

Topics in Regulatory Economics and Policy

Pier Luigi Parcu
Timothy J. Brennan
Victor Glass *Editors*



The Economics of the Postal and Delivery Sector

Business Strategies
for an Essential Service

 Springer

Topics in Regulatory Economics and Policy

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Editors

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Business Strategies for an Essential Service

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Preface

This book collects the contributions presented during the 28th Conference on Postal and Delivery Economics, jointly organized by the Florence School of Regulation – Communications and Media (FSR C&M) at the European University Institute and the Center for Research in Regulated Industries (CRRI) at Rutgers Business School. Originally planned as an in-person conference, the evolution of the pandemic made this impossible. As a result, the conference was online for the first time in its history. Despite the new format, the conference remained a point of reference for the community of operators and regulators in the postal and delivery sectors.

The discussion this year included consolidated topics, such as the evolution of competitive dynamics in the sector, the business strategies of postal operators, the definition and funding of Universal Service Obligation, e-commerce, and the role of Universal Postal Union, and explored emerging issues such as the role of postal operators in addressing sustainability targets and the impact of Covid-19 pandemic on the postal dynamics.

The conference was made possible by the contribution of generous supporters. We would like to thank the following contributors for their financial support, for joining the organizing committee along with others, and for their intellectual contributions, advice, and encouragement: Bruno Basalisco, Claire Borsenberger, Mateusz Chołodecki, Alberta Corona, Stefano Gori, Felix Gottschalk, Annegret Groebel, Philip Groves, John Hearn, Farouk Karim, Karol Krzywicki, Piotr Lukomski, Leonardo Mautino, and Sandro Mendonça.

This year's conference benefited greatly from the efforts of the Conferences Unit of the Robert Schuman Centre for Advanced Studies and, in particular, Elisabetta Spagnoli and the team of the FSR C&M, who converted the residential event into an online one in record time, offering participants the opportunity to continue the exchange on issues relevant to the sector. We are very grateful to Chiara Carrozza, FSR C&M Coordinator, for her support during the editing process for this book.

We would like to thank the distinguished keynote speaker of the event: Mr. Jean-Yves Muylle from DG Internal Market, Industry, Entrepreneurship and SMEs (GROW) of the European Commission. We would also like to thank the candidates for the UPU elections who shared their vision for the UPU during a special “virtual”

roundtable: Mr. Pascal Clivaz; Mr. Jean-Paul Forceville, Mr. Jack Hamande, Mrs. Marcela Maron, Mr. Masahiko Metoki, and Mrs. Marjan Osvald.

Most of all this year, we thank all authors and participants of the conference. It was reassuring to see the cohesion of the community and the willingness to continue contributing to the debate in the sector despite the difficult circumstances.

The usual disclaimers apply. In particular, the views expressed reflect the views of the authors and are not necessarily those of the editors or supporters.

Firenze, Florence, Italy
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Newark, NJ, USA

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Competition in the Postal and Delivery Markets in Europe



Pier Luigi Parcu, Chiara Carrozza, Niccolò Innocenti, Anna Pisarkiewicz, and Paula Gori

1 Introduction

In the recent decades, the liberalization of the postal and delivery industry and the accompanying regulation has attempted to create a competitive environment in the sector and in its different market segments. Moreover, even the “last mile” of the legacy network that in various sectors has remained an unavoidable bottleneck, in the postal industry it has become, over time, an increasingly competitive business. Declining volumes of letters, and increasing volumes of parcels driven by skyrocketing e-commerce, have turned even last mile delivery into a battleground for retailers and postal operators.

A thorough analysis of the state of competition in the sector is hampered by the quality of available data and, therefore, the feasibility of carrying out a complete comparative study is limited (ERGP, 2019). This difficulty in assessing competition is well reflected in the academic research which, to date, remains fragmented. It tends to cover only a specific part of the sector, for example, either mail or parcels (Perboli & Rosano, 2019), the impact of a chosen factor (i.e., universal service obligation, technology and innovation, or urbanization) (Crew & Brennan, 2016). It is often limited geographically to experiences of a particular country (Pilinkienė et al., 2016) or to the divides between different areas within the same country (last mile delivery in urban versus rural areas) (Bradley et al., 2018).

This chapter aims to contribute to the existing research by attempting an overview of the state of competition in the sector, considering both mail and parcels across a range of diverse postal ecosystems and adopting a comparative perspective. In particular, it will examine whether, in light of the ongoing changes, incumbent

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postal operators are likely to keep dominating the industry, and whether new entrants' strategies are more likely to succeed nationally or in niche segments. It will also contribute to the lively debate as to whether access – negotiated or regulated – to the incumbent's postal network is a more sustainable outcome with respect to end-to-end competition.

After this introduction, the chapter is divided into five parts. Section 2 provides an overview of the different competitive settings of the postal sector in major European countries. Sections 3 through 5 present case studies of three selected countries—the Netherlands, the United Kingdom, and Italy. In Sect. 6, we propose our conclusions on the competition trends we expect to observe in Europe.

2 A General Overview of Competition in the Postal Sector

This section attempts to identify, in a very general manner, specific characteristics and competitive patterns by analyzing the postal data of ten European countries.¹ The classification is based on two indicators on the concentration and the structure of the sector with the aim to differentiate the present level of competition in the countries.² Given the aim of the study and the availability of data, this section considers the postal sector as a whole, including different markets (e.g. letters and parcels) and levels of the value chain (e.g. last mile).

The first indicator used is the well-known Herfindahl-Hirschman Index (HHI),³ calculated on data of broad postal revenues and is presented in Fig. 1. According to

¹The ten European countries analyzed in this chapter (Belgium, Denmark, Finland, France, Germany, Italy, Spain, Sweden, the Netherlands and The United Kingdom) have been selected because they are representative of the main geographical markets: northern, central and southern Europe. We excluded the eastern European countries from the analysis because the market liberalization is more recent and less data are available. The data are drawn from the firm-level AMADEUS database Bureau Van Dijk (Van Dijk Bureau, 2011) and Eurostat. The selection of the NACE codes relevant for the postal sector is based on Wolday and Engedal (2011). For the sake of consistency all the data refers to the year 2018. The analysis in this section refers to the postal activities as a whole, without a distinction between mail and parcel.

