

## **ACCESS TO THE POSTAL NETWORK IN LIBERALIZED POSTAL SERVICES MARKET**

Ruža Miletić

HP - Hrvatska pošta d.d./Croatian Post Inc, Jurišićeva 13, Zagreb, Hrvatska

**Abstract:** In preparation for the complete liberalization of the postal market, regulator's main goal is deciding on universal service provider as well as providing universal service on the whole territory under the same conditions but also encouraging competition. Apart from right and obligation to provide universal service, law imposes to universal service provider other obligations like transparent and non-discriminatory network access. Regarding the abovementioned, we explore different network accesses, access to the infrastructure, conditions, prices and categories of items that network can be accessed with in different countries of the European Union with emphasis on the network access in Croatia, granted by Croatian Post Inc.

**Keywords:** network access, access users, universal service provider, access points

### **1. Introduction**

Access to the network is one of the obligations for the universal service provider imposed as goal to ensure complete opening of the market so the 'small players' (other operators) would have the possibility to ensure their position on the market. Access to the network is regulated with First and Third Postal Directive, Notice from the European Commission on the application of the competition rules to the postal sector as well as national laws. Basic legal predisposition for opening the network was provided by First Postal Directive with very general definition and was based on Treaty on the Functioning of the European Union. With gradual opening of network, need for more detailed definition of the access to the network obligation arose and that was achieved with changes in Third Postal Directive. Taking in consideration that Directives give general definition, postal service providers, according to the situation on the market, define access to the network obligation very differently on national level. This concept have very important role in completely liberalized market, taking into account that number of items is constantly decline and it is necessary to keep all items in one network.

### **2. Legal and regulatory frame for access to the network**

First Postal Directive from December of 1997 defined the basic intent of universal service through simple access to the network to all users, especially through

providing enough access points and securing favorable conditions concerning collecting frequency and items delivery. Besides, it defines the obligation of universal service provider (hereinafter: USP) in member states of European Union (hereinafter EU) to ensure access to its postal network through transparent and non-discriminatory conditions [1]. In Third Postal Directive 2008/6/EZ that was accepted in February of 2008 transparency and non-discriminatory principles are kept intact in Article 11. Concept of access to elements of postal infrastructure or services that are provided within the scope of universal service is added in Article 11a that says:

„Whenever necessary to protect the interest of users and/or to promote effective competition, and in the light of national conditions and national legislation, Member States shall ensure that transparent, non-discriminatory access conditions are available to elements of postal infrastructure or services provided within the scope of the universal service, such as postcode system, address database, post office boxes, delivery boxes, information on change of address, re-direction service and return to sender service.....“[2].

Based on Article 11a of the Directive Member States are obligated on national level to ensure requirements for access conditions on clear and non-discriminatory way to all users and postal service providers as well as consolidators. Precisely for that reason, national regulatory authority (NRA), (hereinafter: regulator) has to take into consideration that USP doesn't use its dominant position to discriminate competition, trying to 'expel' them from the market. Legislator on national level have discretionary power to decide about the extent of access to certain elements of the infrastructure or services but providing network access is mandatory. Regulator's duty is to decide, on access user's request, if the prerequisites for access are fulfilled.

In Croatia, in October of 2003 was passed Postal Law based on First Directive, which include articles about public postal network (Article 26). With that law (in part of the definition that access to the network makes mandatory), Croatia ensures conditions for complete market liberalization and appearance and performance of competition.

Postal Services Law which was accepted in July of 2009 in Croatia widen the obligation allowing access to: postcode system, address database, post office boxes, delivery boxes, information on change of address, re-direction service and return to sender service (Article 36).

Current Postal Services Law which entered into force on January 01, 2013 brings additional broadening of this right/obligation stating that access to the network must be allowed not only to other postal services providers but also to postal users and consolidators (Article 53) [3].

Though Postal Services Law specifically states that network access is not considered as universal service more detailed elaboration of access to the network is done in nine articles of Chapter 7 of Ordinance on the provision of universal service [4]. Of course, apart from stipulated obligations about access to the network, USP can allow access to the network in different elements of postal network, respecting rules established by regulator.

