Regulatory Strategy of the President of the Office of Electronic Communications regarding the postal services market for the period of 2009-2011

February 2009
Table of contents

INTRODUCTION ............................................................................................................................ 3
MISSION, VALUES, VISION ........................................................................................................ 4
STATUTORY TASKS OF THE PRESIDENT OF UKE REGARDING THE POSTAL MARKET ........... 5
1. Introduction ............................................................................................................................ 5
2. Tasks of the President of the Office of Electronic Communications derived from the legal regulations ................................................................................................................................. 5
3. Role of the regulatory authority in provisions of the 3rd Postal Directive ......................... 8
4. Project of a new postal law ................................................................................................... 9
POSTAL MARKET IN POLAND IN THE CONTEXT OF THE STRATEGY ........................................ 10
Postal market analysis .............................................................................................................. 10
1. Specificity of the postal services market .............................................................................. 10
2. Role and functions of the regulatory authority forming the Strategy ............................. 11
3. Postal operators present on the market .............................................................................. 12
4. Complaints about services ................................................................................................ 16
ANALYSIS OF REGULATORY CHANGES AND THE LEVEL OF DEVELOPMENT OF MARKETS IN THE EUROPEAN COUNTRIES ........................................................................... 17
1. European Law ....................................................................................................................... 18
2. The main resolutions of the 3rd Postal Directive .............................................................. 18
3. Harmonisation of law ........................................................................................................... 22
4. Access to postal infrastructure of the public operator ...................................................... 23
5. Level of market development in selected European countries ....................................... 25
THE MAIN STRATEGIC OBJECTIVES OF THE PRESIDENT OF UKE ........................................... 30
ACCOMPLISHMENT OF STRATEGIC OBJECTIVES OF THE PRESIDENT OF UKE IN THE PERIOD OF 2009-2011 WITH REGARD TO THE POSTAL MARKET ........................................................... 32
1. Area: Protection of consumer interests ............................................................................. 33
2. Area: Ensuring fair market competition principles ......................................................... 38
3. Area: Quality of services ................................................................................................... 41
SUMMARY ................................................................................................................................ 43
INRODUCTION

The present document contains the “Regulatory Strategy of the President of the Office of Electronic Communications (“UKE” or “Office”) regarding the postal services market for the period of 2009-2011”, hereinafter referred to also as “Strategy”.

In our Strategy, we tried to refer to all key issues both for the postal market and for the role of UKE on that market. In our Strategy, there is a place to define the mission, values and vision of the Office because in the period of significant changes that occur on the postal market it is important to set forth some basic directions and motives for action.

In the present document reference was made also to the statutory tasks of the President of the Office regarding the postal market pursuant to the Postal Law Act of 12\textsuperscript{th} June 2003 (Journal of Laws of 2008, no. 189, item 1159), hereinafter referred to as the Postal Law, and to the role of regulator outlined by the Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services (EU Official Journal L52/3 of 27.02.2008), hereinafter referred to as the 3\textsuperscript{rd} Postal Directive.

The approach of the regulator to the market and fulfillment of statutory tasks depends on the level of competition maturity, the number of entities competing on the market, and consequently, their struggle to gain customers and provide them with services of proper quality. Therefore, a short analysis of functioning of the postal services market in 2007 was included in the Strategy.

Finally, the Strategy defines the detailed strategic objectives of the President of UKE for the period of 2009-2011 regarding the postal market, the priorities assigned to them, some necessary implementation stages, the expected outcomes and a schedule of action.

While preparing the Strategy, we agreed upon a basic assumption that the strategic objective of the regulatory authority should be provision of conditions for fair competition to postal operators, and access to postal services of high quality and at affordable prices to consumers.

Undoubtedly, finding the best solutions regarding guarantee of stability of universal services provision by the public operator is still a challenge. In the conditions of a liberalised market that issue gains a completely new dimension that should be reflected in the currently prepared project of the Postal Law Act.

Anna Streżyńska
President of the Office of Electronic Communications
MISSION, VALUES, VISION

MISSION
The mission of the President of UKE is to prepare the postal market to full liberalisation by:
- establishment of conditions of its harmonious development,
- implementation of principles of free, fair competition,
- provision of efficient market functioning that guarantees offering the universal service at a high level, at affordable prices and a high level of consumers’ satisfaction with postal services.

VALUES
- partnership towards the entities operating on the postal market,
- objectiveness in assessment and approach to all postal operators,
- legalism in undertaken actions and issued decisions,
- professionalism and understanding of the economic and legal mechanisms of the postal market functioning.

VISION
The vision of the regulator regarding the postal market is to create a competitive environment with relatively low barriers of entry for entrepreneurs, giving the customers access to services of high quality, including the common services, in which the market mechanisms and not an actual monopoly influence the choice of service providers, and which maintains its growth dynamics and contributes to the state's social development owing to innovative solutions combining traditional services with new technologies.
STATUTORY TASKS OF THE PRESIDENT OF UKE REGARDING THE POSTAL MARKET

1. Introduction

The changes in legal conditions that took place in 2007 and 2008 in connection with amendment to the Postal Law Act were an important reason for changing the regulatory strategy of the President of UKE regarding the postal market. As a result of the aforementioned amendment, the legal tools available so far to the President of UKE were complemented and strengthened, most of all in the area of regulation of the universal postal services market.

Another key element that makes us change our perception of the postal market in a significant way is implementation by the European Parliament and the Council of the new, 3\textsuperscript{rd} Postal Directive, which assumes a full opening of market at the beginning of 2011, with a possibility of postponing it to 2013 in some countries, including Poland. Owing to the fact that the 3\textsuperscript{rd} Postal Directive defines the date of 31\textsuperscript{st} December 2010 as the date of entering into force of national, executive and administrative regulations in the Member States indispensable to implement the Directive, the President of UKE, on the basis of the knowledge on the postal services market, consumer needs, postulates laid down by postal operators, problems of implementation of the Postal Law Act, joined actively the preparations of amendment proposals to the aforementioned Act for the purposes of correct and full implementation of the above mentioned 3\textsuperscript{rd} Postal Directive. In 2007, guidelines to amendment of the Postal Law Act were prepared, and in November 2008 works on the text of the above mentioned Act were commenced.

2. Tasks of the President of the Office of Electronic Communications under the legal regulations of the National Law and its amendments in 2007

The President of UKE, as the regulatory body for the postal services market in Poland, acts pursuant to two legal acts:

- the Act as of 16\textsuperscript{th} July 2004, Telecommunications Law (Journal of Laws of 2004, no. 171, item 1800 as amended),
- the Postal Law Act.

The activity areas of the President of UKE under the above mentioned regulations in force include:

- performance of tasks regarding regulation of postal activity,
- conducting an analysis and assessment of functioning postal markets,
- undertaking support actions in issues regarding postal market functioning,
- keeping relevant registers required for functioning of the postal services sector,
- co-operation with national and international postal organisations and competent authorities of other states within the scope of their powers,
- co-operation with the Office of Competition and Consumer Protection regarding issues related to compliance with the rights of consumers using postal services, counteraction to practices limiting competition, preventing undesirable concentration of postal operators and their unions,
- providing the Commission with information on functioning of the internal postal market, execution of duties derived from Community laws,
- taking decisions related to authorisations for provision of postal services,
- control of postal activity of private operators and operators providing the universal services,
- participation in the process of settlement of official prices of the universal postal services,
- conducting mediatory proceedings between postal services operators or between operators and users.


The main result of the changes mentioned above is complementation and strengthening of the legal tools being so far at the disposal of the President of UKE.

<table>
<thead>
<tr>
<th>Regulation</th>
<th>UKE’s powers after the amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 44 par. 1 point 2 and par. 2 point 2 of the Postal Law Act (reporting of postal operators)</td>
<td>Amendment to Article 44 of the Postal Law Act imposes an obligation on postal operators to submit data on provided postal services by value, which will enable a more comprehensive market assessment. That, in turn, can constitute a basis for a possible request for indispensable regulatory changes improving functioning of that market or lifting barriers for its faster development (most of all in opening to competition).</td>
</tr>
<tr>
<td>Article 49 of the Postal Law Act (regulations of common services)</td>
<td>The new text of the regulation gives the President of UKE the right to raise objection to a project of regulations of providing universal postal services, which has basic importance to protection of interests of users of universal postal services in a case of non-compliance of these regulations with legal provisions in force.</td>
</tr>
<tr>
<td>Article 51 of the Postal Law Act</td>
<td>The powers of the President of UKE to raise an objection to a...</td>
</tr>
</tbody>
</table>
Law Act (pricelist of common services)  price list of universal postal services (or its change) ensured a larger effectiveness and rate of reaction in cases when prerequisites arise to question such new prices. In particular, that change guarantees effectiveness of tools used by the regulator in order to limit a situation of using by the state enterprise of public utility “Poczta Polska”, hereinafter referred to as “Poczta Polska”, of its dominant position regarding settlement of the level of prices of universal postal services, especially for the first weight class of the fastest category of postal item, which is the reference point for non-public operators to define the price limit of the area of reserved services.