²In the literature, there is not unanimous consensus regarding which indicators better capture the level of competition in a market. Some authors suggest that also profitability may be useful to capture the level of competition (Oxera, 2019). However, indicators of competition based on profits might be less adequate than those based on revenues or employees for a comparative and preliminary evaluation. In fact, the comparison between different countries requires the use of data built following similar rules and accounting systems are not necessarily consistent among countries.

³ $HHI = \sum_{i=1}^n (S_i)^2$ where i represent the firms that vary from 1 to n ; n represents the number of firms competing in the market; and S_i is the market share of the firm being considered. By construction, the index's maximum value is 10,000 (100^2 in case there is only one firm in a market). The HHI is a well-established index that measures the concentration of the market. For instance, this index is commonly used by antitrust authorities to evaluate changes in the market structure in the case of a [possible] merger (US Department of Justice, 2010).

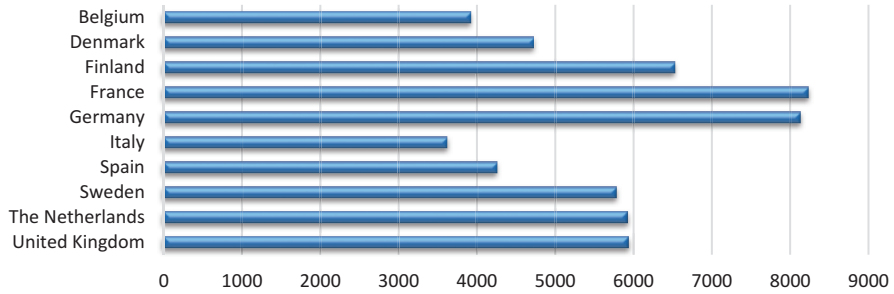


Fig. 1 Herfindahl index
 Source: our elaboration on AMADEUS database

conventional antitrust practice, when the value of the HHI index is higher than 2500 there is little doubt that a market can be considered highly concentrated.⁴ Our peculiar use of the HHI, applied not to “antitrust” markets but to total revenues of the sector, cannot indicate specific relevant markets’ concentration but provides a general indication of the potential for competition within the sector.

Considering that no EU country among those examined has values below the 2500 threshold, the postal sector appears to be considered highly concentrated everywhere. Nonetheless, relevant differences emerge. Germany, France and Finland have the highest values of this HHI, indicating that, in these countries, the largest part of the postal sector is in the hands of very few large players. The sector appears to be relatively less concentrated in Italy, Spain and Belgium.

A second, very general indicator, shown in Fig. 2, is the Competition Index developed by Bishop and Gripaios (2010). This is a proposed indicator of relative competition, as it measures the extent to which a country’s economy is characterized by the presence of a plurality of small players with respect to large ones. Countries characterized by a higher value of the index may be exposed, at least potentially, to a higher level of competition from small firms. More precisely, this index measures the competition in the postal sector as the proportion of firms with fewer than 100 workers in a country, divided by the same measure at the aggregate level, i.e., in our case considering all the 10 countries.⁵

A value above 1 of the Competition Index means that the country typifies a more fragmented, and presumably higher, level of competition than the average, while a value lower than 1 means the opposite. Figure 2 below shows that there are four countries that are characterized by a more fragmented and hence presumably higher

⁴See the European Commission “Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings” (2004/C 31/03).

⁵The index is calculated by $C = \frac{n_{cp}}{N_p} / \frac{n_p}{N_p}$ where n_{cp} represents the number of firms with less than 100 employees in the country c in the postal sector p , and N_p the number of all firms in the postal sector divided by the same proportion at aggregate level (here the 10 countries).

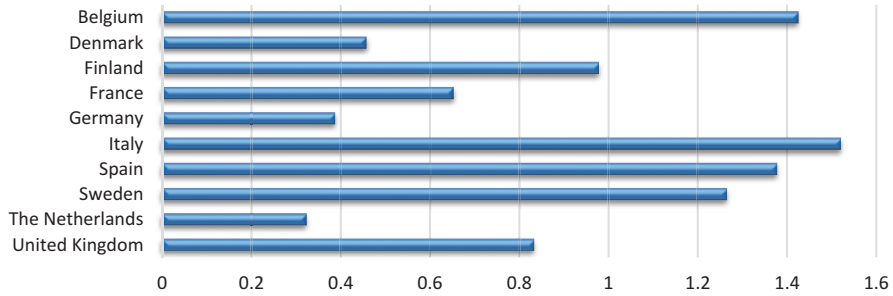


Fig. 2 Indicator of competition

Source: our elaboration on the AMADEUS database

level of competition. This second index appears largely diversified, with striking differences between otherwise similar countries, for instance the Netherlands has the lowest value and Belgium one of the highest. The Netherlands value, only slightly above 0.3, means that competition is primarily related to few large companies rather than to the presence of many small players, the value well above 1 of Belgium suggests the opposite.

Italy and Spain show similar patterns, both characterized by high values of the Competition Index. The particularly high indicator for Italy, with a value above 1.5, means that competition in Italy is characterized by a very high number of “small” firms.⁶

Even if these two indices of sector concentration and fragmentation are built to explore different aspects of competition and are computed using different data (revenues and employees, respectively), putting them together shows that they can lead to substantially comparable indications. Fig. 3 shows the values of the two indices side by side and clearly suggests that countries characterized by the highest concentration in postal services generally also present a low level of competition fragmentation. Countries such as Germany, the Netherlands and France, typically have one or two leading firms, which enjoy the largest market share, and relatively few small firms. Other countries, such as Italy, Spain and Belgium, present less concentrated and fragmented markets, showing more players with a significant market share plus a larger number of small firms.

Notwithstanding the limitations regarding the definition of the postal sector as a whole, these indices suggest the presence of three clusters of countries that are identified by similar values in terms of sector concentration and competition fragmentation. The first cluster, comprises Italy, Belgium and Spain, and appears to be

⁶This measure, however, cannot take into account the eventual capacity of small firms to pool together into networks or aggregate as consortiums, especially in the context of tenders or other large orders.

