FULL LIBERALIZATION OF THE POSTAL SERVICES MARKET IN THE REPUBLIC OF CROATIA - FIRST EXPERIENCIES

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Abstract: *Although the Republic of Croatia has been a full member of the European Union since 1 July 2013, it achieved full liberalization of its national postal services market and opened it for competition already in early 2013. This article provides an overview of first experiences and of the current situation on the postal services market in the Republic of Croatia in the past nine months from the legislative and regulatory point of view, with a special emphasis on (expected) trends in the future period of time.*

Keywords: *postal services market, market liberalization, HAKOM*

1. Introduction

One of the main objectives of the establishment of the European Union - EU was the creation of the internal market[1] with unique conditions and manner of operation for all Member States. Liberalization plays a very important role in the achievement of that objective and it is one of the key means of consolidating infrastructure and of great importance for more efficient development of the common market. This, *inter alia,* includes the liberalization of the postal sector both at the global and national level of each Member State.

The postal services sector at the EU level was established in 1997 by one Directive which was so far amended twice:

– Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service (First Postal Directive),
– Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services (Second Postal Directive),
– Directive 2008/6/EC of the European Parliament and of the Council from 2008 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services (Third Postal Directive)

[1] *Treaty on Functioning of the European Union: "the internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured…".*

The Directives were implemented with a view to achieving the harmonization of the postal services market at the European level, that is, in the EU Member States and in potential Member States and candidate countries.

Following the practice in EU Member States, Republic of Croatia - RoC formally liberalized the postal services market on 1 January 2013 and, as opposed to other EU Member States, it achieved full liberalization even before the accession to the Union. However, the liberalization process was a long process, and the RoC, gradually, and for the purpose of harmonization, transposed into its legislation the EU regulatory framework on postal services in order to be ready for complete liberalization of the postal services market at the moment of accession to the EU. The alignment of normative solutions and regulatory approach in the postal services sector with the EU requirements created the basic preconditions for full liberalization of the postal services market in the RoC and its integration into the European and international postal infrastructure.

2. Process of Liberalization of Postal Services in the Republic of Croatia

Gradual market liberalization in Croatia started already in 2003 when the Postal Act formally ended the monopoly of HP-Croatian post Inc. - HP on postal items exceeding 100 grams, and when the first regulatory authority for postal services was established – Postal Services Council - PSC. The process of alignment with the relevant EU *acquis communautaire* continued in 2005 with the reduction of the scope of universal postal services, the definition of courier services and the strengthening of obligations and public authority of the PSC.

In 2008, the Government of the RoC adopted a Strategy for the Development of Postal Services in the RoC until 2013 which represented a basic document laying down the principles and guidelines for the development of the postal services market and national priorities for the preservation and development of postal services, in particular of universal postal services. The strategy established a timeline for further liberalization of the postal services market in the RoC on the basis of a gradual market liberalization scenario. The objective of such a scenario was to prepare the national postal services market and the public operator; HP, for complete market liberalization while ensuring the availability of universal postal services (the opening of the postal services market and complete market liberalization were envisaged for early 2013). The Government prepared an Action Plan with individual activities and measures until the end of 2013 as the deadline for the fulfilment of strategic objectives laid down in the strategy.

This was followed by further liberalization of national legislation which included decreasing the weight limit of the reserved area of postal items from 100 grams to 50 grams and reducing the price cap from triple the amount of the price of the first weight step of the fastest category of postal items to 2.5 times the amount of the same weight and category of a postal item. Furthermore, regulatory activities on the electronic communications market and on the postal services market were consolidated in a new, single national regulatory authority, the Croatian Post and Electronic Communications Agency - HAKOM, with increased and strengthened authority in the postal services sector, in particular in relation to market regulation.

This was followed by the adoption of the 2009 Postal Services Act which completely aligned national legislation with the Second, and partially, with the Third Directive thus establishing a contemporary, quality and efficient regulatory framework necessary for further development of postal services.

The last part of the process was the adoption of a new 2012 Postal Services Act which fully transposed the Third Postal Directive and officially achieved the elimination of the exclusive right to the provision of reserved universal postal services, that is, the right of monopoly in the provision of reserved universal postal services.

3. Legislative Framework for the Provision of Postal Services

The legislative framework regulating the postal services market in the RoC was laid down in the law and in subordinate legislation. The basic act in the postal services market sector is the Postal Services Act - PSA adopted in late 2012, which entered into force on 1 January 2013. This Act completely transposed the EU *acquis* contained in the Third Postal Directive, which refers, in the first place, to the complete liberalization of the postal services market since 1 January 2013, to ensuring the provision of universal service and to determining the manner of financing the universal service provision.

