all their customers, including those living in remote areas and will want their postal operator to provide that service.

Cherry-picking, therefore, will not damage the universal service because there are no inherent cross subsidies within postal charges. Moreover, customer demand means that new operators will undoubtedly need to use Consignia's unique delivery network and pipeline and Consignia will be paid a fair price for it.

The universal service will therefore be sustained not only by legislation and protection, but more importantly, by customer demand and commercial reality.

Consignia also possesses huge advantages that, if properly managed, put it in an excellent position to compete effectively and retain market share. Its delivery network, customer loyalty and brand awareness are assets that no competitor can expect to rival.

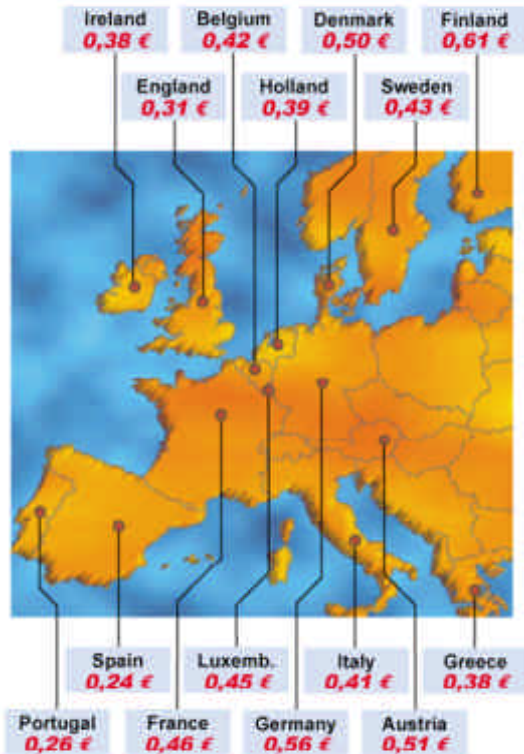
However, in its prediction of losses (up to £750m) as a result of competition, Consignia assumes that all the most profitable services will be lost - it makes no allowance for competing effectively and retaining services. It also ignores revenue from competitors who will pay to use Consignia's delivery network and assumes no cost savings or commercial response to competition.

Consignia currently operates inefficiently hence it is making huge financial losses. Competitive pressures will provide the incentive to improve efficiency and competent management will respond by offering better services at keener prices.

Competition then, will stimulate innovation and market growth, which will increase customer choice and lead to enhanced postal services in the UK" ■

## FFPI HIGHLIGHTS

### *unjustified stamp price differentials for postal users*



In December 2001 the FFPI released a study that showed striking differences in stamp prices throughout the EU. The results of the FFPI comparative analysis on price differentials unveiled that a stamp for a 20 gram-letter costs 2,33 times more in Germany than in Spain.

It is impossible for consumers and other users to assess if what they are paying for postal services is justifiable, in particular since many postal operators, in breach of EC law, lack transparent and systematic accounting.

One has to recognise that as a result of the lack of competition in the postal market, European consumers and users of postal services will continue to be excluded from the benefits of the internal market. They will have to pay excessive stamp prices in comparison to the quality of the service offered. That is the real cost of Non-liberalisation ■

#### **New press pack on FFPI website**

The FFPI has recently enriched its website with a new press pack. Please visit the FFPI website [www.freefairpost.com](http://www.freefairpost.com) or write to [info@freefairpost.com](mailto:info@freefairpost.com) for more details.

## THE POSTAL DIRECTIVE IN A NUTSHELL

The Directive on further liberalisation of postal services, approved by the European Parliament in Strasbourg on 13 March, will be analysed and discussed by the Committee of Member States representatives to the EU (Coreper) on 24 April and will be finally adopted by the Council of EU Telecom Ministers on 16-17 June.