### **3. Liberalization of postal services market**

USP's postal network has important role/advantage in liberalized postal market. On one side, competition thinks that USP has natural monopoly and is bottleneck, and on

the other hand, USP fears the burden of expensive and not enough used postal network. Increasing the competition is important to encourage present operators to become more efficient in order to maintain the high quality of universal service obligation for the benefit of the users. On the other hand, increasing the competition can endanger present operator. The risk and the burden of the USP is the way how the competitors perform their operations so called 'cherry picking' because competition is entering the profitable part of the postal market. Obligation from non-profitable parts causes inability to finance universal service obligation which is disadvantage to the users. There is a third possibility, where competition can be encouraged and at the same time ensure that present operator can be financed from the universal service obligation. Because of all mentioned, regulators must take into account different perspectives defining frame for future development.

In completely liberalized postal market, participants compete in conducting postal services using two main models:

**1. network access** – using existing USP's infrastructure for which the access users pay access fee. There are two different concepts:

- upstream concept which is also called 'worksharing' and which encompasses USP's access to the network and includes activities of access user (acceptance, stamping, bar-coding, sorting and transport) before acceptance of the items from USP. This concept is common in USA and some EU member states (France, Germany).
- downstream concept is access by network users in downstream network of the USP. Downstream access happens in different places of postal chain and possible access points are sorting centres (outward and inward) as well as delivery post offices (as it is showed on Figure 1). Access users can use postal network for delivery of items in certain areas where they still haven't developed their own network while in other areas they partially or completely avoid USP's network. In Great Britain, most common format of access is downstream where access users accede to Royal Mail in the last technological phase – delivery of items. In Croatia, USP ensured the acces in outward and inward sorting centres which can also be seen on Figure 1.

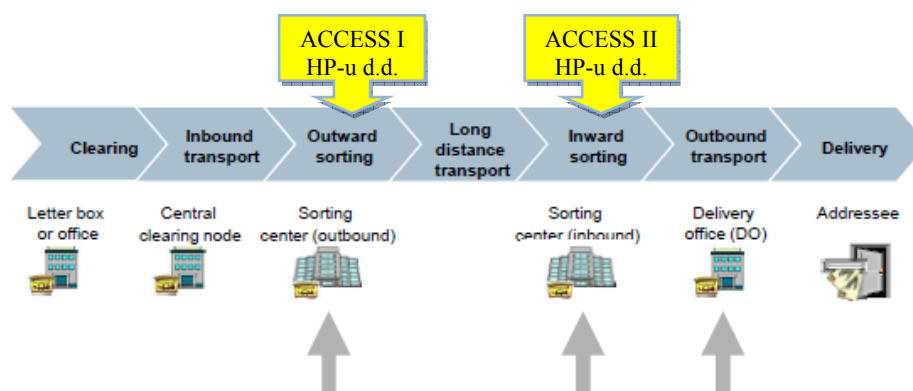


Figure 1. *Downstream access in postal sector [5] with the preview of access to the HP*

**2. End to end (E2E)** – is model when access users completely avoid upstream and downstream network of USP and use their own network for performing postal services.

### **3.1 Advantages and disadvantages of the upstream (worksharing) model**

Upstream (worksharing) concept is more acceptable for network users when available technologies are cheaper than existing postal technology that USP has. Two main expected advantages for network users are grouping (consolidating) and pre-sorting of items before they are accepted by the USP. First advantage is expectation of higher efficiency because pre-sorting, coding and grouping of items can be done while printing in work space of the user. Because of higher quality in preparation of the items, the second advantage is higher efficiency of the USP itself. According to the world experiences, division of work load decrease the costs of USP. Giving discounts to access users and decreasing of USP's costs helps country's economy in general.

Upstream concept offers important possibilities both for big and small competition which can become experts in performing process in certain part of the production chain. It's a result of synergy effects of preparation and acceptance of items and other services offered by consolidators who will offer business customers their specialized activities as new postal services for more acceptable prices.

The question is does today's competition circumstances encourage the level of efficiency and innovation of USP in the future? Also, will losing upstream network bring USP loss of contact with contract customers, loss of quality control in that part of the process as well as emerging/appearance of potential competition?