The PSA regulated postal services, laid down the conditions for the provision of those services and for ensuring and financing the universal service, it regulated the rights, obligations and responsibilities of providers and users of postal services, the conditions of access to the postal network and the issuing of postal stamps of the RoC and of charity stamps. It also laid down HAKOM's duties in relation to regulatory activities in the postal services sector, the carrying out of inspection supervision in the postal services sector and other issues related to the provision of postal services.

Changes in relation to the previous PSA include, in the first place, the elimination of exclusive rights (monopoly) to the provision of reserved services, the manner of defining one provider of universal service in the entire territory of the RoC, a different division of postal services, a financing mechanism for universal services (compensation fund), ensuring network access for users of services and the granting of rights and obligations for the provision of the universal service to HP in the entire territory of the RoC for a period of 15 years, together with a mechanism for reviewing the conditions for the provision of universal service. Furthermore, the PSA was aligned with the Electronic Communications Act thus ensuring the continuation of regulation of postal services within the framework of a joint regulatory authority for postal services and electronic communications - HAKOM. This alignment referred in the first place to the delegation of authority of inspection supervision over the provision of postal services from a central state administration body to a regulatory authority - HAKOM and the regulation of dispute resolution, carried out by HAKOM, between users of services and providers of postal services in a simpler and clearer manner for both parties in the dispute.

According to the PSA, postal services comprise:

- universal service
- interchangeable postal services and
- other postal services

The provision of universal servicewas regulated in such a manner that HP was granted the right and obligation to provide the serviceon the entire territory of the RoC for 15 years, while the provision of interchangeable and other postal services is carried out on the basis of an application submitted to HAKOM. On the basis of the submitted application, HAKOM evaluates whether the services in question are interchangeable postal services taking into account the characteristics of notified postal services, their purpose from the point of view of users of postal services and the price of services, and on the basis of that, adopts a decision on the provision of interchangeable postal services.

It must be pointed out that subordinate legislation (Ordinances) are adopted in addition to the PSA by the line ministry and HAKOM. Thus, the Ministry of Maritime Affairs, Transport and Infrastructure adopts the Ordinance on official identity cards and badges of postal services inspectors and postal services supervisors and the Ordinance on postal stamps, while HAKOM adopts the Ordinance on the provision of universal service, the Ordinance on the functioning of the Customers` Protection Commission and Ordinance on payment of fees for carrying out of tasks of HAKOM.

4. Croatian Post and Electronic Communications Agency

The establishment of a regulatory authority is one of the basic elements of a regulatory framework aimed at achieving a common postal services market in the EU, which is why the First Postal Directive imposed an obligation on Member States to establish national regulatory authorities (NRA) for the postal sector.

The national regulatory authority for the carrying out of regulatory and other tasks within the scope and competences laid down in the Electronic Communications Act and the PSA in the RoC is the Croatian Post and Electronic Communications Agency. HAKOM is an independent, autonomous and non-profit legal person with public authority and its work is public. HAKOM's founder is the RoC and the Agency is accountable for its work to the Croatian Parliament. HAKOM is governed by a Council consisting of five members, including the president and deputy president, and its members are appointed and discharged by the Croatian Parliament upon proposal of the Government of the RoC for a period of five years. The Council of HAKOM adopts its decisions by a majority vote of all of its members, and it submits annual activity reports to the Croatian Parliament and to the Government of the RoC. Expert, technical and administrative tasks in HAKOM are carried out by the administrative service managed by the executive director appointed by the Council and accountable to the Council for his/her work.

In the performance of its regulatory tasks set out in the PSA, HAKOM takesinto account the relevant *acquis communautaire* on postal services and competition law of the European Union. HAKOM is obliged to undertake all the appropriate measures for the achievement of regulatory principles aimed at providing the universal service, protecting the rights of users and promoting competition on the postal services market, while at the same time respecting the principles of objectivity, transparency, non-discrimination and proportionality.

The most important tasks carried out by HAKOM as part of its public authority with a view to regulating the postal services market include:

- adopting implementing legislation,
- adopting and repealing decisions on the designation of universal service provider,
- adopting and repealing decisions on the provision of interchangeable postal services,
- adopting a decision on the manner of accounting separation for the universal service provider.
- adopting a decision on network access,

- adopting a decision defining the amount of net cost which represents an unfair burden, the establishment of a compensation fund and the definition of a contribution that must be paid by postal service providers,
- supervision and regulation of prices of universal service and general conditions of universal service providers,
- protection of rights of users of postal services and dispute resolution and
- inspection supervision over the implementation of the PSA.