However, these changes are by far not enough to ensure effective regulation of the postal market, including protection of consumer interests. It should be noted that, on the basis of general principles derived from the postal directives as guidelines, national regulations were implemented. These regulations define the principles of functioning of the postal services market in Poland. The evolving Community legislation is putting more an more emphasis on consumers’ rights protection, and provision of postal services is treated there as an important instrument of social communication. Postal services undergo transformation determined by various factors, including the increasing needs and expectations of consumers (in particular in connection with the rate of information transfer, security, easiness in access to information carriers, automation, combination of electronic communication means with traditional postal services).

Therefore, the postal services market should include, on the one hand, the commonly available services of universal character that, however, guarantee preservation of requirements of value at a right level, and on the other hand – services of added value. Moreover, we also have to take into account the existing obligation to satisfy the specific needs of some individual social groups (the disabled, individuals with low income, individuals living in poorly populated areas).

It is a duty of a Member State of the European Union towards the society to define stable, transparent and non-discriminatory legal framework (in particular, to define areas of regulations, limitation of powers to settle disputes) creating conditions for development of fair competition, with simultaneous protection of rights of postal services users. It is necessary to create an effective mechanism of dispute settlement independent from operators of services and being an alternative to court procedures. It might happen that an entrepreneur offering a service – even if partly belonging to the public law “regime” – strives for maximization of profit at consumers’ expense. Therefore, it is necessary to ensure protection being as broad and effective as possible, guaranteed by the regulatory authority to users of postal services perceived as weaker entities on the market.

The regulator should point out to irregularities and dangers by fulfilment of its mission and by presentation of results of its activity. Concentrating in particular on consumer protection, they should have a possibility of using more effective legal tools than before.
3. Role of the regulatory authority in provisions of the 3rd Postal Directive

In the set of proposed legal solutions, the 3rd Postal Directive referred also to the role of national market regulators. Below, we present the main resolutions of the 3rd Postal Directive:

- In line with the rule of regulatory and operational functions separation, it is necessary for the Member States to ensure legal separation and functional independence of their national regulatory authorities from postal operators in order to assure impartiality of decisions,

- It is necessary to implement transparency in separation of tasks and to require cooperation of proper entities responsible for regulation of the postal sector, implementation of competition rules and dealing with consumer issues so as to ensure effective enforcement of tasks,

- The national regulatory authorities should have all necessary resources, including personnel, the know-how and financial resources indispensable to execute their tasks,

- The main task of the national regulatory authorities is to ensure compliance of national law with duties derived from the provisions of the Directive, in particular by establishment of monitoring and regulatory procedures that ensure provision of the universal service,

- The responsibility for ensuring compliance with competition rules in the postal sector can also be imposed on the regulatory bodies,

- A party to which a decision of the national regulatory authority refers should have the right to appeal to an entity independent from that authority, e.g. to court. By the time when the appeal is considered, a decision of the national regulatory authority shall remain in force unless the appealing entity stipulates otherwise,

- The national regulatory authority is obliged to co-operate with other regulatory authorities of the Member States, the Commission and national bodies responsible for protection of consumer rights,

- The regulatory authority should collect information from postal market participants,

- The regulatory body should be authorised to increase the weight limit within the frameworks of common service for parcels to any weight that does not exceed 20 kg, with a possibility of defining special principles of delivery for such parcels “door-to-door”. The regulatory body should also be authorized to take a decision not to implement the system of analytical accounting by an operator providing universal postal services in a situation of a lack of external financing of the universal service,

- Authorisation to introduce deviations from implementation of quality norms defined in the annex to the directive in a situation when it is required by additional circumstances related to infrastructure or geographical conditions,

- The regulator is responsible for verifying of the way of the net cost calculation regarding the universal services.
4. Project of a new postal law

During the works on determination of the future role of the regulatory authority, we referred both to the areas defined directly by the 3rd Postal Directive and to those derived from the need to protect the competition and consumers, ensure quality and continuity of the universal postal services provision. The practice of the President of UKE induces the necessity to broaden the regulatory tools with a possibility of:

- Designating the operator providing the universal service in the case of lack of offers for providing such service or termination of provision of such service by the operator initially obliged to provide it,
- Defining, by decision, the maximum prices of these services or their price range after an analysis of prices for services of the operator providing the universal service and the economic situation of the operator,
- Imposing penalties with immediate enforceability for breach of duties derived from authorisations for providing postal activity, hereinafter referred to as “authorisations”, entries into the register of postal operators and valid legal regulations,
- Defining in an authorisation the minimum routing time indicators for provided universal services and enforcement their implementation by imperative means, and regulate the scope of user rights in the issue of questioning the quality of services, ways and terms of lodging complaints and other procedures necessary to conduct complaint proceedings,
- Conducting mediatory proceedings, along with possibility of settling the case by Permanent Consumer Arbitration Courts at the President of UKE,
- Using the system of authorisations as a tool regulating the postal market (e.g. in authorisations by implementation of requirements regarding quality of services, participation in competitions for provision of universal services, use of transparent complaint procedures),
- Correlating tasks in the field of competition and consumer protection with the powers of the Office of Competition and Consumer Protection, e.g. by an obligation to inform about any decisions taken regarding authorisation for provision of the universal service,
- Imperative settlement of individual disputes between consumers and the operator (obligatory participation in mediatory proceedings at the President of UKE),
- Imposing financial penalties enabling enforcement of obligations of an operator regarding provision of proper quality services, giving the disabled access to the universal postal services,
- Imposing penalties also in a case of non-fulfillment or undue fulfillment of postal service, non-compliance with the procedure of complaint proceedings, non-compliance with the rule of postal secrecy, settlement of charges for provision of universal services without taking into account their costs, non-compliance with the ban to use cross-subsidies.
POSTAL MARKET IN POLAND IN THE CONTEXT OF THE STRATEGY

Postal market analysis

1. Specificity of the postal services market

The specific nature of the postal services market depends on the necessity to provide by at least one operator the so-called universal services for the benefit of the society. For years, the public operators benefited from a wide-range monopoly for their services that gave them a proper compensation for fulfillment of the obligation to provide services throughout the territory of the country at affordable prices. The existence of national monopolies was contradictory to the vision of a Uniform Market of the European Union. Therefore, in the last two decades, at the initiative of the European Commission, there were decisions taken leading to gradual liquidation of monopolies with simultaneous preservation of stability of the universal services provision. Conciliation of these two aims, which seem contradictory by their nature, constitutes one of the most difficult issues that will have to be solved with respect to the Polish market and the position of the public operator held by Poczta Polska.

Against the background of changes in the whole European Union, it has to be said that for a few years the Polish postal market has already functioned under conditions of gradual liberalisation. On the one hand, the scope of services reserved for the public operator has been decreasing, and on the other hand, the number of entities that conduct activity consisting in providing postal services has been increasing systematically. In 2007, except for Poczta Polska, 164 entities were registered in the register of postal operators (according to the state as at the end of 2007). However, not all operators who have been entered actually conduct their activity.

The entities operating on the market are active in its four areas:

<table>
<thead>
<tr>
<th>1) reserved for the public operator</th>
<th>involving provision of postal services consisting in:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- clearance, transport and delivery in domestic traffic of items with correspondence, direct mail and other postal items in a way making it impossible to examine their content, not exceeding the weight limit of 50 g,</td>
<td></td>
</tr>
<tr>
<td>- clearance, transport and delivery of items in international traffic not exceeding the weight limit of 50 g,</td>
<td></td>
</tr>
<tr>
<td>- clearance and delivery in domestic and international traffic of items with correspondence when in the process of clearance or delivery they become postal items not exceeding the weight limit of 50 g,</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2) requiring an authorisation</th>
<th>involving provision of postal services consisting of clearance, transport and delivery in domestic and international traffic of:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- postal items for the blind,</td>
<td></td>
</tr>
<tr>
<td>- items with correspondence up to 2,000 g excluding:</td>
<td></td>
</tr>
<tr>
<td>- items referred to in Article 47 item 1 point 1 (a) and point 2, with provision of Article 47 item 2 and 4 of the Postal Law Act,</td>
<td></td>
</tr>
</tbody>
</table>
items which are received, transported and delivered in a different manner than described for universal postal services,

3) requiring an entry to the register of postal operators

involving provision of postal activity that does not require an authorisation,

4) entirely free

comprising postal activity that constitutes of clearance, conveyance and delivery of non-addressed printed forms.