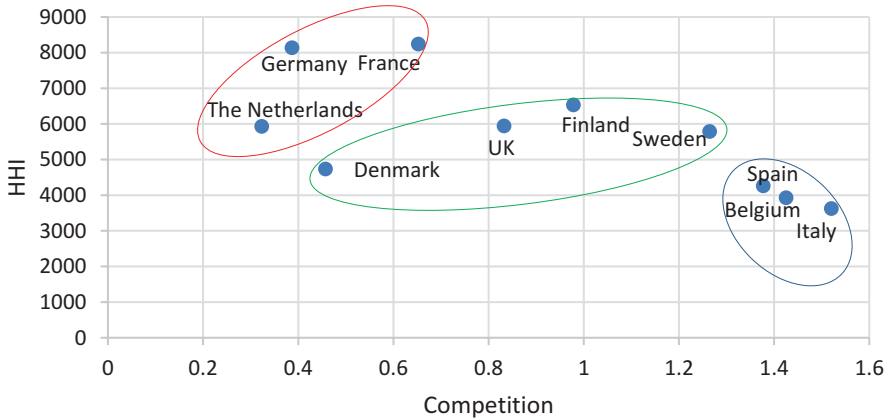


Fig. 3 Relation between HHI and competition index

characterized by a relatively lower level of concentration and a relatively high level of competition fragmentation. The opposite cluster, composed of Germany, France and the Netherlands, is characterized by a low level of competition fragmentation and a high level of concentration. The Netherlands do not reach the values of Germany and France in terms of concentration, but it has the lowest value of the Competition Index in the cluster.

Finally, a central cluster is composed of the UK, Finland, Sweden and Denmark. These countries are characterized by relatively average values for both indicators. In this third cluster, the most representative countries seem to be the UK and Finland, as their values are really close to the average for both indicators.

Regarding Italy and the Netherlands, it is important to remember that the data refer back to 2018, and thus depict the situation existing before certain important events. Since 2018, Italy saw the acquisition by the incumbent, of one of the largest competitors (Poste Italiane acquiring Nexive), and the Netherlands saw the merger between the two largest players in the country (PostNL and Sandd B.V.). For this reason, we may expect a further substantial increase of the HHI in Italy and the Netherlands in the following years (see below).

The aim of the present section was to suggest three “patterns” of competition through the analysis of secondary data. The subsequent section provides an in-depth qualitative analysis of these possible clusters. In particular, it analyses the institutional and regulatory dynamics and the market structure of one country for each of the three clusters identified: the Netherlands for the first cluster, which is characterized by high concentration and low fragmentation; the UK, which represents the intermediate cluster; and Italy, which well represents the cluster of countries that are characterized by competition fragmentation and relatively lower concentration.

3 Limited Competition and Increasing Concentration in the Netherlands' Markets

3.1 Legal and Regulatory Context for Competition

The state-owned Dutch Post Posterijen, Telegrafie en Telefonie (PTT) was privatized in 1989, and eventually became known as PostNL. The Dutch Postal Act 2009 liberalized the sector, in advance of the deadline of the 31 December 2010, set by the European Union in Directive 2008/6/EC. The Postal Act, along with the Postal Decree and General Postal Guidelines Decree set, among other things, the requirements for the Universal Service Obligation (USO) and identified PostNL as the designated provider. Political discussions about the modernization of the USO and its financial viability have been a constant in the last 10 years in the Netherlands. The Decree of 29 October 2015, amending the Postal Act 2009 in relation to the modernization and flexibility of the universal postal service, introduced important changes such as the reduction of the number of delivery days, the number of postal agencies and the number of letterboxes.

In July, 2017, the Dutch Ministry of Economic Affairs published a report on the future of the Dutch postal market (WIK 2016), concluding that maintaining an affordable, accessible and qualitatively good universal service was becoming too challenging for the USO provider, due to the ongoing decline in mail volume. On the basis of this report, the Government undertook a dialogue with the main actors in the sector, at the end of which the State Secretary sent her conclusions and recommendations about the future of the postal sector to the Parliament, and this provides the basis for the future of the postal policy in the country.⁷ In particular, the document introduced the key adage “*competition where possible and cooperation where necessary*” in order to analyze where competition is feasible and where cooperation is required.

In 2014, regulatory *ex ante* supervision, to be carried out by the Nederland's Authority for Consumers and Markets' (ACM) has been significantly extended with the introduction of the significant market power (SMP) regime, inspired by the regulation prevailing in the electronic communications sector. This new form of supervision is currently under discussion. The Dutch DG Energy, Telecommunications and Competition is of the opinion that a new form of entry regulation is required, but that it should be implemented “*in a lighter, more appropriate manner than is currently the case*”.

⁷“The Future of Postal Market”, 15 June, 2018, DG Energy, Telecommunications and Competition (unofficial translation).

3.2 *Market Structure and Key Market Players*

As everywhere, future demand for postal services in the Netherlands is mainly driven by digitalization. However, this trend is extraordinarily strong in the Netherlands in comparison to many other European countries. The market for parcels has grown tremendously over the past few years because of the high propensity of Dutch consumers to shop online. In 2019, the total volume of parcels sent increased by 12.8% over the previous year. With the delivery of 576 million parcels in 2019, parcel delivery providers were able to generate 10% more turnover than in 2018, reaching a total of 2.79 billion euros. In both the mail and parcel markets, PostNL is the largest service provider.

At the beginning of the 2000s, the number of providers active in this market was increasing, with Sandd B.V emerging as the major competitor to PostNL.⁸ In practice, Sandd was PostNL's only national competitor in the postal market until February 2019, when PostNL notified to ACM, the Dutch regulator, its intention to acquire the company. ACM, which has authority to review mergers, after a thorough investigation, decided to deny the authorization to the acquisition.⁹ In its view, without Sandd's competitive pressure, PostNL's prices for business mail would likely increase by 30–40%. Also, prices for consumer mail were expected to increase more than they would without the acquisition.

