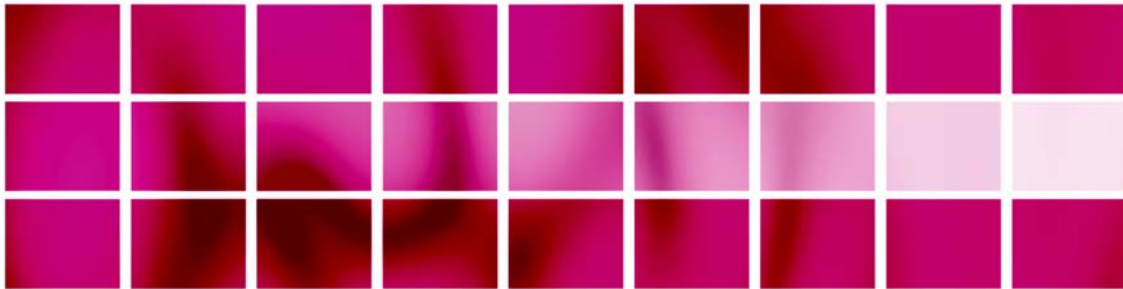


PIQUE.



**PRIVATISATION OF PUBLIC SERVICES AND THE IMPACT ON
QUALITY, EMPLOYMENT AND PRODUCTIVITY (PIQUE)**

***Liberalisation, privatisation and regulation
in the Polish postal services sector***

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Country report on liberalisation and privatisation processes and forms of
regulation

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1. *MARKET STRUCTURE*

1.1. *Market structure before liberalisation*

Up to the end of the 1980s there was only one postal operator active on the Polish postal market: Przedsiębiorstwo Państwowe Poczta, Telegraf i Telefon (Post, Telegraph and Telephone National Enterprise), with a monopolist position and offering services concerning mail, parcels and money orders. The enterprise was founded in 1928 and reactivated after the Second World War. Access to postal services was limited, which reduced competition and, as a consequence, the choice of available services was very poor. The first tariff contained only seven service positions.

In the early 1980s, the postal administration was comprised of three organisational systems, limited to certain services: mail, parcels and money orders (Czaplewski 2003).

In 1987 the second stage of economy reform was launched. On the basis of a resolution passed by the Sejm, PTTNE became a separate unit on a national scale. This meant a separation of apart regulation and organisational functions on the postal market. At the end of the 1980s the first courier companies appeared on the market. Poczta Polska introduced a courier service EMS/Pocztex of its own in 1987.

1.2. *The process of liberalisation*

The liberalisation process of the postal services market started in the late 1980s and early 1990s, a period of general political, social and economic change. In December 1989, the Sejm passed acts initiating a “governmental programme of economic stabilisation” to start on the 1 January 1990, which brought an end to the period of central economy and heralded in the formation of a market economy.

The liberalisation process of the postal market was influenced both by external factors, such as changes in the global economy, and internal factors, caused by changes in the economic sphere (the passage from a central to a market economy), in the political sphere (from an authoritarian to a democratic system) and in the social sphere (from collectivism to individualism).

Essential changes in postal market structure were introduced by the Communication Act of 1991. The Act regulated activities in the domain of communications – postal services and telecommunication. On the basis of the Act, postal and telecommunication activities were divided. A national public-service enterprise, “Polish Mail” (Poczta Polska), was put in charge of postal services, with Telekomunikacja Polska S.A. (Polish Telecommunication joint stock company) responsible for telecommunications. The act also announced the implementation of competition on the Polish postal services market. Since 1992, the first sectors of the postal services market have been opened. Poczta Polska’s monopoly was set only for shipment of letters of up to 2,000g.

The most important changes in the postal services market structure were implemented by amendment to the Communication Act in 1995. The postal services market was divided into three parts:

- reserved, including universal postal services, such as the reception, transport and delivery of national and international letters weighting up to 2,000g (excluding unaddressed forms and questionnaires), valuable letters of up to 2,000g, postal parcels and money orders
- services that require concession, of universal character (except those reserved to Poczta Polska) and courier services
- free services including postal services that are not of universal character, such as the transport and delivery of other parcels than postal, addressed forms, questionnaires, leaflets and money orders

The Act formally narrowed competition in the postal parcels and money orders sector. However, competition in courier services and so-called non-postal parcels developed.

The next amendment of the Communication Act, dated 2001, did not bring about any changes concerning postal services market structure. The amendment's main goal was to adapt the 1995 amendment to the Act to new economic activity legislation. The basic difference was in resolutions regulating the functioning of the postal services market. Operators willing to enter the postal services market now had to apply for a licence rather than, as before, a concession. Free services could be launched without licence and were only obliged to be registered in economic activity record or trade register.

The pace of postal market liberalisation considerably accelerated due to Poland's accession to the European Union and the necessity of adapting postal regulations to the Community *acquis*. The scope of necessary changes to postal market regulations was so wide that it makes another amendment of the Communication Act, impossible. The Polish government has succeeded in moving national legislation towards the EU's postal market model. The Postal Law was passed in June 2003, transposing the EU's Directives into national legislation and thus paving the way for a competitive market.

The Postal Law specified a public operator: the state-owned public utility company, Poczta Polska. Poczta Polska has the obligation to provide universal postal services on the territory of the Republic of Poland, in both domestic and international traffic, in a continuous and uniform way, in comparable conditions and at affordable prices, maintaining the quality required by the law. The area reserved for the public operator was decreased in terms of weight and price criteria. Until the end of 2005, as a result of negotiations held in Copenhagen, Poland was to benefit from a transition period for the opening of the reserved area. Starting from 1 May 2004, i.e. from the date of the Republic of accession of Republic of Poland to the European Union, the maximum weight for the reserved area will be 350g, with a three-fold charge of Poczta Polska for the fastest delivery of a postal item in the lowest weight category. From 1 January 2006, this level was lowered to 50g and a 2.5-fold value of this charge (thus making operating conditions equal for all EU Member States).

Consequently, the postal services market in Poland was divided into four types of areas: reserved for the public operator, requiring authorisation, requiring an entry in the register of postal operators, entirely independent area.