The postal services market in Poland has been undergoing the process of gradual liberalisation with a noticeable increase in the number of competitors. Liberalisation of the postal market takes place e.g. through a significant decrease of the area reserved for the public operator in the scope of letter mail according to the weight and price criteria (Article 47 item 2 and item 4 of the Postal Law Act). Currently, the reserved area includes items with correspondence up to 50 g, direct mail up to 50 g and other items up to 50 g if the way of posting them makes it impossible to examine the content. According to the above mentioned Article 47 item 2 of the Postal Law Act, operators other than the public operator are entitled to clear, transport and deliver postal items of weight up to 50 g that are in the scope of services reserved for the public operator under the condition of collecting a fee which is not lower than two and a half times the fee for clearance, transport and delivery of a letter item constituting the postal item of the lowest weight category and the fastest category established within price list of universal postal services of the public operator.

2. Role and functions of the regulatory authority forming the Strategy

The functions of the President of UKE regarding the postal market can be divided as follows:

- **regulatory** – in line with the competences, to issue authorisations to provide postal activity and make entries into the register of regulated activity, as well as the right to revoke or limit the scope of authorisations, and also to make decisions forbidding to perform postal activity requiring an entry to the register, or imposing financial penalties on operators who breach the regulations, also by the powers to approve of a project of regulations and a pricelist of universal postal services (and its changes),

- **control** – involving supervision over complying with legal regulations by the operators and providing relevant level of postal services, including universal services,

- **mediatory** – involving settlement of disputes between operators and customers, as well as between operators themselves, in particular between non-public operators and the public operator, with preservation of impartiality and principles of equal treating the parties,

- **inspiring** – by participation in legislative works and setting forth own proposals of legal solutions adjusting the legislation to the changing conditions on the domestic and international postal services market.
While enforcing its tasks derived from the Postal Law Act, the President of UKE is guided by general objectives, compliant with the EU Directives:

- supervision and control of the market undergoing consecutive stages of liberalisation,
- preservation of continuity of providing universal services,
- constant monitoring of the level of service quality in interest of consumers,
- maintenance of principles of fair competition.

The functions described above constitute key elements of the present Strategy that manifest themselves in formulation of the basic strategic objectives of UKE, which are the following:

- protection of consumers’ interests,
- ensuring fair competition,
- taking care of service quality.

3. Postal operators present on the market

Currently, in accordance with Article 46 item 2 of the Postal Law Act, the function of the public operator is held by Poczta Polska, which therefore – under Article 46 item 1 of the above mentioned Act – is obliged to ensure continuity of provision of postal services of universal character, both in domestic and in international traffic.

Except for Poczta Polska, in 2007 on the postal services market there were 164 non-public operators (according to the register kept by the President of UKE – state as at the end of 2007). Actual activity conducted, as mentioned before, was declared only by 100 operators who submitted their reports.

There are still four years left until the market will probably be fully liberalised, as planned for 2013. Hence, the public operator has time e.g. to finalise the restructuring process, increase the effectiveness of human resources and postal network, implement a properly prepared Activity Based Costing system (which will enable the enterprise to count its costs without the need to use statistical research and accounting keys to the extent as large as so far, which influences the quality and correctness of accounts, and will be a source of information about actual costs of each of the services offered by the public operator).

The lack of accelerated actions of Poczta Polska’s management meant to prepare the enterprise to the new competition conditions and to meet the requirements of institutional customers may cause a loss of some revenues of the enterprise. As illustrated by the example of EU Member States, the gradual liberalisation itself does not have such a significant influence on financial stability of the public operator as actions of the operator’s board, including striving for the diversification of revenue sources. Expectations of Poczta Polska’s employees may be a threat to stability of the enterprise as well.

Such a situation was last year when its trade union organisations demanded a pay rise of PLN 800 gross per one employee, while Poczta Polska, taking into consideration its financial capacity, could offer a rise of an average pay of PLN 200 gross at the most. For Poczta Polska, fulfilment of all the claims of the employees’ would mean PLN 1.1 billion loss at the end of
2008. Such circumstances undoubtedly pose a threat to safety of continuity in provision of the universal services.

The new postal law will have to determine the mechanism of financing the universal service, as well as the ways of maintaining the network of the public operators' offices throughout the country.

Poczta Polska has 8,692 post offices (as at the end of 2007) that make it possible to reach all existing and potential customers. The public operator, striving to increase the effectiveness, is constantly reorganising that network. The structure of offices also changes. Nowadays, over 30% of offices of Poczta Polska (2,931 as at the end of 2007) are kept by agents. A significant part of these offices (2,144 as at the end of 2007) operate in rural areas, which means that these are unprofitable units.

In total, there were 165 entities in the register of postal operators kept by the President of UKE (as at the end of 2007), including:

- Poczta Polska as the public operator,
- 4 operators having authorisations,
- 159 operators acting on the basis of an entry to the register of postal operators,
- 1 operator having both an authorisation and an entry to the register.

In 2007 UKE received:

- 42 applications for an entry to the register of postal operators,
- 36 applications for exclusion from the register of postal operators,
- 1 application for extension of scope of provided postal activity,
- 3 applications for placing the marks of postal fee in the specification kept by the President of UKE,
- 12 applications for termination of activity.

In the period of 1996-2007, the number of non-public operators increased almost by 11 times (from 15 to 164 to operators). The largest percentage increase in comparison with the preceding year was registered in 2002 (+73%) and 2004 (+55%). The slowdown in the rate of increase of the non-public operators number could result from postponing the date of full opening of the Polish postal services market.

That is indicated by the fact that in 2006, when the issue of the date of full opening was not settled yet, 76 applications for the entry into the register were submitted to the president of UKE, while in 2007 there were only 42 applications lodged.
The postal operators functioning in 2007 had 1,543 offices altogether, including 1,118 offices kept by agents (according to the data at the end of 2007). However, almost 94% of all offices of the non-public operators belong to the group of 15 largest operators, which is presented in the specification given below.

Depending on the strategy of the operators, some of them (DHL Express, ID Marketing, GLS Poland, BOMAR Usługi Spedycyjne, Dystrybucja Polska, TNT Express Worldwide) base almost entirely on the network of their own offices. However, most operators provide their activity through agents. Sometimes, as it is in the case of InPost, PAF Operator Pocztoy, INTEGER, or PZ Polamer, the service network is entirely based on facilities of the agents. As illustrated in the specification, the largest group (42%) are the operators who have one office (most often it is a registered office of a natural person conducting business activity).
The main market participant of the postal market is still Poczta Polska. It is the only entity that has infrastructure necessary to provide postal services of universal character. Moreover, the universal postal services constitute the most important position among the services offered by Poczta Polska (while in the group of services of universal character the most significant position is unregistered mail). It is confirmed by the data for 2007, when the enterprise provided in domestic and international traffic:

- almost 2.9 billion postal services (universal, contractual, express services), which brought revenues over PLN 4.6 billion,
- over 1.9 billion of universal services that generated over PLN 4.2 billion of revenues.

In 2007, the non-public operators provided (in domestic and international traffic) the total number of almost 2.4 billion of postal services (items with correspondence, direct mail, parcels, non-addressed mail), which brought almost PLN 1.7 billion of revenue. An analysis of the data presented by the operators indicated e.g. that in domestic traffic the largest share in the amount is of non-addressed items (96.9%) that, however, do not contribute that much to revenues of the operators (9.2%). The main source of income for the non-public operators are parcels – in domestic traffic they generated about 83.1% of revenues, and in international traffic about 81.2%.

In 2007 the volume of mail of the public operator and the non-public operators in domestic traffic – excluding non-addressed mail – constituted over 1.9 billion items (when compared to 2006 it increased by about 13.5%), while including non-addressed mail the volume amounted to almost 5.1 billion items (which means an increase in comparison with the preceding year by about 2.7%). In 2007 the activity in the postal sector (in domestic and international) generated revenues of PLN 6.1 billion, and including non-addressed mail – PLN 6.3 billion.

As shown by the analysis of the volume of services provided in 2007 in individual segments of the market, Poczta Polska is by far the dominating operator in the field of items with correspondence and direct mail (its share is about 98.8% and 99.5% respectively). In the parcel sector its dominance is decreasing in favour of the non-public operators that have taken over 53.9% of that market. The non-public operators also took over as much as 72.2% of the market for non-addressed printed forms.

However, that activity in the last sector can be provided without any entry to the register of postal operators, therefore UKE does not have complete data in that field and we should assume that the actual structure of that market is probably different (with a significantly less market share of Poczta Polska).

The structure of revenues of the operators in each market segment is similar to the above mentioned volume structure.

The numbers of operators acting in each area of domestic market are given below.
As illustrated by the specifications given above, most of the operators provide their activity locally and they specialise in services in chosen market areas. So far, only InPost Sp. z o.o. (Ltd.), operating on the territory of the country in all the above mentioned areas, aspire for the position held by Poczta Polska as the public operator providing the activity in the whole country and offering a vide range of services.