### **3.2 Advantages and disadvantages of downstream model**

Access in part of the process which happens in sorting centres – downstream access ensures higher reliability and quality of service by checking and removal of possible mistakes that had happened in upstream network. This access aims to optimize quality of conveyance of postal items and decreasing overall costs of technological chain by division of work load. On developed markets big number of participants apply similar model which results with big competition for the biggest customers and, as a result, decrease of planned income. Because of intensive competition and pressure on income as well as necessary relying on partner in basic operational processes with limited possibilities for control, the downstream model of access represent big business risk for operators. For USP this model is attractive and European practice introduced way of paying for this service depending on different regions of delivery of items.

Disadvantage of this model is in situation when USP has dominant position on the market when USP can stop or abuse market competition by deciding on unacceptable access to the network price which can lead to discrimination of the network users. UK experience shows that giving big discounts in downstream access may block competition in developing their own network for delivery of items.

### **3.3 Advantages and disadvantages of end-to-end model**

In this model access to the network develop parallel their own network and have the advantage in the segment of acceptance of items because it allows them to have lower prices. It's their most important advantage in comparison with USP which can't offer such low prices in the phase of acceptance of items because of high costs of workers, maintenance of postal network as well as equipment.

One of disadvantages of end-to-end (E2E) model is performing service sin own network which is non-rational way considering smaller part of the market they can take result of which should be high prices of postal services and inability to be competitive on the market. Bypassing the network represent serious concern for financing of universal service. In this moment, network users which bypass postal network in Croatia, occupy approximately 30% of market, while such percentage in other countries is much lower.

### 3.4 Network access in Europe

ERGP Report [6] shows results of the questionnaire (Table 1.) trying to identify typical network access models. Member states are grouped based on the asked questions (is the access to the network mandatory, is there access, are prices verified from operator or regulator and do they treat access users differently). Access models vary from county to country and there is no 'typical' model. Almost all countries have either mandatory network access (Germany, Great Britain, Macedonia, Norway...) of they simply have it even without legal obligation (France, Sweden, Switzerland, Czech Republic...). In Switzerland new law entered into force at the end of 2012. which, as mandatory, has the obligation of access to PO Boxes and address data. Generally, operators do have access to the network. Such access is mandatory by law in 17 countries, it is grante in at least 22 member states.

Table 1. *Obligatory and de facto network access regimes int he European Union<sup>1</sup>*

	For the countries having obligatory access (universal network access)		For the countries not having obligatory access	
	Yes	No	Yes	No
Does your postal services act include a legal obligation to grant access to the postal network?	17 countries Bulgaria, Croatia, Estonia, Finland, Germany, Hungary, Lithuania, Luxembourg, FYROM, Malta, Netherlands, Norway, Portugal, Slovenia, Spain, UK			11 countries Austria, Belgium, Czech Republic, France, Greece, Latvia, Poland, Slovakia, Sweden, Switzerland, Romania
Is access available for certain services? (Actual question: For which services are special conditions and tariffs available? (countries asked to reply 'yes' or 'no' for various base of mail)	14 countries Bulgaria, Croatia, Germany, Hungary, Lithuania, Luxembourg, FYROM, Malta, Norway, Portugal, Slovenia, Spain, UK		8 countries (3 gave no reply) Austria, Belgium, Czech Republic, France, Greece, Latvia, Switzerland, Romania	
Has the operator or the regulator verified the special tariffs on a specific cost-benefit?	3 countries, of which 1 reg (FYROM), 1 op (Lithuania), both (Germany, Slovenia)	Croatia, Hungary, Norway, Spain, UK	3 countries, of which 2 op (France, Latvia), 1 both (Austria, Greece, Romania)	Belgium, Czech Republic, Switzerland (its to both)
	These countries have obligatory access and their tariffs are controlled by the regulator or the operator.	These countries have obligatory access and their tariffs are controlled by the operator or the regulator.	These countries have access available, but it is not obligatory and their tariffs are verified by operator and/or regulator.	These countries have access available, but it is not obligatory and their tariffs are not verified by operator or regulator.
Does the incumbent mail operators differently regarding discounts or access conditions?	Hungary, Slovenia	Croatia, Estonia, Germany, Ireland, Lithuania, Norway, UK	France, Switzerland	Belgium, Greece, Romania