Despite the legal demonopolisation of part of the universal postal services, in practice these services are offered only by Poczta Polska on the basis of universal service. The reduction of the reserved area to the shipment of letters of up to 350g did not bring about any important changes in the segment's structure. In 2004 the market share of Poczta Polska was 99.1%, with a participation of private operators of 0.9%.

In effect, economic policy is directed towards an abolition of formal and substantial limitations to economic activities offered by private companies, private companies active in the postal market specialising in courier services (transport and delivery) and transport services for postal operators. Competition activities are most visible on the courier market, where, apart from the Polish public operator, other companies are operating that differ in terms of ownership and are based on Polish or foreign capital.

In general, since 1995, when the postal services market liberalisation process started, the number of operators active on the postal market has seen a steady increase.

Table 1: Dynamics of growth in the number of private postal operators

Year	Number of registered operators	Growth in the number of operators in comparison with the previous year
1996	15	-
1997	17	+2 (13%)
1998	18	+1 (6%)
1999	21	+3 (17%)
2000	21	Constant (0%)
2001	30	+9 (43%)
2002	52	+22 (73%)
2003	58	+6 (12%)
2004	90	+32 (55%)
2005	113	+23 (20%)

Source: U RTP.

In the period between 1996 and 2005 the number of private operators grew seven-fold (from 15 to 113).

In total, as of 31 December 2005, there were 114 undertakings entered in the Register of postal operators, including:

- Poczta Polska
- 11 operators with authorisations

- 53 operators active following the submission of a request for entry in the Register of postal operators,
- 40 operators active following a statement that their activity is subject to entry in the second part of the Register

Table 2: The stages of postal market liberalisation

Stage I	From 1 January 2004 until Poland's accession to the EU, i.e. 1 May 2004. The reserved area for universal service providers decreased from 500g to 350g.
Stage II	From 1 May 2004 to 31 December 2005. Poland was awarded a transitional period until 31 December 2005 for maintaining the weight limit of 350g, and a 3-fold charge of Poczta Polska for the fastest delivery of postal items in the lowest weight category, which is higher than the Community limit of 100g.
Stage III	From 1 January 2006 the upper weight in the reserved area was lowered to 50g and the 2.5-fold value of this charge, until the full opening of the market planned for 1 January 2009

1.3. Current market structure and remaining challenges

On the Polish market, the dominant operator position is being held by p.p.u.p. Poczta Polska, which provides the widest offer of postal services and the largest service network. Since 1 January 2006 the exclusiveness of Poczta Polska was limited to letters weighting up to 50g. Estimates regarding the liberated market area amount to ca. 300-400m PLN per year. This new segment is a goal for Deutsche Post, French La Post, UPS and a Dutch mail company. Competitors of Poczta Polska are most attracted by business shipments – letters from company to company and from companies to clients.

Historically, letters, parcels, money orders and courier services were considered as one market – i.e. the postal services market. In the last decade, courier services have developed a sector of their own – the courier services market.

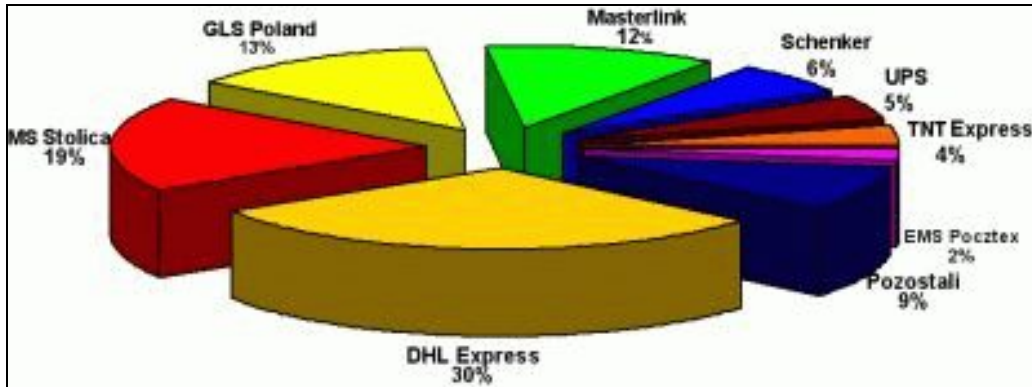
1.3.1. Postal service market

Despite the legal demonopolisation of part of the universal postal services, in practice those services are offered only by Poczta Polska. In 2004 the share of Poczta Polska in the market of letter items was 99.1%, with a participation of private operators of 0.9%.

1.3.2. Courier service market

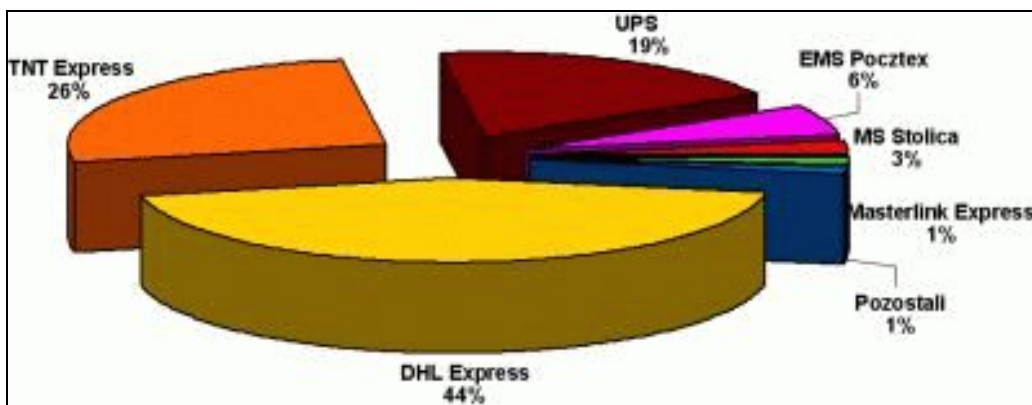
On the other hand, the market for courier services is fully competitive and dominated by private operators. Services are considerably concentrated here. In 2004, 87% of this market was held by six companies: DHL and Servisco (28.15%), GLS (20.1%), MS Stolica (17.14%), Masterlink (11.04%), UPS (10.43%).