4. Complaints about services

In 2007 the consumers complained about over 370,000 services, including almost 243,000 that were the universal services of Poczta Polska. Taking into consideration the proportion of complaints against the volume of provided services, one can ascertain that in 2007 in Poczta Polska there were complaints lodged on 0.0123% universal services, and in the case of the non-public operators the proportion was 0.0054% of all services.

Table 37. Number of complaints in 2007

<table>
<thead>
<tr>
<th>Number of complaints</th>
<th>approved</th>
<th>rejected</th>
<th>other (e.g. pending)</th>
<th>total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poczta Polska</td>
<td>39,926</td>
<td>184,042</td>
<td>18,882</td>
<td>242,850</td>
</tr>
<tr>
<td>Non-public operators</td>
<td>79,027</td>
<td>39,157</td>
<td>9,398</td>
<td>127,582</td>
</tr>
<tr>
<td>Total</td>
<td>118,953</td>
<td>223,199</td>
<td>28,280</td>
<td>370,432</td>
</tr>
</tbody>
</table>

Source: own analysis of UKE.

The specification given above indicates that the number of approved complaints is very high in case of the non-public operators (about 62% of complaints were approved), while in case of Poczta Polska the ratio is only 16%.
Such disproportions result mainly from the regulations of the Postal Law in force, which with respect to the services provided by the public operator allow for complaining only about services regarding registered mail. Therefore, receivers of postal items (in particular of standard letters – both economic and priority) are deprived of a possibility to complain in a case of undue or improper performance of service. Consequently, claims regarding a non-fulfilled or unduly executed unregistered item are treated by the public operator as groundless.

Source: own analysis of UKE
ANALYSIS OF REGULATORY CHANGES AND THE LEVEL OF DEVELOPMENT OF MARKETS IN THE EUROPEAN COUNTRIES

1. European Law

Within the Community law, there are three Directives of the European Parliament and the Council regulating the postal market of the European Union:

- Directive 97/67/EC of 15th December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service,
- Directive 2002/39/EC of 10th June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services,
- 3rd Postal Directive that regulates functioning of the Community postal market after 2009.

An attempt to reconcile the controlled liberalisation of the postal services market with guarantee of provision of the universal service at affordable prices is a characteristic feature of the European Union’s policy. There is no doubt that the existence of the institution of the universal service, although it is very important from the point of view of social interest, constitutes an interference of the state into the sphere of free competition and economic freedom of operators. Nowadays, the interference manifests itself in the statutory monopoly of the public operator in the reserved area, whereas at the moment of full market opening in the possibility of imposing on one of the operators the obligation to provide the universal services. It is obvious that the existence of monopolies and the reserved area is contradictory to the concept of Single Market, which was expressed by the European Commission in its motion to the European Parliament and the Council as of 18th October 2006 presenting a project of the 3rd Postal Directive, indicating mainly the necessity to:

1) undertake actions aimed at establishment of an internal postal services market by elimination of exclusive and special rights in the postal sector,

2) guarantee an equal level of the universal service for all users in all EU member states, and to establish uniform principles of regulation of all postal services in conditions of open market, which is to lead to limitation of other barriers in functioning of the internal market.

The 3rd Directive defines the date of 31st December 2010 as the term when the Member States transpose national, executory and administrative laws indispensable for implementation of the objectives under the Directive.

Only some of the Member States, including Poland, by derogation may postpone the date of implementation of that Directive until 31st December 2012, in order to continue to reserve services to universal service providers(s).

2. The main resolutions of the 3rd Postal Directive

- Alternative, cost-effective means to provide the universal service.
The 3rd Postal Directive stipulates that the Member States will be given further flexibility to determine the most effective mechanism to guarantee availability of the universal service and to ensure the conditions of provision of the universal service based on the principles of transparency, non-discrimination and proportionality, safeguarding therefore continuity of provision of postal services, while taking into account the important role that they played for social and territorial coherence.

Each Member State is obliged to ensure provision of the universal service and notify the European Commission on actions taken in order to fulfill that obligation. Under the text of the 3rd Postal Directive, the Member States are obliged to guarantee provision of the universal service on at least five working days a week, except from circumstances or geographical conditions regarded as extraordinary. The minimum of provision of the above mentioned service involves one clearance, one delivery to the home or premises of every natural or legal person or, as an exception, under conditions at the discretion of the national regulatory body, one delivery to appropriate installations.

The mechanisms ensuring accessibility of the universal service proposed in the 3rd Postal Directive can facilitate provision of the universal service or its part by, among others, leaving that provision to market forces or by allowing the Member States to define individual services or areas in which the market forces cannot ensure the universal service, and effective (with regard to costs) ensuring its provision by public tender.

The Member States can designate one or more operators providing the universal service so as to ensure provision of that service throughout the country. It is allowed to designate various enterprises to provide different elements of the universal service or to provide that service in different parts of the territory. In such situation, the member state defines, in line with the Community law, the rights and obligations assigned to them and makes it publically known.

**Principles regarding settlement of tariffs**

According to the 3rd Postal Directive, the Member States should limit the application of uniform tariffs to postal items, including ones addressed to destinations within a given state and EU, subject to single piece tariffs (such as tariffs paid in the form of stamps), which are used most of all by consumers and small enterprises, and in relation to which it is expected that the competition will be of limited character.

The 3rd Postal Directive also stipulates a possibility of introducing by the Member States a requirement to use a uniform tariff when there are some other justified public interests at stake, e.g. in cases when postal services are used to distribute press when there are no other distribution channels.

It means that, both because of the financial balance of the universal service and because of limitation of disruption on the market, it is important in a fully competitive environment to depart from the rule that price reflect standard conditions and commercial costs only in order to protect the general public interest. The aim can be fulfilled by maintaining uniform tariffs for items subject to a single piece tariff, i.e. for services used by the consumers most often, including by small and medium enterprises. The Member States can also maintain uniform tariffs for some other items, such as e.g. newspapers and books, in order to protect the general public interest, such as access to culture, ensuring participation in democratic society (freedom of press), or regional and social coherence.
In order to provide services to all users, including business entities, consumers sending bulk mail or companies that collect mail from various mailers, the operators providing the universal service can use larger price flexibility in line with the principle of cost reflection. Avoided costs have to be taken into account in the tariffs in comparison with the price of regular service, involving a full range of offered services, such as clearance, sorting, transport and distribution of single postal items (the tariffs should be reduced in accordance with these costs).

- **Financing of the universal service**

- The most important amendment introduced by the 3rd Postal Directive is deprivation of the Member States of the possibility to grant and retain exclusive or special rights with regard to establishment and provision of postal services.

- Considering the fact that liquidation of the reserved area can result in a necessity of further external financing of net costs of the universal service, the 3rd Postal Directive allows the Member States to finance provision of the universal service in accordance with one or more ways referred to in the 3rd Postal Directive or any other ways being in line with the Treaty establishing the European Community, hereinafter referred to as “Treaty EEC”.

- The 3rd Postal Directive determines the possibilities that can be applied by the Member States in cases when a need arises to finance the universal service, however, not imposing on them any unique solution. The Member States will be given further flexibility in their decision on the financing method adjusted optimally to their specific national situation. The mentioned possibilities are for example use of public procurement procedures including the procedures of competitive dialogue or negotiation procedures with or without prior call, referred to in relevant directives on public procurement, or, if obligations related to provision of the universal service entail net costs of the universal service and constitute an unfair burden for the designated operator providing the universal service, a compensation from public funds, as well as transparent allocation of costs among the operators or users by contributions to the compensation fund. The Member States can use other ways of financing allowed under the Community law, such as taking, if necessary, a decision to assign all or a part of revenues from other types of activity of an operator providing the universal service out of the scope of the universal service to finance net costs of the universal service if it is in line with the Treaty EEC. The operators providing postal services can be obliged to make contributions in favour of financing the universal service if the Member State decides to establish a compensation fund. In order to implement the principle of proportionality in defining the participation of enterprises in costs of provision of the universal service, the Member States should use transparent and non-discriminatory criteria, such as participation of these enterprises in activity included in the scope of provision of the universal service in the given Member State. The Member States can also require from the operators, which are subject to the obligation to make contributions to the compensation fund, to use proper accounting separation so as to ensure correct functioning of the fund.

- The principles of transparency, indiscrimination and proportionality should be still used to all mechanisms of financing, and all decisions in that scope should be based on transparent, objective and verifiable criteria. In particular, the net cost of provision of the universal service should be calculated under supervision of the national regulatory authority.
Access to the key postal infrastructure and services

- The 3rd Postal Directive leaves the Member States freedom in assessment whether some of the elements of the postal infrastructure or some services offered basically by the operators providing the universal service, such as: system of post codes, address database, post office boxes, letter boxes, information on change of address, the service of redirection and the service of return to sender, should be made available to other operators providing postal services in order to promote real competition or protection of all users by a guarantee of a general quality of postal services.