Source: ERGP Report on „access“ to the postal network and elements of postal infrastructure, 16 August, 2012

<sup>1</sup>Please note, not all countries gave replies to all questions. Of the four questions in the table above:, Finland, Netherlands, Poland, Slovakia, Sweden – no reply to second question (“Is access available [...]”); for the third (or a preceding) question : Bulgaria,, Finland (Yes, NRA) Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Sweden did not reply; for the fourth (or a preceding) question Austria, Bulgaria, Czech Republic, Finland, Latvia, Luxembourg, FYROM, Malta, Netherlands, Poland, Portugal, Slovakia, Spain, Sweden did not reply.

### 3.5 Access to the elements of postal infrastructure or services

As stated in the previous paragraph in Article 11a of the Directive for the purposes of protecting the interests of users and / or to encourage effective competition, Member States should ensure the availability of the elements of postal infrastructure or services provided within the scope of universal service. Elements of postal infrastructure includes postal code system, address database, post office boxes, delivery boxes, information about the change of address, re-direction services and a return to sender service. Provision of areas of access can be important in certain cases and can potentially reduce the entry barriers for competitors. Thus, Member States can take advantage of the flexibility of Article 11a in deciding on access. Currently there is no uniform approach in regulating of the access to the elements of postal infrastructure in Member States of the EU. In the event of a dispute between USP and potential users of access, the key role have the regulators. Potential access users must apply for access to the network and in its application they stated to which elements of postal infrastructures or services they have intention to access. If the USP and the applicant fail to agree, regulator includes in this case, and if the potential access to the network applicants conciliate with USP, a contract on access to the network should be signed with the definitions to which elements of infrastructure access is enabled. Table 2 shows the elements of postal infrastructure or services as defined in Article 11a of the Directive, to which access can be enabled same as the their overview which access elements and services are enabled in particular Member States. Equally important are the data which are not presented in a table, and include the following : Ireland is a Member State that does not have a system of postal indication. In Sweden, the address database and change of address are operated by the state and they are independent of the postal operator and all competitors have access to both databases. Delivery boxes are privately owned in four Member States (CZ, NL, SE and SI) and therefore for them access can not be enabled. The last two rows of the table shows that the regulator has the power to request two other access to the postal infrastructure.

- "Equal downstream access" - the regulator require from USP to ensure equal access to all participants, under conditions which has provided to one side.

- "Required downstream access" – the regulator require from USP to allow access to other participants , although USP is not enabled access yet.

Mandatory access is considered as appropriate for the geographic areas where USP has a dominant position in the market. It should be noted that in many Member States operator provides downstream access to the network under non-discriminatory conditions, without legal obligation. It is difficult to draw firm conclusions relying on answers of NRA. Seven Member States (CZ, DE, DK, FR, LT, LU, SI) have made significant progress towards ensuring non-discriminatory access to the postal infrastructure conditions (giving access to six or more categories). In 13 Member States (BE, BG, ES, FI, GB, IE, LV, NL, RO, SE, SK, JE, NE), and in Switzerland regulator may jeopardize the implementation of Article 11a, as it allows access to two or less of these categories. The remaining 10 states can be classify between these two groups [7].

Table 2. Access to postal infrastructure ensured by Member States

Type of access	Member States	No answer	Number
Access to post codes	AT, BE*, BG, CY, CZ, DE*, DK, EE, FI, FR, HU, LT, LU, MT, PL, SE, SI, UK	IS	19
Access to post office boxes	CY, CZ, DE, DK, EE, FR, IT, LT, LU, LV, MT, NL, PL, SE, SI	AT, IE, IS, HR	15
Access to delivery boxes	AT, BE*, BG, CY, DE*, DK, ES, FR, HU, IE, IT, LT, LU, PL, PT, SK, IS*	HR	17
Access to address database	CY, CZ, DE, DK, EL*, FR, LT, LU*, SI, UK	AT, IE, HR	10
Access to change of address database	AT*, CY, CZ, DE, DK, EL*, FR, LT*, LU*, SI	IE, HR	10
Access to USP redirection and return services	CZ, DE, DK, EE, EL*, FR, LT, LU, MT, SI	IE, LI, HR	10
Equal downstream access	CZ, DE, EE, ES, HU, IT, LU, PL*, PT, SI, UK		11
Required downstream access	AT*, CZ, DE, EE, IT, LT, LU, MT, PL*, PT, SI, UK		12