Figure 1: Quantity structure of express shipments in the Polish courier services market



Source: DHL Express 2005

Figure 2: Quantity structure of airplane shipments in the Polish courier services market



Source: DHL Express 2005

The share of Poczta Polska’s courier service, EMS/Pocztex, is relatively small: 2% in express shipments, and 6% in airplane shipments.

Table 3: Market structure before and after liberalisation

	Before liberalisation	After liberalisation
Letter post	Poczta Polska	Poczta Polska (99.1%) Private operators
Parcel post	Poczta Polska	Poczta Polska Private operators
Courier services	Poczta Polska	Poczta Polska (2%) Private operators (DHL and Servisco (28.15%), GLS (20.1%), MS Stolica (17.14%), Masterlink (11.04%), UPS (10.43%).

2. REGULATION

2.1. Instruments

After the end of the Second World War only one national enterprise “Poczta Polska, Telefon i Telegraf” was operating on the postal market. In the 1950s it was still based on pre-war legislation, which was interpreted, applied and supplemented ad hoc to protect the interests of the new state. As a consequence of changes in the social and economic life experienced in Poland during the 1950s, a need for updating postal and telecommunication regulations emerged, which required modernisation and corrections. In 1961, the Sejm passed the Communication Act. The Act determined new operating rules for the national enterprise, PPTiT. Management decentralisation was introduced and postal and telecommunication offices gained more independence, as well as the regional telegraph and telephone offices. They became separate exploitation, organisational and administration units with a wider range of activities and authority.

In 1975, a new administrative division of Poland was implemented which increased the number of voivodships from 17 to 19 and liquidated powiats. The creation of new and bigger areas for voivodship postal offices resulted in an increased independence of their directors and head managers.

The year 1987 was a landmark in the history of PPTiT. The Sejm passed a resolution concerning a programme for implementing the second stage of economic reform. This programme was designed to bring about the further essential rebuilding of Poland's economic system, especially changes in the structure and function of the central government. Communications was now part of the Transport, Sailing and Communication Department. Following a final division, PPTiT was created as a separate independent unit on a national level with a general director. The name of the enterprise was changed: now it was national organisational unit, “Poczta Polska, Telefon i Telegraf”.

The organisational units gained full independence and their cooperation with the General Management was based on civil law regulations and proper economic mechanisms. PPTiT functioned according to rules very similar to the rules of multi-works enterprises. General Management was no longer responsible for functions and duties proper for head public administration officers and became a technical and operative board of the public unit PPTiT.

The Communication Act of 1991, which divided postal and telecommunication activities, describes the rules of postal services performance in Chapter 3. The Act established that the level and forms of payments for postal services performed by Poczta Polska were to be settled by the Director of Poczta Polska. The Council of Ministers may introduce maximum payments for universal postal services. The level of payments for the performance of international postal services must be established in coordination with the Ministry of Communication.

The Act proclaims that Poczta Polska cannot refuse performing universal services to anyone unless an entity demanding the service does not fulfil the conditions set by the Ministry of Communication. The Act appoints a unit to control activities in the postal domain, the State Inspection of Telecommunications and Mail. The Minister of Communications describes its range of activity and organisational structure in a resolution.

The most important factor sparking deep changes in Polish postal market regulations was the European Agreement on Association entered between the Polish government and the EU on 16 December 1991. This Act served as a basis for all adaptations of Polish law to Community regulations. The agreement signed by Poland, the regulations about postal services market functioning drawn up by the EU as well as the experiences gained by other developed countries were the basic reason for changes in market regulations in Poland. Those changes may be seen in three dimensions:

- choosing the subject to perform regulation activities for the postal services market
- determining goals of the postal services market regulations
- settlement of the most effective instruments' catalogue of postal services market regulations (Wolska 2005).

Important changes in state regulation policy were introduced by an amendment to the Communication Act in 1995, which divided the postal services market into three areas: reserved, concession services and free services.

A new amendment to the Act on 2001 updated the Act to the new regulations for economic activity. Since 1 July 2001, starting an economic activity in the postal services domain (except those reserved for Poczta Polska) has been due to free-market rules. The difference between the Amendment of 1995 and that of 2001 was that private operators who want to perform universal services (except those reserved for Poczta Polska) and courier services must apply for a permission, not a concession as earlier. Offering free services was possible without any permission, with only a registration in the economic activity register or trade register.

The necessity of maintaining an institution of permissions concerning postal services was argued for by the specific role of postal activity in social and economic life and by the constitutional obligation of the state to protect the secret of communication. It was agreed that a liquidation of permissions would be at the expense of Poczta Polska, which is obliged to perform the services all over the country, including non-profitable regions. Private operators acting without permission would never launch such an activity. (Gospodarek 2001)

Poland's efforts to join the EU implied the necessity to implement certain regulatory changes, also concerning the postal services market. Acting according to EU regulations, the Polish government ascertained the need for dividing statutory regulation of issues concerning the development of postal services and for introducing projects for proper acts concerning postal law. This was approved of by the Sejm in a resolution of 21 April 1995. (Wolska 2005) The range of necessary changes in postal services regulations was so wide that it precluded further amendments to the Communication

Act. There was a need for a new act that would regulate in complex ways the rules of economic activity based on the performance of postal services in national and international rotation. Several versions of the new postal law were presented. All of them proposed serious further reductions of the economic monopoly for postal operators, which meant reductions in the weight of letters shipments and the abolishment of administrative limitations for private operators to enter postal services.

The necessity of creating a regulative body for the postal services market was emphasised. Originally planned for 1997, the Postal Law Act was eventually introduced on 25 August 2003. It annulled the previous act on communication of 23 November 1990 and established new rules on postal services performance. The Postal Law Act was already updated in 2004 (Ustawa 2003).

In comparison with previous acts, the Postal Law Act requires operators to perform universal services at reasonable prices and of a proper quality in accordance with regulations. As in the Communication Act, Poczta Polska was entrusted with the obligation to perform the duties of public operator.