- In a case when a few operators exist that have regional networks of postal services and providing the universal service, the Member States should also assess and, if necessary, ensure their interoperability, so as to prevent any difficulties in fast delivery of postal items.

Monitoring of cross-subsidy

- The 3rd Postal Directive repeals the ban on cross-subsidy of the universal postal services out of the reserved area valid so far, i.e. financing from revenues on services in the reserved area, together with abolition of the public operator’s monopoly. In the case of Poland that will take place as late as from 2013.

- The 3rd Postal Directive leaves the Member States the freedom to decide on the way optimal monitoring of cross-subsidising. Therefore, the Member States can establish their own control mechanisms ex ante (required under the directive in force) or rely on ex post implementation of the competition right by the bodies for the issues of competition and/or national regulatory bodies.

- The 3rd Postal Directive also remains the obligation of keeping by the operators providing the universal service separate and transparent accounts, subject to necessary modifications required by liquidation of the reserved area within the universal postal services.

- Thanks to the above mentioned obligation, the national regulatory authorities, the authorities for competition and the European Commission will have information indispensable to take decisions regarding the universal service and to monitor fair market conditions, until actual competition on the postal market arises.

The national regulatory authority

- In compliance with the principle of separation of regulatory and operational functions, the aim of which is in particular to ensure impartiality of decisions issued by the authority, the Member States are obliged to ensure their national regulatory bodies’ independence. In order to do that, the Member States provide all resources, including personnel, the know-how and financial resources necessary to perform the tasks by the national regulatory body.

- The 3rd Postal Directive also indicates that it is necessary to implement transparency with regard to allocation of tasks and co-operation of competent entities responsible for regulation of the postal sector, and dealing with consumer issues in order to ensure effective fulfillment of their tasks.

- A task of the national regulatory authorities is to ensure compliance with obligations derived from the directive, particularly by establishment of monitoring and regulating procedures that ensure provision of the universal service.
The regulatory authorities – as the Member State decides – can also be entrusted with the obligation to ensure compliance with the principles of competition in the postal sector.

The Member States also have to take care of establishment of a proper appealing procedure regarding a decision of the national regulatory authority at an entity independent from that body.

### Authorisations and licensing

- In line with the 3rd Postal Directive, the Member States remain the right to use general authorisations and individual licences whenever justified and proportionate to the objective pursued.

- For services outside of the scope of the universal services, the Member States will be able to implement general authorisations to the extent necessary to guarantee their compliance with the basic requirements.

- For services within the universal services, the Member States will immediately be able to implement relevant procedures of licensing, including individual licences, to the extent necessary to guarantee their compliance with the basic requirements and in order to ensure provision of the universal service.

- The procedures, obligations and requirements referred to in the 3rd Postal Directive with regard to authorisations and licences have to be transparent, accessible, non-discriminatory, proportional, precise, unambiguous, made public in advance, and based on objective criteria. Moreover, the Member States are obliged to ensure that reasons for refusing to issue or for withdrawing of a licence in total or partially were passed on to a given applicant, and are obliged to establish an appeal procedure.

- Due to the necessity of further harmonisation of implemented conditions that will make it possible to limit (and then probably even to abolish) unjustified barriers in provision of postal services, the Member States can let the operators providing postal services choose between the obligation to provide the universal service and making financial contribution in favour of costs of that service provided by some other operator. The Member States, however, should not have the right to require at the same time from an operator to make contributions in favour of the sharing mechanism and the obligation to provide the universal service or obligations regarding quality if both these means are to serve the same purpose. These restrictions do not relate to designated operators providing the universal service who can be subject to regulations of other kinds, because it may be required from them to achieve different goals or they can act upon a separate legal basis.

### 3. Harmonisation of law

As pointed out above, the 3rd Postal Directive requires its transposition into the national legislation of the Member States, by 31 December 2010 at the latest, or by derogation by 31 December 2012. Therefore, an urgent need to launch works on drawing up a new act regulating the postal law arose. The act is to harmonise the Polish law with the requirements of the 3rd Postal Directive. The key regulations of the 3rd Postal Directive that will require to be transposed into the Polish law are as follows:

- the possibility to establish the most effective mechanism that guarantees availability of the universal service,
- liquidation of the reserved area within the universal service,
- adoption of an optimal method of financing the universal service,
- settlement of the issue of access to postal infrastructure of the public operator,
- enhancement of the position and extension of powers of the regulatory authority.

4. Access to postal infrastructure of the public operator

In a situation when a few operators provide services included in the scope of the universal service, the 3rd Postal Directive leaves the Member States the discretion to assess whether some elements of the postal infrastructure should be made available to other operators. It is aimed at promoting actual competition. In a case when there are a few operators having their regional networks of postal services and providing the universal service, the Member States should also assess, and (if necessary) ensure their interoperability, in order to present difficulties in fast delivery of postal items.

It is worth noting that the 3rd Postal Directive does not include any regulations regarding the issue of access to the postal infrastructure at the stage of sorting and delivery. However, there is no doubt that provision of access to given elements of the postal infrastructure would definitely facilitate development of competitiveness on the postal services market.

The new postal law will have to settle the issue of access to key elements of the postal infrastructure of the public operator. One of the solutions can be a statutory obligation to make access available/to launch negotiations/ by the public operator upon request filed by another operator. The conditions agreed upon by the parties would be subject to assessment by the regulatory authority and the authority responsible for protection of competition. In a case of a lack of agreement between the operators negotiating conditions and scope of access, an interference of the regulatory body as an arbitrator would be possible, with the right to issue a final decision defining individual conditions and scope of access. A decision of the regulatory authority would replace an agreement on access to key elements of the postal infrastructure.

In the scope of access to elements of the postal network, a system of voluntary agreements between operators will be possible, with interference of the regulatory authority as an arbitrator in a case when the parties do not reach agreement. In extraordinary situations, the regulatory authority would have authorisation to oblige, by decision, the public operator to make network elements available to other, interested operators. Conditions of agreements would be subject to control by the body responsible for competition protection. Similarly as in the case of decisions on access to key elements of the postal infrastructure, a possibility should be designed for the President of UKE to change the content of decision or agreement concluded between operators, upon request of each party or ex officio.

The current scope of guaranteed access to infrastructure in the EU Member States

<table>
<thead>
<tr>
<th>Access to postal infrastructure or services provided within the universal service.</th>
<th>States</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scope of access</td>
<td></td>
</tr>
<tr>
<td>Access to letter boxes.</td>
<td>Germany, Great Britain</td>
</tr>
<tr>
<td>Access to database.</td>
<td></td>
</tr>
<tr>
<td>---------------------</td>
<td></td>
</tr>
<tr>
<td>Access to information on address change.</td>
<td></td>
</tr>
<tr>
<td>Procedures of return of deliveries with wrong address determined by the regulatory authority.</td>
<td></td>
</tr>
<tr>
<td>Access to postal network elements, including the stage of sorting and delivery.</td>
<td></td>
</tr>
<tr>
<td>Access to letter boxes.</td>
<td></td>
</tr>
<tr>
<td>Access to postal codes.</td>
<td></td>
</tr>
<tr>
<td>Access to database.</td>
<td></td>
</tr>
<tr>
<td>Access to information on address change.</td>
<td></td>
</tr>
<tr>
<td>Procedures of return of items with wrong address determined by the regulatory authority.</td>
<td></td>
</tr>
<tr>
<td>Access to postal network.</td>
<td></td>
</tr>
<tr>
<td>France</td>
<td></td>
</tr>
<tr>
<td>Access to database.</td>
<td></td>
</tr>
<tr>
<td>Access to information on address change.</td>
<td></td>
</tr>
<tr>
<td>Access to postal network.</td>
<td></td>
</tr>
<tr>
<td>Denmark</td>
<td></td>
</tr>
<tr>
<td>Access to database.</td>
<td></td>
</tr>
<tr>
<td>Access to information on address change.</td>
<td></td>
</tr>
<tr>
<td>Access to letter boxes.</td>
<td></td>
</tr>
<tr>
<td>Access to database.</td>
<td></td>
</tr>
<tr>
<td>Access to letter boxes. Voluntary agreements between the public operator and private operators regarding return of items with wrong address.</td>
<td></td>
</tr>
<tr>
<td>the Netherlands</td>
<td></td>
</tr>
<tr>
<td>Procedures of return of items with wrong address determined by the regulatory authority.</td>
<td></td>
</tr>
<tr>
<td>Voluntary agreements between the public operator and private operators regarding return of items with wrong address.</td>
<td></td>
</tr>
<tr>
<td>Access to database and address change.</td>
<td></td>
</tr>
<tr>
<td>Sweden</td>
<td></td>
</tr>
<tr>
<td>Access to letter boxes.</td>
<td></td>
</tr>
<tr>
<td>Procedures of return of deliveries with wrong address determined by the regulatory authority.</td>
<td></td>
</tr>
<tr>
<td>Access to subordinate networks.</td>
<td></td>
</tr>
<tr>
<td>Voluntary agreements between the public operator and private operators regarding return of items with wrong address.</td>
<td></td>
</tr>
<tr>
<td>Access to postal network elements.</td>
<td></td>
</tr>
<tr>
<td>Portugal</td>
<td></td>
</tr>
<tr>
<td>Access to postal network elements.</td>
<td></td>
</tr>
<tr>
<td>Procedures of return of items with wrong address determined by the regulatory authority.</td>
<td></td>
</tr>
<tr>
<td>Cyprus, Ireland, Lithuania</td>
<td></td>
</tr>
<tr>
<td>Access to postal network elements.</td>
<td></td>
</tr>
<tr>
<td>Slovenia</td>
<td></td>
</tr>
<tr>
<td>Access to letter boxes.</td>
<td></td>
</tr>
<tr>
<td>Estonia</td>
<td></td>
</tr>
</tbody>
</table>
5. Level of market development in selected European states