Moreover, according to ACM's analysis, the acquisition was not necessary to secure the provision of the universal service, as argued by PostNL, since PostNL would be able to continue to provide the universal service under economically acceptable conditions. After the ACM's rejection of the proposed merger in September 2019, PostNL and Sandd, disagreeing in particular with the asserted sustainability of the postal service, applied to the Ministry of Economic Affairs and Climate Policy for an exceptional approval under Article 47 of Dutch competition law. This Article allows the Ministry to apply to mergers a different framework, which can take into account arguments related to the public interest, including employment, and the continuity and affordability of the universal postal service. At the end of September 2019, the Ministry granted its approval subject to a set of conditions. This has been the first time, in the Netherlands, that the Minister approved a merger overruling ACM's refusal to grant the authorization.¹⁰

In the parcels market, competition in the Netherlands is more intense than in mail. The cross-border parcel market segment is the most competitive, but also in

⁸ Sandd B.V had been active in the country since 1999, and offered transportation, sorting, distribution, and delivery of addressed printed media, such as direct mail and magazines to subscribers.

⁹ <https://www.acm.nl/en/publications/acm-does-not-grant-license-acquisition-postal-operator-sandd-postnl>

¹⁰ The decision can be found here (in Dutch): <https://www.rijksoverheid.nl/actueel/nieuws/2019/09/27/onder-streng-voorwaarden-vergunning-voor-overname-sandd-door-postnl>

the domestic market, there are four main competing parcel services providers: PostNL, DHL Parcel, DPD and GLS, each with its own infrastructure.¹¹ There are also various niche companies active in providing specialized services.

Despite this apparently competitive picture, the parcels' market is highly concentrated, PostNL and DHL basically account for 90% of the market. Data collected by ACM for 2019, reveal that PostNL had a market share of 60–65% in the domestic market, based on volume and turnover (in comparison to 55–60% in 2015). The second firm, DHL Parcel, had 25–30% market share in both cases (the same as in 2015). DPD and GLS, the third and fourth players, respectively have both a market share of 0–5%, based on volume, and 5–10% and 0–5%, respectively, based on turnover.

Looking closely at the domestic parcels market, ACM's analysis for 2019 reveals that the competitive positions between the competitors varies across segments. The B2B segment is more evenly distributed among the four providers, while in B2C the market it is mostly concentrated with PostNL and DHL Parcel. The size of the B2B segment was 96 million in 2019 (5% more than in 2018) and the turnover €449 million (4% more than in 2018). PostNL was the largest parcel carrier also in this segment, with a market share of 50–55%, based on volume. DHL Parcel and GLS follow, with 30–35% and 5–10% market shares, respectively. DPD's market share is 5–10% by volume. In comparison to a year before, DHL Parcel's share has increased (as in recent years), and GLS and DPD's shares have fallen (as in recent years). The volume of the B2C segment was 280 million in 2019 (17% more than in 2018) and the revenue €938 million (18% more than in 2018). This segment is almost entirely controlled by PostNL and DHL Parcel. PostNL is by far the largest parcel carrier in the B2C segment, with a market share of 65–70%, based on volume. DHL Parcel's market share in the same segment, as in the previous year, is around 25–30%. In C2X, the segment that includes services that are designed to carry parcels on behalf of consumers and small businesses, the dominance of PostNL is even stronger than in the other segments.

In conclusion, the ACM found that in 2019 the concentration in the postal and delivery markets of the Netherlands had further increased in all market segments in comparison to the previous years, a situation that the new merger can only reinforce.

¹¹The Netherlands Authority for Consumers and Markets (2016), The Dutch Parcel Market, November 2016.

4 An Intermediate Case: United Kingdom

4.1 Legal and Regulatory Context for Competition

The UK transposed the three EU Postal directives into the national legal order through the Postal Service Act 2000 and the Postal Service Act 2011. Beginning with the Postal Service Act 2000, the UK started liberalizing its postal market allowing the introduction of a certain degree of competition.¹² Full liberalization had been introduced in 2006, 4 years before the 2010 deadline established by the Third Postal Directive.¹³

The postal regulator's (Ofcom) primary duty is to secure the provision of a financially sustainable and efficient universal postal service, while promotion of competition in the postal market. In accordance with Section 38(4) of the Postal Act, Ofcom may impose access to the universal service provider's network only if such an obligation will simultaneously promote efficiency and effective competition and will confer significant benefits on the users of postal services. To date, however, Ofcom has never decided to impose a general access obligation.¹⁴

Since the adoption of the regulatory framework in 2012, which was to expire in 2019, there have been a number of important market developments, which led Ofcom to launch, in June 2015, a general review of the existing regulation. The objective of the review was to ensure that regulation remains appropriate and that it is sufficient to secure the efficient and sustainable provision of the universal postal service. While Ofcom acknowledged that the Royal Mail faces a number of challenges that could affect its ability to earn future returns within the 5–10% EBIT margin range, which Ofcom considers indicative of a reasonable commercial rate of return, it decided that, in the immediate future, the universal postal service is likely to remain financially sustainable. Ofcom's overall conclusion was that "market

¹²The liberalization allowed a general increase of the service quality mainly due to two forces, innovation introduced by new operators and by Royal Mail ("track and trace", "two-day, time-certain product"), and more customer choice (House of Commons, 2005).

¹³Moreover, following the passing of the Postal Services Act 2011, the UK has become one of only a few European countries that have fully privatized their incumbent postal operator.

¹⁴Both universal and general access conditions require the provider to do either or both give access to its postal network to other postal operators, or to users of postal services, and maintain a separation for accounting purposes between such different matters relating to access (including proposed or potential access) to its postal network as OFCOM may direct. Furthermore, in deciding what obligations to impose in either a USP or general access condition, Ofcom must take into account five factors, which are listed in Section 38(8) and Section 50(5). These five factors are: (i) the technical and economic viability, with regard to the state of market development and of installing and using facilities that will make the proposed access unnecessary; (ii) the feasibility of giving the proposed access; (iii) the investment made by the universal service provider (Section 38(8)), or by the postal operator (Section 50(5)), in relation to the matters in respect of which access is proposed; (iv) the need to ensure effective competition in the long term; and (v) any rights to intellectual property that are relevant to the proposal

conditions and shareholder discipline are more likely to be effective in securing an efficient and financially sustainable universal postal service than the imposition of additional regulation” (Ofcom, 2017). Consequently, it decided to extend the application of the current framework until 2022.