Source: WIK Survey

Note: Asterisk (\*) indicates contrary answer by USP

#### 4. The importance of prices in access to the network

Legal framework created preconditions for full liberalization of the postal services market ending with beginning of 2011/13 year. Even in the terms of full market liberalization, to small operators due to the high costs that occur due to the small volume of items is unprofitable to develop its own network, which would cover a complete State territory.

For areas with very low rates of population, such as mountain region and islands, the need for regulation was imposed at a specified segment of the market, in order to ensure the conditions for the provision of services to other operators. The only way that access to the network users in rural areas provide postal services is to use the existing infrastructure USP with the acceptable access price.

In practice occurring cases that access prices determined by the USP are not acceptable for users of access, because they want lower prices in order to gain access to be more worthwhile. On the other side if USP would not take account of the coverage of its own costs, it would automatically operate with loss. During the pricing of access necessary is to recognize costs of actions to the access users performed before access to the network as a cost avoidance of USP. A prerequisite for this pricing is that USP establish their internal accounting under the cost principles.

Taking into account the above facts, the regulator has the task to approve rates that would provide mutual benefits applying ex - ante principles, namely:

- Option I - before the start of negotiations, shall be submitted the proposal of access contract to the regulator, who may approve the proposed contract or order modify of the contract.

The regulator has the ability and obligation of supervision and possible application of penalties, depending on the law. Disadvantages of this concept are the lack of flexibility in the competition.

- Option II - procedure of dispute settlement, which implies involvement of the regulator, when negotiations between USP and user access are unsuccessful. The regulator responds only after access user complaints and in this regard shall decide on the terms and price approach. After decision making, the regulator issue in forthcoming period is to monitor and possible impose of sanctions.

From the current practice of European countries may be prominent example Royal Mail 's where the great impact had regulator, due to his participation in the pricing approach and the introduction of ex -ante price control. The regulator has rejected in cost analysis explanation of Royal Mail, that did not take into account the costs of network. This approach has proven to be a poor estimate of the regulator. This has led to reduced negotiating position of Royal Mail because they were forced to negotiate access at lower prices. The price was set below the unit cost, and this has led to the loss of the Royal Mail. As a result, the British government has intervened with substantial financial assistance. After that, the regulator introduced significant changes, including the abolition of price cap regime and leaving Royal Mail in freedom to set access prices through the negotiations. Then in the cost analysis the cost of network was taking in consideration in order not to jeopardize the performance of the universal service.

The second situation is when USP itself determined cost of access and that price is not verified by the regulator promptly but ex-post, during the application of such prices it may prove as discriminatory and unfair. Inadequate prices cause dissatisfaction by the access users. In this case, access users applying to the regulator to check the prices. Regulator launches an investigation to determine the authenticity of the allegations of the access user, checking the validity of prices which are applied. If the regulator determines that it is discriminatory pricing it has the authority to decide on the changes or cancellation price in full.

## **5. Access to the network of the universal service in Croatia**

HP - Croatian Post Ltd., is the USP in Croatia and the access to the postal network is regulated by the Standard offer of HP - Croatian Post for access to the postal network, fulfilling the requirements of Article 53 Paragraph 3 of Postal Service Act, which provides that access conditions must be publicly disclosed, known in advance and apply equally to all access users which access to the network with same type and quantity of items.

Standard Offer shall prescribe the types of items that can be accessed to the postal network, the access point and access to the data, applications for access to the postal network and the reasons for rejection, detailed conditions for access to the postal network, contracting, price, billing, payment, collateral securities, furnishing and delivery of items, transfer deadlines, confidentiality of data, return of items, complaints handling, establishing liability and payment of compensation and the duration and termination of the contract .