As part of its public authority, HAKOM also follows and analyses the situation and developments on the postal services market and undertakes the necessary measures for ensuring fair and efficient competition on the relevant market and maintains and regularly updates databases, registers and other data in the postal service sector.

Other tasks in the postal services sector carried out by HAKOM include regular publication of data, notices and documents, in particular concerning market development indicators and providing expert opinions and explanations in the application of the PSA and regulations adopted pursuant to the PSA. HAKOM participates in the development of proposals, strategies, studies, guidelines, programmes and implementation plans adopted by the Government of the RoC and cooperates with competent national regulatory authorities of EU Member States and other countries and participates in the work of competent European and international organisations and institutions in the postal services sector. In addition, it must be pointed out that HAKOM keeps a register of providers of postal services and publishes a list of providers.

From the beginning of 2013, HAKOM has focused on the regulation of a fully open postal services market with a view to creating equal conditions for all providers in order to enable users to choose between postal services and providers in accordance with their wishes and needs. For that purpose, HAKOM prepared and adopted subordinate legislation under its competence and strengthened contacts and cooperation with all participants on the postal services market and provided equal support to all providers of postal services in order to enable them to adjust to new laws and align their business plans with new requirements of users and the total market and to add new postal services to their offer.

Furthermore, special attention was paid to consumer protection because European practice has shown that rights of users are most frequently violated in the transitional period, which is why questions of users are given priority in everyday activities. HAKOM's activities were focused on sustainable provision of the universal service, especially on its quality, affordability and availability thus offering to all users equal rights and possibility to use the universal postal service the continuous provision of which is guaranteed by the RoC on its entire territory.

Furthermore, HAKOM continued strengthening its cooperation with all participants on the national, European, and international postal system. It was particularly active in the work of the European Regulators Group for Post (ERGP) and in working groups for accounting separation, price formation, public network access and other issues between countries with a view to building competences for postal market regulation and harmonisation of the common European postal system with a view to becoming a fully competent and equal institution to other European national regulatory authorities.

Funds for HAKOM's work in the postal services sector are ensured from the annual fee that must be paid by all providers of postal services. HAKOM currently employs 168 people.

5. Postal Services Market in the Republic of Croatia

The RoC, with its surface of around 56,6 thousand square kilometres and 4,3 million inhabitants, is considered, in the EU context, as a relatively small country. Therefore, the market of postal services in the RoC is very small compared to other markets in EU Member States.

5.1. Providers on the market

Postal services in the RoC are currently provided by 23 providers of postal services, which is two more than at the end of 2012. Although it seems at first sight that market liberalization did not result in any changes in relation to providers, it was established at the beginning of the year that a certain number of smaller providers did not align with the new PSA and stopped providing services but new operators appeared who took their chance on the liberalized market. This trend continued and seven new providers appeared since the beginning of the year, and there are signs that this trend will continue since HAKOM received many questions concerning the application for the provision of services. In addition to the appearance of new operators on the market, certain providers have regrouped in early 2013, including Weber Escal and Post, which belonged to the same group (Austrian post), while the provider A1 Direkt merged with Tisak, and new acquisitions are to be expected. In addition to the above, there were changes in ownership structure of a smaller number of other providers. As a result, some providers assumed better positions with a view to further expanding on the market and increasing their market share. It must also be mentioned that open market enabled the arrival of new providers from other countries who thus expanded their activities on the European Union common market.

HP is the biggest provider among all providers on the postal services market but several big international and European providers are also providing services through their own network, such as DHL or DPD or through representative offices (Fedex, USP and TNT). In addition, there are also regional players, including the already mentioned Austrian post, Intereuropa, Lagermax, and the newest provider GLS and there is also the provider City EX which has the biggest delivery network after HP.

The universal service is provided by a single provider, HP, while all other providers notified the provision of other postal services, including 11 for the provision of interchangeable postal services. According to the area where services are provided, 11 providers were notified for the provision of services only in the territory of the RoC,11 for the provision of services in the territory of the RoC and in international traffic, and one only for the provision in international traffic. Market liberalization did not lead to changes in the area of activity, that is, it did not result in changes in the number of providers who expanded their activities outside the borders of the RoC.

All providers of postal services had a total of 9,840 employees providing postal services at the end of the third quarter of 2013, which is eight percent less than at the end of 2012. This is for the most part a consequence of the reduction in the number of HP's employees (by 760 employees) as a result of continuation of restructuring and adjustment of HP to new market conditions, which started in 2008. Other providers also reduced their numbers of employees, regardless of the total increase in the number of providers, and the share of other providers in the total number of employees providing postal services is 25 percent.