The Netherlands

The Dutch postal market is characterised by a relatively large amount of postal items per one inhabitant of that state, although the market regulator – OPTA – assumes that this number will decrease due to further expansion of electronic mail and development of alternative solutions on the postal market.

OPTA is an institution that supervises compliance with legislation and regulations regarding the activity involving post and electronic communications. In the field of postal services, its responsibility is e.g. to settle disputes between service providers, to protect consumers’ privacy and legal minimum of provided services.

The operator providing the universal services in the Netherlands is TNT company, and the reserved area involves letters up to 50 g (decrease from 100 g in 2006) and at a price equal at least three times as much as a single letter tariff.

On 4th June 2007, the Dutch parliament adopted a law stipulating full liberalisation of the postal market as from 1st January 2008. However, the effective date of full liberalisation was postponed a few times due to uncertainty regarding the way on how to ensure equal rights to postal operators in the Netherlands, Germany and Great Britain, and labour conditions for postmen (in a case of other companies than TNT) in the Netherlands.

The Dutch postal market is relatively open. After 2000, when two companies – Sandd and Selekt Mail – entered the market and developed, fierce competition started on the market. Due to the possibility to use postmen working on piecework contracts for these companies (remuneration dependent on the number of items delivered), fast delivery and modern sorting techniques, Sandd and Selekt Mail compete with TNT in terms of price and new products. After full opening of the market, both competitors of TNT are interested in delivery of letters up to 50 g.

Sweden

Sweden is a country of low population density, which constitutes a barrier to development of a postal network throughout the country. However, from the legal perspective entering into the Swedish postal services market is relatively easy because the policy of the market regulator – PTS – is to grant licences in every case when there are no reasons to refuse them.

The decision on liberalisation of the Swedish postal market entered into force as on 1 January 1993. In the initial period, the legislation focused more on providing quality and universal availability of services than on competition development. In the second half of 1990s, the Swedish regulator started to foster more the development of competition on the postal market.

PTS monitors the postal sector. It deals with issues of consumers and competition, effective use of resources and security of communication.
Formally, each postal operator functioning on the Swedish market can be obliged to provide the universal services, but in practice such obligation has rested for many years on the public postal operator, namely Posten AB.

Competition on the postal market in Sweden develops slowly. Posten AB (share in the postal services market of about 91%) has one main competitor on the addressed items market – CityMail Sweden (owned by Norwegian Post). Reaching 40% of households, the activity of CityMail does not have a whole-country character. However, the company is planning to increase their range to about 65% of households.

Except from CityMail, there are about 30 smaller local operators functioning on the market. In most cases, they use their own stamps and letter boxes.

Even though the public monopoly of postal services in Sweden was abolished and the market was opened for competition to independent postal operators, new postal operators encountered various obstacles while entering the postal services market that is still for the most part under control of the former monopolist.

In order to ensure the most effective access to infrastructure of the public operator in Sweden, there was an in-depth study of the postal market conducted. The study focused most of all on four critical elements related to the process of delivery, such as the postcode system, access to letter boxes, the service of mail re-direction and access to information on address change. They were considered as the key ones for the new postal operators in fulfilment of tasks of the public operator.

Germany

The German postal market belongs to the biggest ones in Europe and is characterized by a large amount of deliveries per one inhabitant.

The operator providing the universal services on the German market is Deutsche Post AG (DPAG). The market regulator is the Agency for Network (Bundesnetzagentur).

On 1 January 2008, the market was fully opened for competition (before that the reserved area included letters up to 50 g and at a price lower than 2.5 as much as the charge for an item with correspondence).

There are about 700 operators functioning on the market, and most of them are local operators who started their activity with press distribution (often related to a specific publishing house). However, the German postal market is undergoing the phase of consolidations by mergers, takeovers and exits from the postal market.

The main competitors of DPAG are PIN Group and TNT. Both companies deliver items to households through their own networks or pursuant to agreements with plenty of regional and local partners.
Spain

The legal structure of the postal market in some aspects differs from the legal structure in the other states of the European Union. The reserved area comprises items of correspondence up to 50 g and 2.5 as much as the basic tariff for a letter in the fastest category. However, it relates only to long-distance and cross-border mail within the universal services. Mail distributed in the cities, international mail up to 2 kg and parcels up to 10 kg do not constitute the reserved area, which means in practice that the market is liberalised.

The operator providing the universal services in Spain is Correos (La Sociedad Estatal Correos y Telegrafos), in 100% owned by the state.

As the postal services in the cities are not included in the reserved area, competition on the Spanish postal services market is particularly developed in urban areas and local markets. There are about 150 regional operators functioning on the market. Their total market share is 1%. The main competitor of Correos is Unipost, a network of local postal operators established in 2001. The range of activity of Unipost covers over 80% of the state area but the company wants to increase it to 100% in 2009.

Great Britain

Great Britain is a country of population density larger than of an average European country. However, in individual geographical regions there are some areas which are difficult to access and poorly populated.

The operator providing the universal services in Great Britain is Royal Mail.

The British postal services market has been fully liberalised from 1 January 2006.

Since 2001, there has been an obligation imposed on Royal Mail to make their infrastructure available to other operators, and negotiations on entering Royal Mail network depend on the parties. An example are talks between Royal Mail and UK Post. If an agreement with Royal Mail cannot be reached, each party can turn to the market regulator – Postcomm – for settlement of conditions of access to indispensable infrastructure.

Postcomm actively acts in favour of promotion of competition and in many aspects can serve as a reference point for the other members of the European Union (in such fields as interoperability of many operators on the market, public consultations, market research, transparency, lack of discrimination). Postcomm monitors e.g. compliance of Royal Mail with standards in force (e.g. related to collecting mail from letter boxes and delivery to houses and business entities).

Except from Postcomm, on the British market also a consumer entity operates. This entity is Postwatch, an independent organisation whose objective is to protect, promote and develop interests of all users of postal services.

Except for Royal Mail, on the British market there are 20 other licensed postal operators, among which the largest ones are UK Mail and TNT.
Estonia

Estonia is a small country with a relatively low volume of post per one inhabitant.

On the postal market, three main segments can be differentiated, namely the universal services, courier services and services related to direct mail.

Since 2001, the regulatory functions on the postal market are performed by a multi-sector regulatory authority (Public Utilities Regulation Commission - PUC), responsible also for energy, railway and telecommunications sector.

The operator having the dominating market position is still the Estonian Post (Eesti Post), which have an actual monopoly to provide services in the area of letters up to 50 g in domestic traffic. Therefore, competition on the market of letters is very limited.

Strict requirements in applying for a licence to provide postal activity by an operator and unprofitability of postal services in poorly populated areas are an additional obstacle in competition development in that sector.

The situation in the other market sectors looks different.

In 2002, the direct mail services and courier/express services (provided by about 40 operating companies) were opened, which created a chance of free development of competition in these segments.

The Estonian government assumes that full opening of the market will take place already on 1 April 2009. The decision should contribute to acceleration of market development in all its segments.

Lithuania

The postal services market in Lithuania is undergoing fast changes. Moreover, even though the government of that state is going to use the possibility of postponing the date of implementation of the postal directive to the end of 2012, in order to continue to reserve some services for the operator providing the universal service, a dynamic development of courier and express services is observed. In 2007, almost 80 operators functioned on the courier services market.

Regulation of the postal market is competence of the Regulatory Office for Communications (RRT).