4.2 *Market Structure and Key Market Players*

The Royal Mail Group is the UK’s incumbent, and consequently the largest, postal operator. Today, Royal Mail faces competition only in the growing parcels business, whereas its position in the final mile letter deliveries remains unchallenged. While the volume of addressed letters has been in steady decline across the whole of Europe, the UK continues to have a relatively high number of letters per capita (151 per annum) compared to other European countries.¹⁵ Still, Royal Mail expects addressed letter volume to decline annually by 4–6% in the medium-term, mostly due to continuing e-substitution.

In contrast to the decline in the letter market, the parcels market has witnessed strong growth in recent years (by 11% in 2017–2018) due to the increasing popularity of online retail shopping (Ofcom, 2018). Two trends, in particular, have invigorated competition in that market in recent years. First, the number of retailers that offer their own delivery services has grown. For example, with the launch of its own delivery service, Amazon was able to capture 3% of the UK parcel market in just 1 month. Second, in-store collection and delivery services have also grown significantly. Furthermore, as parcel carriers continue to invest in new capacity, pricing pressure increases. According to the Royal Mail’s estimate, at present there is approximately a 25% overcapacity in the UK parcel market (Royal Mail, 2018).

In the UK letters market, two forms of competition are theoretically possible—access and end-to-end, also known as direct delivery or bypass competition. Access competition, which allows other operators to offer postal services to larger business customers for letters and large letters, without setting up a delivery network, continues to prevail. In 2018–2019, it accounted for 65% of all letter volumes, a 2% increase in comparison to the previous year. End-to-end competition, in which a postal operator undertakes the entire process of collecting, sorting and delivering mail, is a relatively new form of competition, and was present only on an extremely limited scale. It reached a peak of 1.3% of all letter deliveries in 2014–2015, due to the entry and growth of Whistl (formerly known as TNT Post), which sought to establish itself as an end-to-end operator. However, after Whistl exited the market in 2015, the share of end-to-end operators fell to approximately 0.1% in 2017–2018, re-establishing access to Royal Mail network as the only form of last-mile delivery in UK’s letter markets (UK House of Commons, 2020).

¹⁵This is 30% above the average of 117 letters per capita for ERGP countries (ERGP, 2019).

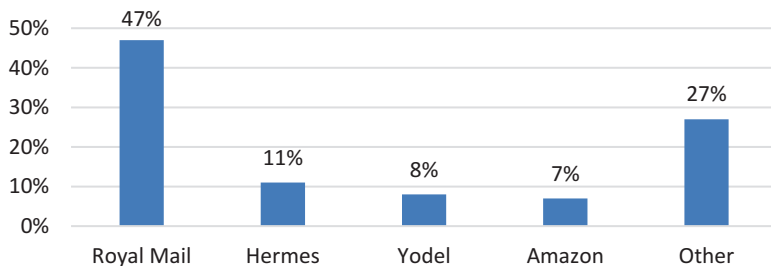


Fig. 4 Distribution of the courier parcel market in the United Kingdom in 2017
 Source: Statista Dossier Postal Services in the United Kingdom.

The parcel market in the UK is largely unregulated. While, similarly to the letters market, Royal Mail offers an access service for parcels; this access product is not mandated by regulation, but it is offered by the incumbent operator voluntarily on a commercial basis. Yet, access competition in the parcels market remains small, both in terms of volume and revenues, as end-to-end competition prevails, since most parcel operators rely on their own networks.

In recent years, there have been some relevant mergers in the parcel sector. In March, 2019, Delivery Group, which is also an access letters operator, acquired ONEPost, another access letters and parcels operator. In December, 2018, Whistl acquired the Spark Ecommerce Group, a fulfilment and contact centre company. Previously, Whistl had acquired Parcelhub and Mail Workshop in July, 2018, and Prism DM in August, 2017. In September 2018, DHL Parcel UK and Smith News concluded an agreement, on the basis of which DHL took over the parcel shop network that was used by Smith News’ Pass My Parcel (Ofcom, 2019).

In synthesis, in the UK, Royal Mail retains a *de facto* monopoly of postal delivery, but with a significant share of intermediate access to its network. It is a major player in parcel delivery (Fig. 4) but faces lively competition from sizable operators strengthened by a recent process of consolidation and a significant capability to implement their own end to end parcel’s delivery networks.

5 The less Concentrated Italian Postal Market

5.1 Legal and Regulatory Context for Competition

As established by Legislative Decree n. 58/2011, which transposed the third European postal directive and concluded the process of liberalization, the former incumbent Poste Italiane (in the following also PI) was entrusted with the provision of universal service until 30 April 2026, subject to a potential revocation every 5 years if the obligations of the contract are not fulfilled.

Regarding access, AGCOM, the Italian regulator, has the power to impose such an obligation, if necessary, as provided by Legislative Decree No. 261 of 1999. AGCOM intervened in the matter of access for the first time in 2013 when, in the aftermath of a market analysis, it found that Poste Italiane had a dominant position in the provision of single consignments, and that it did not offer wholesale services for multiple consignments. Having identified these as barriers to entry, it adopted resolution 728/13/CONS, which imposed on Poste Italiane an obligation to negotiate a wholesale offer with other operators for access to its postal network at fair and reasonable terms. To further facilitate access by competing operators to Poste Italiane's network, in 2017 AGCOM adopted a new access resolution (Review of the provisions regarding access to the network and infrastructure of Poste Italiane).¹⁶ This resolution built on the access regime that had been laid down in the past, but also provided that, in the event that alternative operators request access to certain delivery areas where only Poste Italiane has a network (technically defined as Extra-Urban2 – 'EU2 areas'), PI must apply cost-oriented tariffs.

Despite the fact with mandatory access the incumbent operators face a risk of cream skimming by competitors, AGCOM decided that Poste Italiane should nonetheless negotiate access to its network, for the entire territory, on fair and reasonable conditions. According to AGCOM, such an approach is warranted as, in order to promote competition from alternative operators, Poste Italiane still has high levels of the market share and that its network is not entirely replicable, at least for ordinary mail.