- Under the new measures the EU postal sector will experience a three-phased opening:
  - From 2003 only items weighing less than 100 grams will belong to the "reserved area" of national post offices, unless a competitor charges three times the basic tariff (current EU rules put the monopoly threshold at 350 grams). All outgoing cross-border mail will be open to competition unless Member States, which need this market segment for the provision of their universal service, decide to reserve it).
  - The monopoly will be further reduced in 2006 when the limit comes down to 50 grams or two and a half times the basic tariff.
- In 2006, the Commission will report on the impact of removing the "reserved area" entirely on the provision of the universal service obligation and will determine the opportunity for further liberalisation in 2009.
- The Commission is required to submit a report every two years. The first one is to be presented by 31 December 2004. This report should include information about developments in the sector, particularly economic, social, employment and technological aspects, as well as the quality of service. The report will be accompanied, where appropriate, by new Commission legislative proposals to European Parliament and Council.
- All the measures of the existing Directive (97/67/EC) regarding the provision of a universal postal service will remain in force.
- The definition of "special services" has been left out.
- The new Directive will allow for an opening of 23% of the European postal market to competition.

## THE POSTAL MONOPOLIES' SHOPPING SPREE

### Who's paying for it?

Over the past 5 years, European national postal operators have invested massively into competitive sectors. This is especially true for the four biggest operators in Europe (TPG, Deutsche Post World Net, Consignia and La Poste of France) that have acquired, according to the information gathered by the FFPI, almost 100 companies in markets neighbouring to the postal market, for instance in parcel delivery, transport and logistics.

As recently declared by for instance by Martin Vial, CEO of La Poste of France, and by Klaus Zumwinkel of Deutsche Post, the national monopolies have ambitious plans for the next years. They are strongly committed to reinforce their positions expanding to new markets and keeping on buying smaller private companies. Users and consumers of postal services are in many cases bearing the costs of these expansions without necessarily getting anything in return. Postal users are worried that the ongoing shopping spree will lead to further stamp price

increases. That would amount to price hikes for entirely wrong reasons. In addition, stamp price hikes could also have a negative impact in some competitive sectors where the massive scale of the investments made by postal operator risk limiting competition. This would mean that the users and consumers would pay the bill twice!

The EU needs to act to ensure that the postal incumbents' revenues are used to maintain or improve the quality of postal services in the reserved area offered by postal monopolies rather than to finance their expansion into competitive markets ■

*The following chart presents an approximate overview of the investments made by the largest European national postal operators for worldwide acquisitions and participations in other companies. The amount of operations is calculated from 1997 to date:*

Company	Number of companies acquired or partially bought	Remarks
Consignia	11	Acquisitions include Citipost and German Parcel & Partners
DPWN	55	Acquisitions include DHL Intern., Danzas Freight Forwarding, Nedlloyd European Transport Div.
La Poste (France)	12	Acquisitions include Jet Intern. and Eurodispatch
TPG	20	Acquisitions include TNT Global, Jet Services

## ACUTE MARKET DISTORTIONS

The FFPI in September 2001 initiated an on-going study of pending cases in the EU regarding breaches of competition and market rules in the postal sector. The study revealed acute market distortions: more than 20 pending competition and Internal market infringement cases were identified.

All these cases have a negative impact on taxpayers, consumers and users of postal services who are the ultimate victims of the distortions of competition.

In fact, postal users and consumers are faced with a limited choice for basic postal services covered by the legal monopolies (the reserved area) and in markets open to competition due to the market power of the postal operators in those markets. In addition, postal users' and taxpayers' money is used to limit competition, hence to harm the interests of those the legal monopolies set out to protect.

When postal operators are found guilty of abusing their dominant positions or have to reimburse illegal state aid, it is tempting for them to raise prices to pay off debt or to cut down on traditional mail services. In such a scenarios, postal users are faced with the bill ■

For the full text of the survey, visit the section "News" of the FFPI website [www.freefairnost.com](http://www.freefairnost.com)

Country	Infringement	Abuse of dominant position	State aid	Total of pending cases
Belgium	1		1	2
Finland		2		2
France	1	1	1	3
Germany		4	1	5
Greece	1			1
Italy	1	2		3
Portugal	1			1
Spain	1			1
The Netherlands		1		1
United Kingdom	1			1

*The list is not exhaustive and includes cases that, to our knowledge, are currently pending within the European Commission and the national competition authorities in the member States.*

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both create real competition and to ensure the universal service. In this issue of the FFPI newsletter, the chief executive of the UK consumer watchdog for postal services, Mr. Gregor Mc Gregor, explains why he believes that full liberalisation in Britain in the near future is necessary. The British Government still has to decide on the proposal put forward by the Regulator. The FFPI will be monitoring developments in Britain in the coming months with great interest.