RRT e.g. grants licences for providing postal activity, fulfils control tasks related to compliance with postal law, defines the rules of compensation for the universal service and the principles of tariff settlement.

On the postal market, like in Estonia, the selected operator – AB Lietuvos Pastas – has still a dominant position. The public operator has exclusive right to clear, transport and deliver items with correspondence up to 50 g, including direct mail.

Taking into account a criterion of revenues, a gradual decrease of Lietuvos Pastas market share can be observed.
In connection with the increase in the number of operators, it attests the increasing market competition, although the Lithuanian Post still makes use of the privilege in the form of exemption from the VAT tax on goods and services.

Slovenia

Slovenia is a country similar to Estonia and Lithuania in terms of area and population. The tendencies present on the postal services market here are also similar, i.e. systematically decreasing share of the public operator (Posta Slovenije) in revenues generated by the operators.

The competitors of Posta Slovenije are active most of all in the sector of express, courier and parcel services (the so-called CEP – courier, express and parcel services) both in domestic and international traffic.

At the same time, in Slovenia there are no valid restriction to competition development of fiscal character as all the universal services are subject to the VAT tax on goods and services.

Moreover, the operators competing with Posta Slovenije have unlimited access to postal letter boxes, being so far competence of the public operator.

The reserved area comprises items with correspondence up to 50 g in domestic and international traffic. Direct mail and document exchange are excluded from the reserved area.

The regulatory tasks are fulfilled by the Agency for Post and Electronic Communications (APEK) whose competences are similar to the powers of regulatory bodies of new EU Member States.

Slovenia decided to implement the 3rd Postal Directive and full opening of the postal market by the end of 2010.
THE MAIN STRATEGIC OBJECTIVES OF THE PRESIDENT OF UKE

While defining the basic strategic objectives of the President of UKE, we have conducted an analysis of the market regulator function under both European directives and Polish legal regulations. We also referred to experiences of regulators from other Member States of the European Union. Taking into consideration the Mission, Values and Vision of the postal market defined by us, we pointed out three main strategic objectives that, in our opinion, are the best way to express both the legislator’s will with regard to the regulator, the needs of the postal market, and implement our Mission, Values and Vision.

The above mentioned strategic objectives are as follows:

- Protection of consumers’ interests
- Promotion of fair market competition
- Taking care of ensuring by the operators services of high quality

Protection of consumers’ interests

We believe that protection of consumers’ interests constitutes the primary value that requires special protection by the postal market regulator. Control over observance of consumers’ rights by use of the regulator’s powers, including control procedures, will be the key element of fulfilment of our Mission.

Ensuring affordable prices of the universal services is a very important issue, having direct impact on consumers’ rights. Ensuring protection of consumers in their relations with postal entrepreneurs is an issue of similar importance, which will be implemented by us in promotion of simple and inexpensive procedures of dispute settlement at an authority independent from the parties to the dispute, as well as increase in the level of knowledge and information available to consumers about their rights by launching information campaigns.

Moreover, support of consumers’ interests should involve:

- increasing awareness of customers and education regarding available services by making information available regarding provision of postal services (in particular the universal postal services, including settlement of prices for these services),
- identification and monitoring of needs of given social groups, in particular the disabled users,
- contribution, by use of regulatory and control tools, to security of postal turnover (in particular in the field of compliance with delivery security and also with regard to information subject to postal secrecy).

The analysis of the regulatory authority role in the telecommunications sector indicates that it has more tasks related to consumer protection.
Promotion of fair market competition

In the period when in most Member States of the European Union a process of postal market liberalisation takes place, our task is to prepare ourselves to implementation of the competition principles in the legal state in force, as well as to prepare operators to transfer to activity on a liberalised market. Our main objective is to ensure equal treatment of postal entrepreneurs, taking into account the market position and obligations of Poczta Polska.

The support by the regulatory body of fair competition in provision of postal services should concentrate on:

- ensuring access to services at affordable prices with guarantee of diversity and quality of services to users, including the disabled,
- preventing activities limiting competition in that area,
- promotion of modern technologies,
- elimination of existing market barriers for postal activity,
- support for establishment and development of postal network.

Taking care of ensuring high quality services by operators

We are aware of the fact that market liberalisation should contribute to an increase in service quality forced by competition between operators. In our opinion, in that area it is important to stimulate the postal operators to increase the quality of services in the interests of consumers, as well as to establish of a mechanism of enforcement of service quality required from operators. We also would like to promote implementation by the postal operators solutions based on modern technologies (hybrid post, e-commerce), and other solutions meeting expectation of customers and contributing to an increase in access to a wide range of postal services of high quality.

An important element in ensuring high quality of services is adjustment of regulatory solutions to the needs of each market segment. Transparent definition of proper markets will enable a more effective assessment of fulfilment of regulatory obligations imposed on operators, which at the same time will facilitate execution of their rights by the consumers.
ACCOMPLISHMENT OF STRATEGIC OBJECTIVES OF THE PRESIDENT OF UKE FOR THE PERIOD OF 2009 - 2011 WITH REGARD TO THE POSTAL MARKET

PROTECTION OF CONSUMER INTERESTS

In the area of “Consumer protection” the priorities of the President of UKE will be as follows:

• Control over compliance with consumer rights by use of the control procedures in force
• Ensuring affordable prices of the universal services
• Increase in legal protection of consumer position in relations with operators
• Increase in consumers’ knowledge and awareness of their rights
• Working out a model of financing the universal services
• Preparation of institutional co-operation
1. **Area: Protection of consumer interests**

**Priority:** Control over compliance with consumer rights by use of the control procedures in force.

<table>
<thead>
<tr>
<th><strong>Activity:</strong></th>
<th>conducting control of postal operators in terms of compliance with consumer rights, and publication of report after controls.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Completion date:</strong></td>
<td>continuous activity</td>
</tr>
<tr>
<td><strong>Expected outcome:</strong></td>
<td>increase in the level of consumer rights protection.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Activity:</strong></th>
<th>conducting control in order to reveal postal activity without relevant licences, issue of decisions and publication of reports after controls.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Completion date:</strong></td>
<td>continuous activity</td>
</tr>
<tr>
<td><strong>Expected outcome:</strong></td>
<td>elimination from the market of entities not complying with market rules in force (including ones related to consumer rights), improvement of security of items.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Activity:</strong></th>
<th>promotional action regarding the institution of mediatory proceedings aimed at operators. Preparation of internet information and distribution of letters on the rules of mediatory proceedings.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Completion date:</strong></td>
<td>03 – 12. 2009</td>
</tr>
<tr>
<td><strong>Expected outcome:</strong></td>
<td>more effective use of mediatory proceedings as a tool of dispute settlement.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Activity:</strong></th>
<th>promotional action aimed at operators about functioning of conciliation courts, encouraging operators to use such form of dispute settlement. Preparation of internet information and distribution of letters on the rules of proceedings.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Completion date:</strong></td>
<td>03 – 12. 2009</td>
</tr>
<tr>
<td><strong>Expected outcome:</strong></td>
<td>increase in knowledge of operators on procedures in conciliation courts and effective use of the above mentioned institution in order to enable effective settlement of disputes between operators and consumers.</td>
</tr>
</tbody>
</table>
### Priority: Ensuring affordable prices of the universal services

<table>
<thead>
<tr>
<th>Activity</th>
<th>elaboration of approval principles for pricelists of the universal services based on the Price Cap method. Implementation of a method based on Price Cap as the basis for approval of price lists for the universal services.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completion date</td>
<td>03 – 12. 2009</td>
</tr>
<tr>
<td>Expected outcome</td>
<td>functioning of an effective price control mechanism.</td>
</tr>
</tbody>
</table>

### Priority: Increase in legal protection of consumer position in relations with operators

<table>
<thead>
<tr>
<th>Activity</th>
<th>giving opinion on service regulations presented by postal operators. Overview of all regulations of operators included in the register by the end of 2009.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completion date</td>
<td>01 – 12. 2010</td>
</tr>
<tr>
<td>Expected outcome</td>
<td>ensuring of effective protection of consumer interests by elimination of provisions in regulations that violate these interests.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Activity</th>
<th>preparation and publication of examples of regulations, a set of recommendations and the best practices with regard to services for consumers. Elaboration of relevant documents and publication of them on the website of UKE.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completion date</td>
<td>06 – 12. 2009</td>
</tr>
<tr>
<td>Expected outcome</td>
<td>implementation and promotion of the best practices with regard to provision of services to consumers.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Activity</th>
<th>preparation of proposals of mechanisms ensuring protection of the consumers’ legal position within the works on a new postal law.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completion date</td>
<td>03 – 12. 2009</td>
</tr>
<tr>
<td>Expected outcome</td>
<td>working out effective solutions that guarantee a high level of consumer protection.</td>
</tr>
</tbody>
</table>
Priority: Increase in consumers knowledge and awareness of their rights

**Activity:** promotional actions aimed at consumers, informing about their rights, including active participation in events with participation of consumers, preparation of brochures for consumers informing them about their rights in line with legislation in force. Publication of brochures, publications on the website of information for consumers about their rights.