5.2 *Market Structure and Key Market Players*

The Italian postal market has followed the trends observed in the other countries. Recent data released by AGCOM (2020) show that, between 2015 and 2019, the Italian postal sector experienced an overall decrease in volumes of 23%, but with a 16.3% increase in revenues.¹⁷ The increase in revenues, mainly due to the provision of new mail products outside the scope of universal service, appears to be linked to the increased ability of operators to enhance their performance through the development of new value-added services.

In the same period, the parcel segment had recorded an important overall growth. In particular, the parcel segment that falls outside the universal service has grown remarkably, by 82%, in terms of volume and 45.1%, in terms of revenue. The growth of volumes, much higher than the growth of the corresponding revenues, indicates the increasing competition in this specific segment of the market.

¹⁶AGCOM (2020), Resolution 384/17/CONS.

¹⁷The same trend occurred in many other European countries, even if the Italian case showed values largely above the average. European countries included in the ERGP report 2019 showed an average decrease of 3.6% of volumes and an increase of 1.9% of revenues in the same period.

According to data from AGCOM (2020), at the beginning of this year, 3159 firms were active in the postal market that is 3.4% more than in 2018. Poste Italiane competes in postal services (letters) mainly with two types of operators: national operators that cover 75–80% of the territory, and regional operators, that cover approximately 17–27%. In terms of the share of the consignments, in their respective areas of activity, national competitors accounted for roughly 10%, whereas the regional operators accounted for 20–50%.

The emergence of the end-to-end competition model in Italy was recognized in two recent AGCOM resolutions, in which the Authority highlighted that alternative operators have substantially duplicated the network of Poste Italiane, reaching a coverage (for the category of “*indescritta*” ordinary mail) of around 94% of the population.¹⁸ In addition to the high level of competition that is based on alternative networks, the authority, as already mentioned, has introduced obligations for “access” to retail services and to Poste Italiane’s network by competitors, determining a *hybrid* model that is quite unmatched in other European countries.

Regarding the market share of mail services that do not fall within the scope of the universal service, in 2019, Poste Italiane held a share of approximately 73%, up 1.7% compared to the previous year, while the market shares of all the other postal operators were either slightly decreasing or stable.

Figure 5 shows the strong position of Poste Italiane, which in the 2019 consolidates the leadership in relation to mail services, and the position of the next actor (Nexive), with a market share close to 20%, decreasing of 1.4% in comparison to the previous year.

However, the anomalous Italian situation, in which PI has one significant competitor in postal delivery, comparing to the present *de facto* monopolistic situation of the Netherlands and the UK, has changed at the beginning of 2021. Poste Italiane has acquired from the Dutch company PostNL and the Germany company Mutares Holding the entire share capital of Nexive, its only significant competitor.

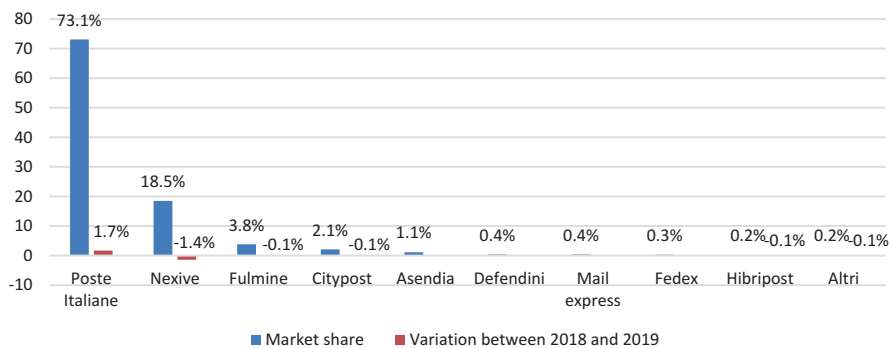


Fig. 5 Market share of postal services (letters) outside of the USO, 2019
Source: AGCOM (2020)

¹⁸Delibera 384/17/Cons and Delibera 452/18/Cons.

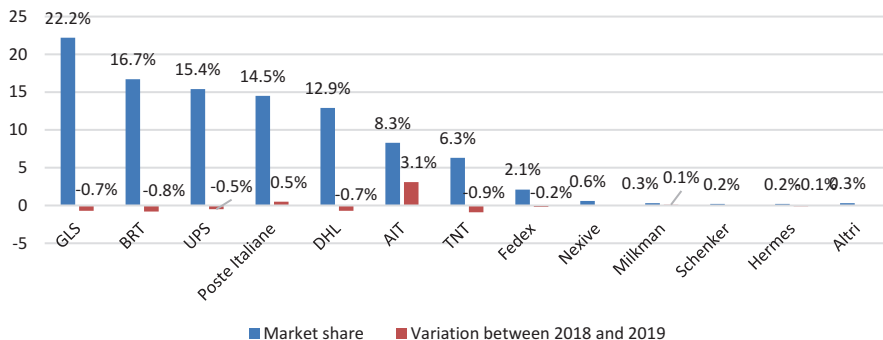


Fig. 6 Market share of postal services (parcels) outside of the USO, 2019
Source: AGCOM (2020)

While negotiations started in 2018, difficulties in the business mail sector, recently exacerbated by the Covid sanitary emergency, have accelerated consolidation in the sector. The concentration was facilitated by an article in the so-called August Decree that authorizes mergers involving companies active in market characterized by (a) high labor intensity, (b) a loss in the last three financial exercises (years) and c) considered of national general economic interest.¹⁹ This provision allowed Poste Italiane, the incumbent postal operator, to acquire Nexive without the expected opposition from the Italian competition authority.

In the parcel segment, in Italy, there are numerous companies of comparable size operating nation-wide and fiercely competing amongst themselves. Figure 6 shows that while five operators have a market share higher than 10% (GLS, BRT, UPS, Poste Italiane and DHL), no operator has a market share above 25% and Poste Italiane is only the fourth player in the market. It is worth noting the strong increase in the market share of Amazon (AIT) which, with an increase of 3.1% in the last year, has now reached 8.3% of the market.