In parallel to the vote in the European Parliament, the European Commission has taken two revealing decisions on competition issues. In addition, the EC Court of First Instance delivered a judgment on 20 March that could be of great importance for future assessments of acquisitions involving postal operators.

The recent decisions taken by the Commission confirm how high the cost of non-competition in the postal sector is and, consequently, the improvements that users stand to gain from sound competition in the postal sectors. On March 12<sup>th</sup>, 2002 the European Commission decided that the 9 billion Euros granted to Poste Italiane by the Italian Government over a period of 5 years (1994-1999), do not constitute illegal state aid. The Commission found that the cash injections that the Italian Post Office received were necessary to keep it afloat and to cover the additional cost of maintaining its public service function. The Commission consequently concluded that the 9 billion euro injected by the Italian taxpayers into Poste Italiane did not distort competition and that the money partially was a compensation for Poste Italiane's historically low efficiency. The text of the Commission's decision is not yet available. The FFPI will analyse the decision when it becomes available. It will obviously be of great interest to see how the Commission came to the conclusion that these substantial cash injections did not distort competition.

On March 20<sup>th</sup>, 2002 the European Court of First Instance rejected UPS' appeal against the Commission's decision over alleged abuse of dominant position by Deutsche Post, using monopoly revenues to acquire DHL. The Court set an important new principle. It said that when assessing mergers or acquisitions that involve state monopolies, the Commission is obliged to consider where the money used by the postal operators for acquisitions comes from. If, for instance, the resources used by monopolies to finance the operation derive from excessive prices or from other distortive behaviours in the reserved area, this could be considered as contrary to EC law. With regard to this particular case, however, the Court found that UPS had not proven that the resources used by Deutsche Post World Net for its stake in DHL had not been generated by abusive practices in the reserved area. In view of the Court's judgment, the Commission now will have to assess how it will adapt its procedures so that the required analysis set out by the Court is respected in future mergers.

Personally, I am convinced that the Commission needs to do more to verify that monopolies do not use the revenues of the reserved area to finance their shopping sprees, for instance by making sure that all postal operators provide transparent accounts, a requirement in the 1997 Directive. If not, fair competition will remain a chimera.

In light of the above, I have the impression that we are drifting away from introducing competition in the market. The FFPI stamp rate survey (please see page 2) confirms the extreme differences between stamp prices in the EU Member States. Recent announcements from the Postal Operators about acquisitions and additional shopping sprees indicate that they feel well protected by their prolonged monopolies. These developments raise two important questions which the FFPI will be working with in the coming months: how can effective and independent regulatory processes in the EU postal market avoid that monopolies continue to abuse their position and benefit from state aid that distorts competition? Should M&A rules not make a clear distinction between the activities carried out by normal companies and monopolists?

The FFPI and myself look forward to addressing these issues in future discussions with the relevant EU stakeholders.

Philipp Rodson

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- **25-26 April 2002:** E-post World 2002, Café Royal, London.
  - **6-8 May 2002:** Europe-America Postal Forum 2002, Madrid.
  - **13-15 May 2002:** 13<sup>th</sup> World Mail & Express Europe Conference, Amsterdam.
  - **5-8 June 2002:** CRR1's Conference on postal and delivery economics, Potsdam, Germany.
  - **11-15 September 2002:** European Envelope Manufacturer's Association (FEPE) congress, Budapest.
  - **8-10 October 2002:** POST-EXPO 2002, Köln.



Upcoming  
events