**Completion date:** 03 – 12. 2009

**Expected outcome:** increase in knowledge of consumers about their rights.

**Activity:** putting on the website a set of questions, answers and instructions for consumers intended as assistance in solving the most frequent problems.

**Completion date:** 03 – 12. 2009

**Expected outcome:** facilitation of use of their rights by consumers.

Priority: Working out a model of financing the universal services

**Activity:** participation in works on a new postal law. Consultations with experts. Preparation of simulation for separate variants of financing the universal service.

**Completion date:** 03 – 12. 2009

**Expected outcome:** ensuring a model of financing the universal services.

Priority: Preparation of institutional co-operation

**Activity:** co-operation with the Office of Competition and Consumer Protection in order to define procedures of co-operation in the field of consumer rights protection, including settlement of co-operation procedure with regard to exchange of information related to possible violation of consumer rights.

**Completion date:** 03.2009 – 12. 2010

**Expected outcome:** increase in the level of consumer interests protection.

**Activity:** co-operation with the Polish Consumer Federation and other consumer organisations with regard to research of consumer needs, including conducting consultations with the Polish Consumer Federation and other consumer organisations during works on a new postal law, obtaining standpoint of the Polish Consumer Federation.
and other consumer organizations in key consumer issues.

**Completion date:** 03 - 12.2009

**Expected outcome:** increase in effectiveness of actions by the regulator aimed at protection of consumer rights.
In the area of “Ensuring fair market competition rules” the priorities of the President of UKE will be as follows:

• Preparation to implementation of competition rules in the legal status in force
• Adjustment of the market environment to operation in competition conditions
• Separation and analysis of relevant markets in order to implement proper regulatory tools
• Institutional preparation
2. Area: Ensuring fair market competition principles

Priority: Preparation to implementation of competition principles in the legal status in force

**Activity:** analysis of barriers for entering the postal services market and elaboration of proposals of legal and organizational changes aimed at elimination of such barriers. Preparation of analysis on the existing barriers for entering and recommendations regarding liquidation of them.

**Completion date:** 03 - 12.2009

**Expected outcome:** establishment of advantageous conditions for entering the market for new operators. Making effective competition available for operators and increase of their share on the market.

**Activity:** creation of a mechanism of effective cost monitoring and monitoring of cross-subsidying phenomenon. Elaboration of directives and methodology for an auditor to examine the operator providing the universal services.

**Completion date:** 03.2009 - 12.2010

**Expected outcome:** elimination of cross-subsidies, being incompatible with the law.

Priority: Adjustment of the market environment to operation in competition conditions

**Activity:** elaboration of principles of access to postal infrastructure, including consultations with operators and with experts during the works on a new postal law.

**Completion date:** 03 - 07.2009

**Expected outcome:** working out a concept and preparation of relevant provisions in a draft of new postal law. Reduction of actual barriers in the access to infrastructure in current activity of operators.

**Activity:** ongoing co-operation with operators in works on preparation of a new postal law,
including conducting consultations on transition procedures to the liberalised postal market. Preparation of a set of postulates of postal operators to be used in establishment of a new postal law.

**Completion date:** year 2009  
**Expected outcome:** new postal law taking into consideration postulates and needs of main stakeholders of postal market, enabling effective market liberalisation.

**Priority: Separation and analysis of relevant markets in order to implement proper regulatory tools**

**Activity:** conducting an analysis of separate postal market sectors. Preparation of a report on the analysis of postal market sectors.

**Completion date:** 01 – 12.2010  
**Expected outcome:** obtaining of detailed knowledge about development of the postal market in each market sector, enabling diversified approach in the scope of regulation to separated markets.

**Activity:** definition of powers and obligations of operators functioning in each market segment.

**Completion date:** 03 – 12.2009  
**Expected outcome:** establishment of a list of powers and obligations of operators for the needs of a new postal law in order to enable operators execute their rights and in order to enable imposing / enforcement of obligations.

**Priority: Institutional preparation**

**Activity:** co-operation with the Office for Competition and Consumer Protection, including in defining co-operation procedures. Preparation of co-operation procedures in the field of competition protection and transfer of information on the market, operators’ behaviours, the level of consumer interest protection.

**Completion date:** 01 – 12.2010  
**Expected outcome:** effective implementation of antimonopoly law with regard to the postal market.
QUALITY OF SERVICES

In the area of “Quality of services” the priorities of the President of UKE will be as follows:

- Stimulation of postal operators to increase the quality of services
- Establishment of an enforcement mechanism for quality of services required from operators by legal provisions.
3. Area: Quality of services

Priority: Stimulation of postal operators to increase the quality of services

<table>
<thead>
<tr>
<th>Activity</th>
<th>Completion date</th>
<th>Expected outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>research on quality of postal services within the routing time of postal items.</td>
<td>continuous activity</td>
<td>improvement of routing time indicators of postal items.</td>
</tr>
<tr>
<td>identification and monitoring of needs of postal services users, including the disabled.</td>
<td>continuous activity</td>
<td>reducing barriers for access to postal services.</td>
</tr>
<tr>
<td>initiatives increasing competitiveness in quality of services among operators. Contest under the auspices of the President of UKE for the best operators (in each market segment).</td>
<td>01 – 12.2010</td>
<td>improvement of quality of services provided by operators within the self-regulation.</td>
</tr>
<tr>
<td>encouraging operators to provide services with use of new technologies and promotion of operators’ actions using new technologies (including electronic communications means) in order to facilitate provision of services and increase the satisfaction level among customers.</td>
<td>continuous activity</td>
<td>implementation of modern communications techniques in postal services. Increase of satisfaction level among service users.</td>
</tr>
<tr>
<td>monitoring of plaints and complains, including the number, reasons and the way of considering them, as well as control over operators in the field of plaints and complaints.</td>
<td>continuous activity</td>
<td>decrease in the number of complaints or an increase in the percentage</td>
</tr>
</tbody>
</table>
of complaints considered in favour of consumers.

**Priority: Establishment of an enforcement mechanism for quality of services required from operators by legal provisions**

| **Activity:** participation in preparation of proposals of provisions regarding quality of services during the works on a new postal law. Working out an effective mechanism to ensure compliance with indicators of the timely delivery. |
| **Completion date:** 03 – 06.2009 |
| **Expected outcome:** improvement of routing time in relation to quality indicators declared or required by the law. |
For many years, reconciliation of the three values – ensuring quality of services, promotion of competition and ensuring of continuity of the universal service provision – has constituted a problem both for the European Commission and for national legislators. The nature of the postal market implies that the schemes used previously during liberalisation of the telecommunications and energetic market are not always in line with its specific nature. That is most of all because provision of services of universal character implies the necessity to maintain a costly network of postal offices and high employment rate, as well as significant expenditures on maintenance of efficient logistics. Therefore, ensuring high quality of services is not only a derivative of competition pressure, as it is in the case of other liberalised sectors, but most of all of financial and organisational capabilities of postal operators.

In a situation when provision of the universal services is more and more often perceived by postal operators as an obligation and not a privilege, preservation of continuity and certainty in provision of these services requires establishment of a system that guarantees the public operators conditions in which they will see some economic sense for them.

The postal market in Poland is approaching a moment of full opening to competition. Therefore, one of the key tasks of the President of UKE in the nearest future will be care for development of competition by participation in proper implementation of provisions of the 3rd Postal Directive, and assistance to the operators (including the operator providing the universal services) in harmonious transition through transformation of the postal market.

Establishment of a legal and organisational market system is not a target on its own. All these actions should be subject to the overriding value, namely the general interest of consumers because postal activities are an important tool for communication and information exchange of social dimension.

Consequently, the priority aim for us is satisfaction of consumer needs by a guarantee of high quality postal services and access to the basic services provided at affordable prices. The objective was reflected in the areas defined in the Strategy. The President of UKE will undertake some actions supporting development of competitive and user-friendly postal services market based on modern technological solutions.

Over a five-year period when the Postal Law Act has been in force indicates the need to enhance some regulatory tools and legal institutions towards stimulating market development, increasing the level of consumer rights protection, improving service quality and working out a proper method of financing the universal service.

The ongoing works on new postal law are an occasion to regulate a number of basic issues related to postal market functioning. Therefore, participation in works on anew act is an important task of UKE in enforcement of its Mission. The Strategy prepared by the President of UKE is to meet the most important problems of the Polish postal market and constitute completion of the postal market regulator mission.