It may be assumed that the liberalised postal services market will enable new providers to create a selection of new services that will replace the existing services or create new demands, which will, in turn, stimulate the development not only of the postal sector but of the related sectors as well.

5.2. Postal services on the market

It was to be expected that market liberalization will lead to market development and growth as a result of appearance of new providers and of new and more innovative postal services. However, as a result of unfavourable economic situation in the RoC and in its neighbourhood, negative trends have occurred in almost all economic branches, which naturally influenced the market of postal services, which is directly related to economic development. Furthermore, increasing substitution of postal services with electronic communications services has had a negative impact on the postal services market. As a result, the majority of indicators of the situation on the postal services market for the first three quarters of 2013 are worse compared to the same period in the previous years, that is, it may be concluded that the negative trend that started in 2010 continued in 2013. Lacking the recovery and economic growth which is the generator of demand, it is to be expected that this trend will continue in the future and it may be said with certainty that total indicators at the end of this year will be worse than the year before.

A total of 252.3 million of services were provided on the postal services market in the first three quarters of 2013, which is 1,3 percent less compared to the year before. Although the total number of services continued to fall, the drop was smaller than in the previous years which is why it may be concluded that the liberalization of the postal services market in the RoC resulted in the slowing down of the negative trend (Figure 1).

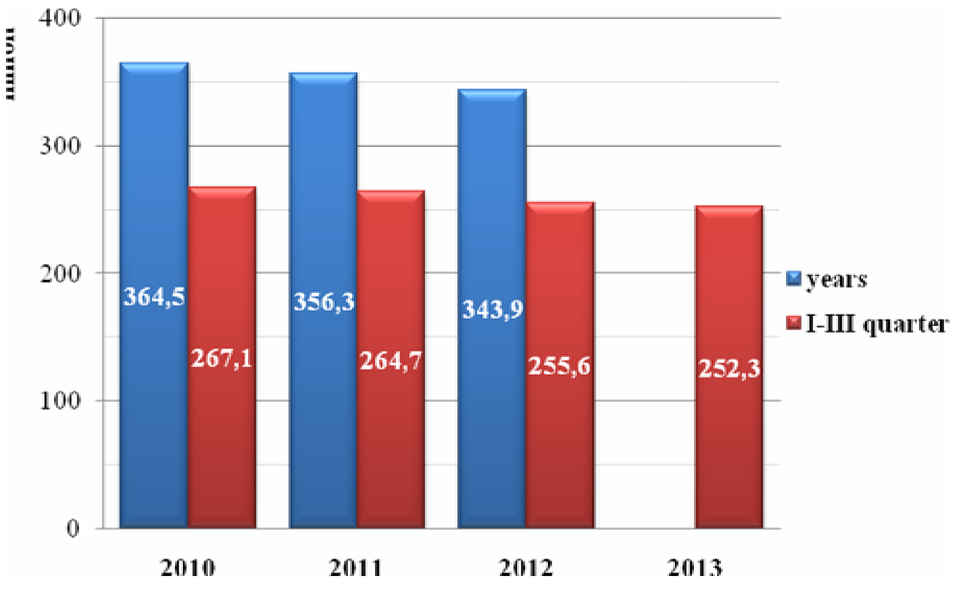

Figure 1. Comparison of the number of services

The consequences of market liberalization and accession of the RoC to the EU, which resulted in the removal of certain barriers, which include the exchange of goods and services between Member States, including in the postal traffic, such as customs, shipping and taxes, did not have a significant impact on changes in the type of traffic. Approximately 94 percent of total traffic is still carried out in internal postal traffic and this share has not changed compared to the previous years.

The majority of postal services were provided by HP, which is the leading provider of postal services in the RoC with a market share of approximately 70 percent, which increased by two percent compared to 2012. A negative trend which lasted for a few years has been stopped (Figure 2).