The main goal of the Postal Law was to balance the legal regulations of the postal services market with the postal directives. That is why in the Postal Law Act all decisions of Directive 2002/39/WE were implemented:

- The Act defined the next stages of postal services market liberalisation, including: a limitation (from 1 May 2004) of the area reserved for Poczta Polska to the shipment of letters of a maximum weight of 350g, and at a fee not lower than three times the fee for clearance, transport and delivery of postal items of the lowest weight category and the fastest category, established in the public operator's price list of universal postal services. From 1 January 2006 this level was lowered to 50g and 2.5-fold value of this charge.
- It obliged the public operator to deliver letter post items accepted for transport and delivery within the framework of universal postal service: 1) no later than on the 4th day after the day of posting (in the case of a letter post item of the fastest category); 2) no later than on the 6th day after the day of posting (in the case of a letter post item which is not a postal item of the fastest category). It also outlines the procedure of lodging a complaint about the late delivery of a postal item.
- The principles of establishing special tariffs for operators providing universal postal services.
- It prohibited the subsidising of universal postal services which are not reserved with the income from reserved services.

The Postal Law describes what constitutes postal service:

Provision of postal services: Legal frameworks concerning the propagation of postal services were substantially widened. Chapter 3 defines regulations concerning: the principles of provision of postal services, of refusing to conclude an agreement regarding the provision of postal services, the conditions of performance and conditions of use of postal services, the method of paying the fees for postal services. According to

Article 37, letter boxes must not only ensure the security of postal traffic but also universality and easy access to the letter boxes by all operators.

Universal postal services: These are postal services consisting of the following:

- clearance, transport and delivery of letter items of up to 2,000g, (including registered letters and insured letters with declared value), postal parcels of up to 10,000g (including insured parcels) and postal items for blind persons;
- delivery of postal parcels sent from abroad weighing up to 20,000g;
- handling of postal money orders.

The provision of universal postal services provided by the public operator was regulated in a different way because of their special social character. Universal postal services should be provided both for domestic and international traffic on the territory of the Republic of Poland in a consistent way, in comparable conditions and at affordable prices, maintaining the quality required by law as well as ensuring the emptying of mail boxes and delivery of postal items on every working day and no less frequently than 5 days a week. The obligation of performance of the public operator's tasks described within the Act of Law was entrusted to Poczta Polska. The Minister in charge of post and telecommunication was obliged to describe in the Ordinance the conditions for the provision of universal postal services by the public operator.

The public operator is obliged to maintain the proper postal network regardless of its profitability. In case of losses caused by public services performance, subsidies are allowed.

The Postal Law describes the method of payment of the fees for postal services. Amount and method of payment are established by the postal operators. Principles of establishing fees for provision of universal postal services should be uniform throughout the entire territory of the country and be transparent and non-discriminatory. The amount and forms of payment for postal services provided by Poczta Polska are established by the Director General of Poczta Polska.

Operators providing universal postal services are obliged to maintain accounting books and cost accounting in a way enabling cost calculation: - separate accounting for every service from the reserved area; - collectively for non-reserved services with separation on: universal postal services and services not belonging to the universal postal services category. The Minister responsible for public financial matters, in consultation with the Minister in charge of post and telecommunications, is obliged to establish by Ordinance the adequate method of cost allocation.

The activity of the regulation body is the next important instrument regulating postal services performance. Introducing a new model of postal services market functioning required certain organisational solutions. The model that was adopted in Poland was based on regulation tasks concerning postal market divisions between the Ministry working on issues about the shape of this market and the appointed branch regulation body.

One of the advantages of this solution is the broad professional knowledge about the regulated market and an ability to fast decision making. Its weakness is the short experience of the regulation body in introducing competition and the existence of personal networks between employees of the regulation body and the dominant operator (Czapiewski 2002).

Obligations of the regulation bodies of public administration include the realisation of tasks regarding liquidating state monopolies and developing competition. The regulation body should be excluded from current government policy. It should concentrate its efforts on achieving the goals concerning services for economic subjects and people that are strategic for the state.

In Poland, no administrative description of a postal services price level was set. Countries like Germany, Sweden, Holland or UK, on the other hand, use a method of price-cap regulation.

The system of authorisation, licence granting and decisions about compensation funds regarding postal services is the next analysed aspect. According to postal directives there is a possibility to create a compensation fund in cases when obligations to provide universal services are too big a burden for an operator obliged to perform them. In Poland no agreement about a compensation fund was set.

Table 4: Regulatory instruments

Before liberalisation	After liberalisation
Price setting, public property	1. The most important instruments to influence postal operators given to the postal regulator: <ul style="list-style-type: none"> ▪ the entitlement to issue, refuse to issue or withdraw the authorisation for conducting postal activities; ▪ the right to rise an objection against the notification of postal activities; ▪ the entitlement to withdraw the authorisation or limit the scope or territory of activities. 2. Regulation of market entry – permission with special control over applicants 3. There is a lack of prices regulation mechanism. 4. Regulation of universal services. Control and inquiry of time needed for delivery process and supervision conducted by regulator over postal infrastructure and postal product; and individual inquiry conducted by public operator about shipments' time of delivery.

2.2. Actors

The history of the regulation body in Poland is quite complex. On the basis of the Telecommunication Law Act dated 21 July 2000, a first regulation office was created – the President of Telecommunication Regulation Office. The President of TRO as a government administration body combines administration functions (issuing

administration decisions) with quasi juridical functions (settling controversies between operators). It was not appointed with legislation functions which are within the competence of the Minister responsible for communication affairs. The President performs duties in cooperation with the Telecommunication Regulation Office founded on 7 October 2000. Originally, the Office was comprised of all employees who previously worked for the Ministry of Communication's body, the State Telecommunication and Mail Inspection; and as of 1 January 2001 it also includes the employees of the second body subject to the Ministry of Communication, the State Radio communication Agency.

The Minister of Communication supervised the President of Telecommunication Regulation Office. The President's tasks and activities included, first of all, controlling the observance of regulations, decisions and resolves concerning postal services performance.

On 1 April 2002, a new central government administration's body was appointed, the President of Telecommunication and Mail Regulations (President TMR). The President performed his duties with help from Telecommunication and Mail Regulation Office.

TMR President is supervised by the Minister of Infrastructure, who is responsible for tracing directions of postal services market development in order to guarantee access to basic postal services of a certain quality level and at an accessible price for society.