Categories of items for which the provider of the universal service is obliged to ensure access to the postal network are regulated by the Postal Services Act and are relate to:



- the items of correspondence (letters and postcards) weighing up to 2 kg,
- parcels weighing up to 10 kg,
- registered items and
- insured items.

Access points specified in the Ordinance on the provision of universal service are evident in Figure 1 and they are:

- the elements of the postal network in which it is performed concentration received items from different parts of the network (ACCESS I - for all shipments),
- the elements of the postal network in which items are prepared for dispatching to the postal network elements in which it is organized delivery (ACCESS II - certain groups of classified items).

Both Postal Services Act and the Ordinance on the provision of universal service require from the USP in Croatia to provide access to the following information: postal code system, a database for classifying items, information on change of address, redirection of mail services, and services return of items to the sender. Pursuant to the Ordinance on the provision of universal service access user during one month must approach to the postal network with at least 5,000 items in order to achieve the price for access to the network (an increase compared to the previous law, which provided a minimum of 2,000 items) [4].

## **6. Conclusion**

The research of access to the network from majority of the literature resulted with conclusion that there are two basic dilemma in the postal sector, whether access to the USP network or bypass it and develop their own network. The choice depends primarily on the conditions and cost of USP's network access. Access users will bypass the existing infrastructure, if it is more profitable to them. Also, unfavorable conditions and high costs of access may limit access users to access to the network, and it may be more cost-effective for users, because in this case, the competition will offer lower prices. Also, in this orientation a key role have the regulator which including itself as a protector of the public interest by protecting the universal service and ensuring fair competition.

Furthermore, it can be concluded that on liberalized market, there are certain fears, given the legal obligation of access to infrastructure of the USP and providing access users to compete on the market without having a need to develop its own network, which could undermine the efficiency of the postal sector. Since the USP is forced to share their facilities and technology with its competitors, it will not be motivated to innovate its operations, because it will not be able to fully retain the benefits of innovation for itself. Therefore, USP will be forced to decide under what conditions will allow access to its network. The decision will have to be based on a specific strategy, business considerations and regulatory framework as well as the specific environment in which each USP operate.

## Literature

- [1] 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 the quality of service (OJ L 15, 21 1 1998)
- [2] Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008. amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services (OJ L 52, 27 2008)
- [3] The Postal Services Act (Official Gazette 172/03, 88 /09 and 144 /12)
- [4] Ordinance on the provision of universal service, Official Gazette No. 41/2013.
- [5] Alex D., Wik - Consult, Bad H., Germany Michael G., associate it WIK - Consult, Germany, Presentation to Croatian Post, Zagreb, 26 May, 2011.
- [6] ERGP Report on "access" to the postal network and elements of postal infrastructure, 16 August, 2012.
- [7] WIK Consult GmbH "Main Development in the Postal Sector (2010-2013)" AK Diek, James I. Campbell Jr., C. Muller, A. Niederprum, A. de Streel, S. Thiele, C. Zanker, Bad Honnef 2013.

**Sažetak:** *Pripremajući se za potpunu liberalizaciju tržišta poštanskih usluga glavna zadaća regulatora je određivanje davatelja univerzalne usluge i osiguranje univerzalne usluge na cijelom teritoriju države pod jednakim uvjetima, ali i promicanje tržišnog natjecanja. Pored prava i obveze obavljanja univerzalne usluge davatelju univerzalne usluge zakonom se nameću još neke obveze poput omogućavanja pristupa poštanskoj mreži korisnicima pristupa, uz poštivanje načela nediskriminacije i transparentnosti. Imajući u vidu naprijed navedeno, istraživane su vrste pristupa, pristup infrastrukturi, uvjetima, cijenama i kategorijama pošiljaka s kojim se može pristupiti poštanskoj mreži u pojedinim državama članicama Europske unije s detaljnom analizom pristupa poštanskoj mreži korisnicima pristupa u Republici Hrvatskoj, koji omogućava HP-Hrvatska pošta d.d.*

**Ključne riječi:** *pristup poštanskoj mreži, korisnici pristupa, davatelj univerzalne usluge, točke pristupa*

### **PRISTUP POŠTANSKOJ MREŽI U USLOVIMA LIBERALIZOVANOG POŠTANSKOG TRŽIŠTA**

Ruža Miletić