At present, Amazon is the only vertically integrated online platform in the parcel delivery sector while it remains one of the main customers of many other postal operators. In any case, e-commerce platforms, such as Amazon, appears to have a strong potential capability to compete in parcel delivery with respect to more traditional postal operators.

Italy today probably remains the most competitive market in postal delivery in Europe. In particular, it is certainly unique in contemporaneously having E2E competition, although after the Nexive acquisition only from local operators, and a highly regulated access regime. Regarding parcel delivery, the fact that PI has only the fourth highest market share is anomalous with respect to other countries, where competition in parcels is present but incumbent postal operators are still the market leaders. The acquisition of Nexive may certainly have reduced the anomaly of the

¹⁹Law Decree of 14 August 2020, n. 104, Urgent measures to support and revive the economy, art.75.

relatively high competition in the mail markets but it is very unlikely to influence the situation in the parcel sector.

6 Conclusion

In fully liberalized postal and delivery markets, at least three different levels of competition are possible: (i) end-to-end competition, where new entrants develop and operate alternative networks; (ii) access-based competition, where competition takes place only in some sections of the delivery chain and, (iii) a mixed bypass model, where duplicated and alternative infrastructures coexist with access to the incumbent's network, and where new entrants engage in end-to-end competition in some parts of the country while relying on the incumbent's infrastructure in others.

From a purely competitive point of view, the end-to-end model is apparently preferable. However, since its liberalization, the postal sector in the European Union has undergone significant changes, which have altered its economics considerably. Demand for traditional postal services (i.e., mail) has been rapidly declining, very much affected by the substitution of paper mail by digital alternatives, resulting in diminishing scale effects for postal operators. With respect to parcel delivery, the growth of e-commerce has led to significant growth in volume accompanied by substantial changes in market structure.

These changes have put the sustainability of the postal services that are included within the scope of the USO at risk. This has, in turn, ignited an intense debate about the impact of the different models of competition between operators with different responsibilities with respect to the universal service, and more fundamentally on the very scope and sustainability of the universal service.

This debate, however, as we discussed earlier, encounters different market realities. From the analysis emerges an important distinction that must be made when assessing the different models of competition. It is clear that the positions of the incumbent postal operators and competitive dynamics differ considerably in the letter and in the parcel sector across countries.

In the UK's, where E2E competition was always very modest, the letter market share of end-to-end operators fell to approximately 0.1% in 2017/2018, after the exit of Whistl from the market. In both Italy and the Netherlands, E2E competition in the letter market was more relevant. In Italy, the market shares of PI in this segment were around 73%; in the Netherlands, the market share was in the range of 75–80%. However, after the approval of the *PostNL/Sandd* merger, the Dutch postal market now is a *de facto* monopoly. In Italy, the acquisition of Nexive by PI, reestablished a super dominant market share of above 90%.

The lecture for the future of competition in the letter's markets appears clear. On the one hand, the exit from letter delivery of Whistl in the UK and the mergers in the Netherlands and Italy appear to witness the fragility of a competitive equilibrium in a rapidly declining mail industry. On the other hand, the evolution of the UK

market suggests that a well-regulated access policy may lead to some sort of equilibrium, possibly favoring a more orderly transition to digital substitution.

In contrast, the competitive dynamics in parcel markets remain more heterogeneous across the three competitive clusters and our case studies confirm this variability. In all three countries, E2E competition essentially prevails. In the Netherlands, PostNL has an approximately 55–65% market share, in the UK Royal Mail has 41% (in terms of revenue), whereas in Italy Poste Italiane has approximately 20–30% of the deliveries. In the Netherlands, where the incumbent operator has the highest market share, concentration is more significant, as there are basically only two main competing operators (90% of the market is shared between PostNL and DHL). Instead, in the UK and in Italy, the parcel market today appears quite competitive.

For parcels, the growth of e-commerce justifies further investment and innovation which, in turn, makes entry and competition economically feasible. In contrast, declining volume in the letter market makes it increasingly improbable that a sound business case can be built around any form of E2E competition, even in the “best” case scenarios where new entrants are allowed to skim off the incumbent’s revenues by engaging in competition in some areas while seeking access in others.

In conclusion, the declining volumes in the mail (letter) market, and the increasing volumes in the parcel market, appear to present an important bearing on the future of investment in the postal sector and suggest some indications for its final competitive assets. At present, it is likely that the postal and parcel markets competitive assets will continue to diverge, one toward more concentration and the other toward more competition, following a trend dictated by the different evolutions of their respective demands.

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Cartels in the Postal Industry: A Behavioral Theory Consideration of the Game Theory of Leniency Policies



Adam Goodman and Gráinne Murphy

1 Introduction

In recent decades, there has been increasing impetus within European and global competition authorities to eradicate cartels.¹ A cartel is formed when two or more firms enter into an agreement to fix the price or restrict the supply for a good or service. Cartels are recognized to result in harm because they lead to higher prices by limiting quantities, choice, and innovation offered to consumers. Recognizing the detrimental impact of collusion, competition authorities have put in place mechanisms to detect and inhibit cartels. One of the policies that has been introduced to combat cartels are leniency programs designed to destabilize and expose existing cartels and act as a deterrent to the establishment of potential cartel agreements.

The illegality of cartels means that the communications and agreements between the member firms are conducted in secret, so it has typically been difficult for authorities to expose the collusion. Trust that its fellow cartelists will not betray and reveal the agreement to authorities is intrinsic to the establishment and stability of any cartel. Leniency programs are systems set up by authorities that, in exchange for revealing and providing evidence on the cartel, gives a cartelist total or partial exemption from the penalty that it would have received for its involvement. As we set out in Sect. 4, the theory that informs the leniency policy suggests that by reducing or eliminating the cost of renegeing on the agreement by offering immunity, the trust between the cartelists is destabilized and whistle blowing can become the best strategy to follow.