The most important instruments to influence postal operators given to the regulator are:

- the entitlement to issue, refuse to issue or withdraw the authorisation for conducting postal activities,
- the right to raise an objection against the notification of postal activities,
- the entitlement to withdraw the authorisation or limit the scope or territory of activities,

The President of URTiP was obliged to keep a Register of postal operators, to make entries in the Register, to monitor the provision of services by individual operators as well as their quality and tariffs, and to carry out comprehensive analysis of the postal market.

Table 5: Regulatory players

Before liberalisation	After liberalisation
Minister in charge of post and telecommunication	<p>The first regulation body, the President of Telecommunication Regulation Office (URT), was created on 21 July 2000. The President of URT was supervised by the Minister of Communication.</p> <p>On 1 April 2002, a new regulator was appointed, the President of the Office of Telecommunication and Post Regulation (URTiP). The President was supervised by the Minister of Infrastructure.</p> <p>On 14 January 2006, the Office of Electronic Communications (UKE) was established in place of the URTiP.</p> <p>The President of UKE assumed the tasks and powers that had so far rested within the competences of the President of URTiP as well as certain powers of the President of the National Broadcasting Council (KRRiT)</p> <p>Minister in charge of post and telecommunication – Minister of Infrastructure</p>

2.3. Problems

The instruments available to the regulator do not provide the possibility of independent and complex influence on postal services market. The government or, more specifically, the Ministry of Infrastructure, is in charge of part of the regulation authority. The President of URTiP was not provided with several administration and economic instruments necessary for independent decision making. The most important are (Wolska 2005):

1. The President of URTiP was not provided with the right to veto in case of incorrect prices for universal postal services in the public operator's tariff. In practice, the prices are established by the General Director of Poczta Polska without any formal control. URTiP is only obliged to publish the tariffs in the URTiP Bulletin without charge. Universal services prices established by the public operator form the basis both for defining the reserved area for the public operator and for setting the prices of universal services performed by non-public operators. Therefore increasing prices by the public operator may affect and limit social access to those services.
2. The President of URTiP is not authorised to access information about postal operators in terms of value. Article 44 of the Postal Law indicates a lack of such an authority. It prevents URTiP from carrying out analyses which would show and compare the value of the Polish postal services market with postal markets of EU countries.
3. URTiP is not allowed to voice an opinion concerning regulations of postal rule books which set the rules of universal services performed by the public postal operator.

Regarding the listed problems, there is the key issue the selection of URTiP's employees. It is crucial to select them on a meritorical rather than a political basis.

2.4. *Current situation*

Currently, the actions of different subjects operating on the Polish postal services market are regulated by the Postal Law Act of 2003, with an Amendment of 2004. The following problems that have not been solved and might, as a consequence, restrain enterprise development on the postal services market (Ustawa 2003):

1. The regulation body can issue an authorisation after confirming that an entrepreneur is in possession of the technical and organisational basis matching the size of the planned activity. This prevents many entrepreneurs from gaining permission and therefore starting preparations to perform postal services.
2. According to the Postal Law, the territory where the postal activity will be performed can be one or more voivodships. This makes it difficult to enter the postal services market.
3. There is no clear definition of courier service. From the definition of courier services in the Postal Law it is difficult to point out the difference between universal service and courier service.

On 1 January 2006, Poczta Polska introduced a new service – charged shipping. This service involves the receiving, transport and delivering of a shipment, collecting the due fee and immediately sending it to the bank account or address indicated by the sender. This newly introduced service includes three fundamental changes:

- Previously, shipment delivery linked with fee collection was realised as a compilation of several services – since 1 January it has become a separate contractual service
- Previously, the maximum parcel weight was 20 kg, now it is 30 kg
- The new service provides the receiver with the possibility of checking the parcel, with an evidence of checking, and returning it to the sender

Like letter and parcel shipping, charged shipments are available as two categories: as priority shipments and budget shipments.

Pursuant to the Act of 29 December 2005 on the transformations and modifications to the division of tasks and powers of state bodies in charge of communications and broadcasting (Office Journal of 30 December 2005, No267, item 2258), a central-level government administration body, the President of the Office of Electronic Communications (President of UKE), was established on 14 January 2006 in place of another central-level government administration body, the President of the Office of Telecommunications and Post Regulation (President of URTiP), which was abolished on 13 January 2006. The President of UKE assumed the tasks and powers that had so far rested within the competences of the President of URTiP as well as certain powers of the President of the National Broadcasting Council (KRRiT).

3. *ACTORS/OWNERSHIP*

3.1. *Postal service market*

Subjects operating on the postal services market are: legislative bodies, regulative, control bodies, science and research units, companies performing postal services, service clients and consumers organisations. Those subjects are linked on various levels.

The legal framework of postal market functioning is set by a body of government administration, equivalent to a Minister of Communication Affairs.

Up to 1991, the postal services market was linked with the telecommunication services market. Only one enterprise was operating, PPTiT, founded before the Second World War. The Communication Act of 1991 divided telecommunication and postal services, which since then has become a state enterprise of public utility, Poczta Polska. The Act defined a proper body that would control activities in the postal domain, the State Telecommunication and Mail Inspection, a body at the Ministry of Communication. The range of activities and the organisational structure of the new office were defined by a resolution of the Minister of Communication.

Regarding postal activity, the President of Telecommunication Regulation Office was the first regulative body, appointed in October 2000. The new body was supervised by the Minister of Communication.

Since 1 April 2002, a new central body of government administration was appointed – the President of Telecommunication and Mail Regulation Office. The new body was supervised by the Minister of Infrastructure.

Recently, according to the Act of 25 December 2005, a new central body of government administration was appointed, the President of Electronic Communication Office. The new body is supervised by the Minister of Transport.

Poczta Polska is the biggest operator active on the Polish postal services market. The legal status of Poczta Polska is defined in an act dated 30 July 1997 about state enterprises of public utility. Poczta Polska has legal identity and is subject to registration in the state enterprises register according to rules defined in regulations concerning those enterprises (Article 2nd of the Act). Poczta Polska's bodies are the General Director and Poczta Polska Council.