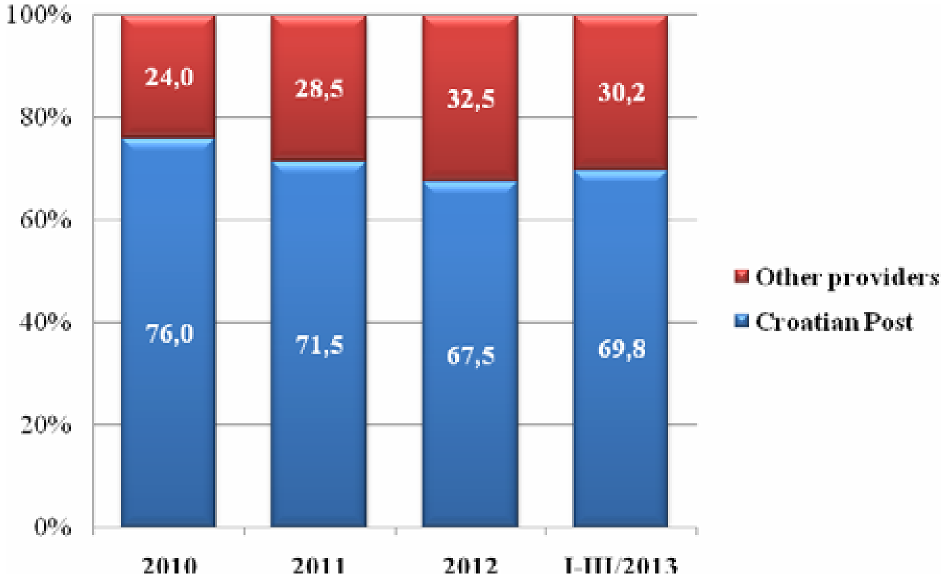

Figure 2. Market shares of providers according to the number of provided services

Universal service had the biggest share of 54 percent in the total number of provided postal services in the first three quarters of 2013, followed by other postal services with 40 percent, and the rest are interchangeable postal services. As the only provider of universal service in the first three quarters of 2013, HP provided a total of 136 million services within the universal service, which is about five percent less compared to the previous year. Although the decrease is a continuation of the negative trend from the previous years, the decrease in the share of universal service on the liberalized market is to a certain extent logical. In accordance with the PSA, interchangeable postal services include a part of services under the scope of universal service may derogate from the conditions of the universal service, but they may be considered to be within that scope from the point of view of users because they are sufficiently interchangeable with the universal service. Therefore, a part of services under the scope of universal service became interchangeable postal services because more providers have been providing such services.

Certain positive changes on the market are obvious from the increase in the number of packages which shows that this trend has started in the RoC as in other countries with developed electronic trade but the expected increase is not as significant because only a limited number of people have been using online trade, which is the main promoter of increase in the number of transferred packages.

Market liberalization and greater competition meant that providers needed to compete for users, which resulted in lower prices of certain services, and, consequently, in the decrease of the total number of services and lower revenues on the postal services market. As a result, a total of HRK 1.06 million was earned in the first three quarters of 2013 only from the provision of postal services, which is three percent less compared to the same period in the year before. HP earned around 70 percent of total revenue, and the rest was earned by other providers, while shares remained the same as in the same period of the year before. Consequently, it may be assumed that revenue will continue to fall in the future. The opposite scenario is also possible if providers of postal services take advantage of business opportunities arising from the economic crises and of innovations and/or technological and technical improvements to expand their offers and services representing added value to the existing services, that is, the introduction of new more innovative services acceptable for the users. One such opportunity for providers in the increased volume of e-trading, which is expected to grow in the future.

For comparison sake, the annual value of the postal services market in the RoC is around 1,45 billion HRK (around EUR 194 million), which is a little less than 0,5 percent of the total gross social product.

6. Conclusion

The process leading to complete liberalization of the postal services market in the RoC lasted for almost ten years. In that period, the postal services market and its legislative framework have undergone different stages of adjustment and alignment with the postal directives, which resulted in the creation of conditions for marking the postal services market in the RoC a part of the EU common market. Although a short period of time has passed from the beginning of complete liberalization, it may be noticed that "old" providers have intensified their activities in order to strengthen their market position and prepare for the arrival of new players. The economic crisis influenced the postal services market as well resulting in the continuation of negative trends. Market liberalization resulted in greater selection for end users and in the decrease of prices of individual segments of services. It is to be expected that providers will continue to adjust to the needs of users by offering new and innovative services.

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Sadržaj:*Iako je Republika Hrvatska formalno punopravna članica Europske unije od 1. srpnja 2013. godine svoje nacionalno tržište poštanskih usluga u potpunosti je liberalizirala i otvorila za tržišno natjecanje početkom 2013. godine. U članku su prikazana početna iskustva te trenutno stanje na tržištu poštanskih usluga u RH, promatrano sa zakonodavnog i regulatornog aspekta, u proteklih devet mjeseci s osvrtom na moguće (očekivane) trendove u budućem vremenskom periodu.*

Ključne riječi: tržište poštanskih usluga, liberalizacija tržišta, HAKOM

POTPUNA LIBERALIZACIJA TRŽIŠTA POŠTANSKIH USLUGA U REPUBLICI HRVATSKOJ – POČETNA ISKUSTVA

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