¹See, for example, the OECD's recommendation regarding cartel regulation, here: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0452>

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Almost 90 jurisdictions² operate a leniency program to combat cartels. There are, however, differences in the specifics of programs or the wider legal framework in which the programs operate between different jurisdictions. For the purposes of this paper, we focus on the policies implemented by the European Commission, and the Competition and Markets Authority (CMA) and concurrent competition authorities (for example Ofcom) in the UK. In Sect. 2, we set out the key elements of the programs. In Sect. 3 we give an overview of cartels in the postal industry that were discovered via the leniency policy.

In Sect. 4, we discuss reasons why the outcomes predicted by the theory might not be realized by leniency programs by exploring the game theory behind the policy, and how game theory predicts these outcomes when key assumptions are changed. We believe that a potential source of difference between the success of leniency programs as predicted by the theory, and any lesser efficacy of the leniency policies enacted, could be due to unrealistic and artificially narrow assumptions as to how cartelists behave, inherent to the classical theoretical modelling.

2 The Implementation of Leniency Policy

Many countries employ leniency programs to combat cartels, all of which operate by offering to a cartel member that exposes and provides evidence on the cartel either complete exemption from the fines that it would have received, or a reduction in those fines. While the central characteristics are consistent across jurisdictions, there are differences in the particulars of the application of the various programs. For this paper, we have regard to the key features of the programs enacted by the European Commission³ and the CMA,⁴ which we set out below.

2.1 *The Process of Claiming Leniency and the Dispensations Available*

The *first* business that is granted immunity by either authority will be able to benefit from immunity from any fines that would have been imposed, and an agreement not to pursue a criminal prosecution for its role in the cartel if the whistle blower is an individual. In order to qualify as first mover, and therefore enjoy full immunity, the

²Figure 2 of the OECD's *Review of the Recommendation of the Council concerning Effective Action against Hard Core Cartels* (2019), shows total leniency policies by year of introduction. Found at: [https://one.oecd.org/document/DAF/COMP\(2019\)13/en/pdf](https://one.oecd.org/document/DAF/COMP(2019)13/en/pdf)

³The landing page for the European Commission's leniency policy is found here: https://ec.europa.eu/competition/cartels/legislation/leniency_legislation.html

⁴The main page for the CMA's leniency policy is found here: <https://www.gov.uk/guidance/cartels-confess-and-apply-for-leniency>

company needs to satisfy the authority that the evidence provided would facilitate a targeted inspection or establish a cartel infringement.⁵

In the UK and EU, any firms that comes forward after the first whistle-blower could also gain concessions. A second applicant would have to provide to the authority evidence of “significant added value”⁶ such that the authority judged that it strengthened its ability to make an infringement finding on the remaining cartel participants. A company granted this status could benefit from a 30 to 50%⁷ reduction in their fine. Indeed, a third applicant could be allowed dispensation of up to 20%⁷ of a fine if it could convince the authority that the value of its evidence could significantly add value to the prosecution on top of that provided by the first two applicants.

To manage and provide potential applicants with clarity on whether they would be treated as a first, second or third whistle-blower a ‘marker’ system operates. The European Commission and/or CMA will grant a ‘marker’ to a successful applicant for leniency. This will identify to any other potential whistle-blower within the same cartel that they would be treated as a second or third applicant if its application were to be accepted. In the UK a “single queue system”⁸ operates. Though several regulators enforce competition law, only the CMA can hand out markers for cartel leniency.

Once the marker is given, the authority sets a deadline for the company to provide the relevant evidence for the endorsement of the marker. The marker system has been set up to operate such that a company can inquire about the markers that may have been granted (for a certain cartel) while retaining its anonymity, in case it decides not to whistle blow.

Continuous cooperation by the whistle-blower is a key condition for any applicant to retain its immunity under the leniency programs. The evidence provided by the company must include all the appropriate details it had knowledge of on the operation of the cartel, and the authorities will require cooperation and the requirement for any relevant information needed for the whole period leading to a successful prosecution of the cartel.

⁵EU 2006 Leniency Notice, II Immunity from Fines, A) 8 a) and b), found at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:298:0017:0022:EN:PDF>

⁶See Table A – Types of leniency, here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/284417/OFT1495.pdf

⁷EU 2006 Leniency Notice, II Immunity from Fines, B) 26, found at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:298:0017:0022:EN:PDF>

⁸See guidance published by the CMA, here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/893921/information-note-on-arrangements-for-handling-of-leniency-applications.pdf

2.2 *Other Key Features of the Programs*

The authorities are very conscious that an applicant that exposes their part in a cartel or a cartel in which they were a member could open themselves up to litigants seeking damages for the harm caused by the cartel. The EU Damage Directive limits the liability of firms that have received immunity under the leniency program of the European Commission or a national competition authority “to their own direct or indirect purchasers or providers”.⁹ Furthermore, the EU Damage Directive also exempts leniency statements and settlements from disclosure to parties seeking civil damages. This is not necessarily the case across all jurisdictions around the world – so if a cartel operates globally it might still be exposed to civil action in another country after it has been exposed.

3 Case Studies in the Postal Industry

We next discuss three major cartel cases within the postal industry, that were brought to light via the leniency policy, under the EU and UK jurisdictions.

3.1 *Royal Mail and the SaleGroup*

Royal Mail and a reseller of its business parcel delivery services – The SaleGroup – admitted being part of an illegal anti-competitive agreement, with Ofcom concluding the case in November 2019. Both companies admitted to breaking competition law, and The SaleGroup agreed to settle the case.

In May 2018 Royal Mail reported to the CMA that its ParcelForce division had an agreement with The SaleGroup (trading as Despatch Bay) that neither company would offer parcel delivery services to each other’s business customers. The CMA subsequently handed the matter over to Ofcom (as the regulator for postal services). Ofcom carried out an investigation into the alleged agreement.

ParcelForce provides parcel delivery services to its customers directly and via resellers. The SaleGroup, an online reseller of parcel delivery services, arranges deliveries for small and medium-sized business customers via multiple parcel operators rather than carrying out deliveries itself. The company also offered its customers a single point of contact for administrative services such as billing and invoicing. Both competed for customers at the retail level of the supply chain.

Ofcom gathered correspondence between Royal Mail and The SaleGroup which demonstrated that the two companies implemented, monitored, and enforced an

⁹See (38) at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0104&from=en>