According to the Postal Law, Poczta Polska provides postal services. Poczta's obligations are to provide continuity of services on a national and international scale with the aim to satisfy the needs of society, state bodies, local governments and the national economy. Apart from service provision Poczta Polska offers financial services including mediation in service performance and logistic services regarding especially parcel transport and storage. As a public operator, Poczta Polska is obliged to provide universal postal services in a continuous way, to allow for the handling of a letter item as a registered item; for the handling of postal items as insured items; to obtain confirmation of delivery of recorded postal item or amounts of money indicated in

postal money orders (Art 46, Par. 1.) The public operator has the exclusive right to provide “reserved services”.

Poczta Polska, as a public operator, provides the widest range of postal services. Provision of universal postal services is a basic domain of Poczta’s activity. In Poland, according to current regulations, these include obtaining, transport and delivery of registered letters of a weight of up to 2,000g, insured letters of up to 2,000g, letter parcels and handling money orders in national and international rotation.

Table 6: Elementary postal services

	2003	2004	2005
Registered letters	306,405.0	316,232.0	320,660.8
Parcels and insured letters	22,596.1	26,596.1	30,913.9
Postal transfer paid	99,412.9	94,073.9	87,287.6
Payments to bank accounts	276,770.5	256,702.0	255,389.9

Source: Central Statistical Office, Communication Activity Results in 2004, 2005.

In 2005 a small decrease in the volume of basic postal services rendered by the public post was observed. Compared with 2004, the number of ordinary letters posted decreased by 5.5%, with the number of postal transfers falling by 7.2% and the payments to bank accounts by 0.5%. However, there was an increase in the number of registered letters by 1.4% and of parcels posted by 23.5%.

A detailed range of services provided by Poczta Polska regarding financial services and performing those services, including financial mediation, was defined in the Postal Law Act.

The head body of government administration concerning postal services is the Minister of Communication Affairs. The President of Electronic Communication Office, who is the central body of government administration, is a regulative body for postal services. Organisation, detailed scope and means of activity of Poczta Polska are defined in its statute. Poczta Polska employs almost 100,000 people.

Poczta Polska is a shareholder of seven economic subjects created between 1990 and 2003. On 30 June 2004, their ownership structures were as follows (Haber 2006):

Bank Pocztowy S.A. (Postal bank)

Poczta Polska – 729,677 shares – 74.99990%

Prokom Investments S.A. – 243,227 shares – 25.00010%

Postdata S.A. (Postal data)

Poczta Polska – 51,000 shares – 51%

Prokom Software S.A. – 49,000 shares – 49%

Pocztalion – Arka Powszechna Towarzystwo Emerytalne S.A. (Pension Fund)

Poczta Polska – 833,776 shares – 33.3%

Cardif S.A. – 833,776 shares – 33.3%

Amvescap PLC – 733,723 shares – 29.4%

Konferencja Episkopatu Polski – 100,053 shares – 4.0%

Pocztowa Agencja Usług Finansowych S.A. (Financial Servis)

Poczta Polska – 27,000 shares – 60%

Cardif S.A. – 17,998 shares – 39.9%

Towarzystwo Ubezpieczeń na Życie “Cardif Polska” S.A. – 2 shares – 0.1%

Pocztowy Fundusz Leasingowy Spółka z o.o. (Leasing fFund)

Poczta Polska – 3,194 shares – 100%

Pocztowe Towarzystwo Ubezpieczeń Wzajemnych (Mutual Insurance Company)

Poczta Polska – 3,700,000 shares – 100%

Postmark S.A. (Philatelic Company)

Poczta Polska – 40,800 shares – 51%

Banpol S.A. -19,200 shares – 24%

Inversiones y Novedades Filatelicas y Nimusmaticas S.A. – 12,000 shares – 15%

Walter Janusz, Ricardo Kobylański Brandhuber – 8,000 shares -10%

Acting on its own initiative, the Chamber of State Control (Najwyższa Izba Kontroli) conducted a control of the so-called Poczta Polska “capital group” activity. The investigation was to estimate the participation of Poczta Polska in trade law companies and mutual insurance companies. The inquiry focused on the years of 2002-2003 and the first half of 2004. The Chamber of State Control evaluated negatively the economic reasons for Poczta Polska participation in trade law subjects and insufficient security of the enterprise’s interests in contracts with those companies. The efficiency of the General Director’s supervision over companies was also evaluated negatively as well as the Minister of Infrastructure’s lack of control over those issues. As the Chamber estimates, Poczta Polska’s investment of 52.8m PLN into six trade law companies and mutual insurance companies in 2002 had become improvident and futile by the first half of 2004. Poczta’s activities served to basically cover these losses (including the previous years) which amounted 55.7m PLN. At the same time, Poczta Polska preferred subjects where Poczta owned shares and at own losses, and supported the development of a vast private capital group, Prokom and Cardif. Among the companies only Postdata

S.A. was profitable and the shareholders were paid dividend. With regard to those findings, the Chamber estimates that there are premises that Poczta Polska is using their income activities subsidised financial, insurance and leasing activity in subjects where Poczta was a shareholder.

The fact that Poczta Polska makes profits on universal services and partly experiences losses on “other services” (financial, banking, insurance) may indicate that it is not prepared for postal market demonopolisation. This also indicates that Poczta takes advantage of its monopolistic position on the market. Therefore it is not certain if Poczta did not subsidate other improvident services using incomes i.e. from universal services’ performance.

The Chamber of State Control negatively evaluated the indolence and dishonesty of Poczta Polska when elaborating its development strategy. Between September 2002 and June 2004, Poczta Polska presented the following versions of their strategy to the Minister of Infrastructure. As the control ascertained that up to the end of the control procedure, the following versions of the strategy did not include many important issues indicated by the members of the Ministers’ Council. One of the missed issues was determining the real financial sources for the development of Poczta Polska without engaging budget sources. It is worth remembering that only in 1998 the National Programme of Poland’s Preparation for EU Membership gave proper minister of communication affairs and obligation of restructurisation with given model of Poczta Polska functioning. The Minister of Communication and the then Minister of Infrastructure recommended Poczta Polska to prepare enterprise’s strategy. Despite many years of preparations Poczta Polska has not managed to draw up a strategy in a proper range.

“Successive” versions of Poczta Polska strategy presented to the Minister of Infrastructure assumed for instance a transformation Poczta Polska from state enterprise into joint stock company. The strategy assumed that so-called “capital groups” created earlier would play an important role in future financial services. Nevermind the fact of their previous improvident activity it is to say that such deep restructure changes would require the deletion of Point 10 in Article 3 of the Act of 30 August 1996 about the commercialisation and privatisation according to which Poczta Polska cannot be commercialised. However, the Ministry of Infrastructure did not undertake any effective activities towards legislative changes. Therefore, according to the Chamber of Control, the assumption of implementing a strategy that would result in the commercialisation of Poczta Polska was a too much optimistic vision.

In May 2005 Poczta Polska began restructuring activities to prepare for competition in a liberalised market. Three business units were created in Poczta Polska: a Center of Postal Services, a Center of Transport Services and a Center of Concession Services. The latter is responsible for activities in the money security and logistics market. The first stage of restructuring of Poczta Polska was finished in September 2005. It radically changed Poczta’s manner of activity. Its previously rigid territorial structure was replaced by a flexible business structure. As a result of restructuring, ten business units of different character were created. Four of them focus on business: the Center of Postal

Services, Center Pocztem, Center of Concession Services and Postal Center of Philately are focused on attracting clients and satisfying services. The Center of Postal Services provides continuity of universal services performance. The creation of this kind of unit aims to provide high quality to satisfy the needs of clients, especially so-called key clients – big public administration subjects. Center Pocztem is responsible for transport, shipping and logistics. The creation of this Center is aimed at winning back part of the courier and logistics market. As a business unit, the Center of Concession Services is responsible for looking for new funding sources. The rest of the new units are focused on the efficient functioning of postal mechanism and will be not directly visible to clients.

3.1.1. *Problems*

Facing the competition on the postal services market, the priorities of Poczta Polska are: restructuring and then privatisation. Restructuring should be based on the following foundations:

- searching for new funding sources that would supplement incomes from traditional postal services
- more effective cost management

Currently about 80% of income is generated by traditional postal services, which are successively pushed out of the market by electronic services. Effective cost management means better use of modern financial instruments and access to international capital markets.

The most important tasks for Poczta Polska:

- elaboration of a modern logistics system
- completing IT system implementation
- diversification of activities
- change in the structure of incomes from performed activity

Activities concerning IT and a modern logistics system should be based the provisions of the Postal Law Act (Ustawa 2003):

- the modernisation or creation of fully automated universal postal junctions regarding norms and parameters set by postal directives
- linking the junctions with a computer network which enables monitoring the process of shipping
- new transport organisation

Over the last years, courier and logistic services as well as services for internet stores provided by postal operators with modern IT and logistic systems turned out to be most profitable services. Poczta Polska has an insignificant share in those services and their offer is limited to courier services. Its internet stores service is on a minimum level. Poczta Polska should start differentiation in:

- Logistics services that could be provided to service companies and production companies
- Electronic services especially email and services for internet stores
- Financial services like banking, leasing, investments, sales, insurance, pensions services

A differentiation in the direction of the services listed above requires deep changes in the technology of services and investments in a teleinformatic network.

Poczta Polska offers a wide range of universal services, including registered letters, postcards, addressed and unaddressed forms, parcels and money orders. Technological changes as well as social and economic transformations have resulted in a decrease of the dynamics of those services. It is a threat to Poczta Polska's future income and position on a liberalised market. Regarding those threats, it is necessary to start changes in income structure. The only solution is in building a modern logistics system and computer network.

The issue of funding sources remains important. Polish operators in the postal market need new investments to implement new marketing and service sales systems based on new IT technologies. Cooperation between postal services companies and banks is limited. Banks do not wish to participate in long-term investments because of their high risk level. Banks prefer participation in big projects because of their low transaction costs. That results in weakening smaller postal companies. They experience difficulties in gaining floating capital for current activities. This is connected with the slow procedures of credit giving and a low flexibility in situations when a company needs immediate help from the bank.[ibid]

3.2. Courier service market

The Polish courier services market is divided between five Western companies: DHL, UPS, Masterlink, TNT, GLS. Among Polish companies only two have a significant share. FedEx is a big player on the international market whereas in Poland it provides only international shipping and is regarded as a niche company. Concerning volume, DHL is the undeniable leader on the Polish market, followed by UPS with Stolica in second and Masterlink in third place.

In recent years, the Polish courier market has been characterised by consolidation processes. International consortiums joined with companies of Polish roots. The most spectacular events were when Servisco merged with DHL in 2003 and when Stolica

joined with UPS in 2005. Such a direction is the result of certain market demands. Economic subjects, especially those deciding on the full outsourcing of transport and logistics, demand more and more complex services. Companies aiming to offer a wide range of services join to build international consortiums.

Foreign capital engaged in 15 courier companies in 2003. Data published by the Telecommunication and Mail Regulation Offices provided information that in 9 courier companies operating in Poland, 100% shares belong to (Source: URTP):

- German capital in Servisco, RWGExpres company
- Dutch capital in TNT and Szybka Poczta companies
- Austrian capital in Cargo Partner Spedycja company
- American capital in UPS Polska Sp. Z o.o., Rainbow Service Express
- Luxemburg capital in Rainbow Service Express
- French and Swedish capital with 50% shares each at Masterlink Express

3.2.1. *Problems*

Market developments and an increase in clients' needs have forced courier companies to make new investments. These include logistics infrastructure and new services. Bad infrastructure is a weak point of the market. It refers to the bad state of the roads, slow pace of motorway construction. Regarding bad road conditions, connected to it, speed limits, courier companies must build a denser hub network than it is, for example, in Germany. They also lack money for proper equipment.

4. *ROLE OF GOVERNMENT*

In the 1950s PPTiT functioning was based on pre-war legal regulations. The Decree about Communication of 11 March 1955 was the first attempt to organise postal and telecommunication regulations. According to the decree, the Ministers' Council could restrain or limit communication rotation in the whole country or in part of it if the interest of the state demanded it. The decree made the Ministry of Communication an absolute monopolist in the domain of national communication. Regarding postal services, the state held the exclusive right to receive, deliver and handle written correspondence in national and international rotation. The state delivered all journals and newspapers in the country, except official legal journals like Dziennik Ustaw, Monitor Polski and office journals. The rule of exclusiveness was exercised even more rigidly in the telecommunication domain. In the age of real socialism, the government and party management defined communication as one of the most important factors of maintaining socialist regime and social control.

Changes in social and economic life influenced the updating of postal and telecommunication regulations. The Communication Act dated 31 January 1961 limited

state monopoly in the postal domain to the profitable transport and delivery of opened and closed written correspondence.

Up to the end of the 1980s postal activity was supposed to be a natural monopoly (Groner 1993). The monopolistic position of the state was defended with the argument that part of the goods and services must be perceived as non-economic and this applied to postal services, necessary to maintain the state. It was emphasised that postal services should be available to everybody and that they are of strategic, administration and military significance. Therefore countries of Socialist Block as well as capitalist countries treated postal services as an economic area which should be subject to the state, also for technical reasons. In case of network services, which are part of postal services, benefits for the users depend on the scope of the network and number of subjects using the services.

That raised anxieties because of uncertainty about private postal operators' possible activities. Anxieties concerned the possibility that private operators dominating the market might try to increase the competitiveness of their activities by introducing technical standards impossible to achieve for other operators. This would result in the elimination and possible discrimination of some clients. Therefore the state, in the interest of all consumers, should undertake a proper standard of technical solutions which could be realised by one operator strictly supervised by the state (Ratajczak 1999).

For political, ideological and social reasons, the postal services market structure was shaped by administrative methods. The preferred system assumed functioning of one state enterprise with a centralised management system.

The policy of limitations in the state's role in the economy was launched in the 1970s. It included communication, especially telecommunication and postal service, on smaller scale. In 1975 the new administration division of the country was implemented, increasing the number of voivodships from 17 to 49 and liquidated powiats. The creation of new big areas for voivodships' postal offices led to a greater independence of directors and head managers of postal offices.

In Poland, in the early 1980s, the first stage of economic reform was introduced and strongly linked with law reform. Changes covered the communication department as well. Certain progress in postal and telecommunication regulations was made by The Communication Act dated 15 November 1984. The act maintained the previous range of state monopoly in the postal domain but limited the exclusiveness of state in telecommunication domain, assuming the possibility of giving permissions for establishing and using telecommunication wires, radio mechanisms and radio communication networks.

In 1987 the Sejm (Parliament) passed a resolution concerning the programme, "Second stage of economic reform". The programme was heading to further fundamental restructuring of the economy system of the country, especially changes of the centre's structure and function. PPTiT was created as an independent unit of national range managed by a general director. Organisational units of communication gained

independence. Cooperation with the General Director was based on civil law regulations and economic mechanisms. Name of the enterprise was changed: state organisation unit „Poczta Polska, Telefon i Telegraf”. PPTiT functioned according to rules similar to multi works unit. General Director became a technical and operative board of organisational unit PPTiT, no longer responsible for functions and tasks appropriate for head bodies of state administration. Adaptation processes of the postal services market for the free functioning of economy units and limiting state role were started in the 1990s. The pace of reforms was very slow because of maintained differences of opinions about the role of the state in public sector functioning.

Argumentation that supported state interventionism was positively welcomed by state postal operators. Their established dominant position created biases against competition struggle at liberalised postal market. The slow pace of the implementation of the 1997 directive was a result of a conscious strategy of retardation performed by political decision-making bodies responsible for the liberalisation of the postal market. One may find the reason for such behaviour in the willingness to prepare and, as a consequence, facilitate the process of passing from monopoly conditions to competition conditions. That means that the main features of postal policy are a lack of rules defining principles for liberalisation of postal services market.

Following subsequent updatings of the Communication Act and the passing of the Postal Law Act, a systematic liberalisation of postal services area occurred. Those processes were described in the chapters about the structure and regulations of the postal services market.

During the liberalisation process in the postal services market, the role of the state will still be maintained. It was visible in the lack of autonomy of successive regulation offices. A strong relation between proper ministry, regulation office and Poczta Polska occurred.

The situation of the state acting as regulator and owner of dominant postal operator at the same time may result in activities that would omit aspects of economic effectiveness.

4.1. Other stakeholders

In May 2005, the President of URTiP submitted to the Minister of Infrastructure a study called Assessment of Postal Market Operations in 2004, together with results of postal activity inspection. The documents prove that the liberalisation of the postal services market had a significant impact on the development of this market, in particular in terms of increased competition in the express service market and an improved quality of service.

The scope of inspections of the public operator Poczta Polska comprised the examination of universal postal service quality with respect to timely deliveries, the adaptation of postal points of contact to the provision of services for disabled people,

the procedure and the manner of handling complaints regarding registered items and postal money orders.

The quality of postal service in terms of timely delivery of standard letters items by Poczta Polska is higher than the standards specified in the Ordinance of the Minister of Infrastructure. But the great number of postal points of contact do not meet the standards set out by law. The level of adaptation to the needs of disabled people is currently insufficient.

In general, individual clients have a good opinion about the functioning of Poczta Polska, they have considerable difficulties with specifying in detail their expectations to services provided by this operator.

As there are no possibilities to compare offers, clients are also unable to assess whether the universal postal service is cheap, expensive, or worth its price.

Poczta Polska is a 100% public company. Only the main trade union for postal workers lobbied against the further opening the market.

5. *CONCLUSION*

The absolute adaptation of structures of Polish postal services market to the EU market demands considering following issues:

- Legal and regulative solutions

The Polish postal services market is still characterised by strong relations between political and economic powers. As a consequence, the state assumes a significant role in decision making processes. It is necessary to divide the tasks of political and regulative character from those of economic character.

- The adaptation processes of postal services market to EU's demands.

Issues that remain unsolved are:

- a. Autonomy of regulative institution
- b. Establishment of method for tariff regulation concerning universal postal services
- c. Verification of authorisation system and an introduction of a compensation fund

- Privatisation of public postal operator.

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