



Competition calls for entrepreneurial freedom

The Swiss Federal Council has adopted the consultation draft for new postal legislation. It has decided to quickly open the market in two phases. On 1 April 2009, it will lower the monopoly limit for letters to 50 grams on its own authority and three years later, the market will be completely deregulated.

Cornerstones of the consultation draft

The new Postal Act

The new Postal Act will completely abolish the remaining monopoly in the postal market and stipulates the requirements to be met by postal service providers. The Swiss government demands that standard-industry conditions of employment apply, that prices and services be transparent to customers, and leaves it primarily to market participants to reach an agreement on network access. Finally, a new administrative and supervisory organisation is to allow legislative tasks and monitoring functions to be clearly separated, as well as to enable market participants to avail themselves of the usual legal remedies against decisions of the regulatory authority. Once the remaining monopoly has been abolished, the provision of basic postal service will be financed mainly by way of a fund into which the basic service provider must also pay. The provision of payment transfer services is regulated separately from basic postal service. While the mandate for basic postal service provision will be opened to tender after a transition period, Swiss Post will automatically be mandated by the new legislation with the provision of payment transfer services. The latter is to be provided without financial assistance.

The new Postal Organisation Act

With the new Postal Organisation Act, Swiss Post is to be turned into a public company under special law, in which the Swiss Confederation will keep a majority stake. At the same time, the company purpose of Swiss Post is defined and its current scope maintained. Swiss Post will not be able to further develop its growth markets such as the financial market. Additionally, Swiss Post will be required to take into account regional-political concerns. In terms of tax legislation, Swiss Post is to be treated on a par with private providers and the state guarantee is to be abolished. Terms of employment are to be formulated under private law, requiring Swiss Post to conduct Collective Labour Agreement negotiations.

The position of Swiss Post

The two drafts determine the future of Swiss Post. Only well-balanced legislation and a competitive Swiss Post can ensure that the scheduled market liberalisation yields the desired results. Swiss Post has put its time to good use and is now prepared to face greater contest and competition. With the postal legislation sent into consultation in March, framework conditions in the postal market are now being redefined. If Swiss Post is granted the same premises as its competitors, it will master the challenges in competition with other providers, fulfill its obligations as an employer towards its employees and meet the expectations of its owner with good results.

The postal and logistics market

Customers are even now benefitting from Swiss Post's quality services and low letter prices (ranking fifth in international comparison). The price for A-mail letters has remained virtually the same in the past ten years (see fig. 1). Swiss Post does not oppose further market liberalisation. However, it is only able and

willing to compete in a fully open market if framework conditions are right. This requires the following amendments to the new postal legislation:

1. Keeping a sense of proportion as to structural policy demands

Worldwide, Switzerland commands one of the densest post office networks (see fig. 2). Even in a fully open market, Swiss Post will be obliged to ensure adequate and inexpensive basic service in all areas of the country. Yet in a fully liberalised postal market, a legally ordered infrastructure mandate as outlined in the draft is no longer necessary from a commercial point of view. In the long term, Swiss Post is committed to maintaining a modern network of postal access points. This is in its very own best business interest. In doing so, customers and their requirements for products and services will remain at the centre of considerations. An additional, legally anchored infrastructure mandate yields scant additional benefits for customers while significantly hindering forward-looking solutions. Swiss Post believes that a clearly defined mandate of carriage is perfectly adequate to ensure quality basic postal service. The Postal Organisation Act stipulates that Swiss Post's decision-making must continue to take into account regional-political requirements; this goes beyond mere service requirements to include employment and training positions. The reform of mail sorting centres and the development of the post office network clearly indicate the regional-political demands made on Swiss Post. It seems obvious that after full market liberalisation, Swiss Post can only uphold current structures if these make commercial sense. Swiss Post intends to and will continue to honour its regional and social responsibilities, even if the commercial balancing act does not stand to become any easier in a fully open postal market. In Swiss Post's opinion however, from a competitive point of view, legally binding regional-political requirements

should not be imposed solely on Swiss Post. Rather, other market participants should also bear some of this responsibility.

2. Strengthening the funding of basic postal service

Swiss Post wishes to remain the backbone of a basic postal service it can finance itself. The Plaut-Frontier study commissioned by the DETEC comes to the conclusion that basic service can only be financed by Swiss Post itself if wages are comparable across the industry and if Swiss Post can continue to modernise its structures in line with European developments. This is all the more important in view of the fact that the funding mechanisms outlined in the new Postal Act have not practically proven their effectiveness in any European country to date. Swiss Post will therefore have to finance basic postal service using its own resources. Even the tendering process envisaged by the draft will hardly change anything in this regard. It will cause unnecessary administrative expenditure and serve no purpose. There should therefore be no tendering process for basic service provision. In Swiss Post's view, the fund used to finance basic postal service would not work in its suggested form, as a large proportion of funds available to the basic service provider would have to be paid in by the very same basic service provider itself. The fund model should therefore be improved along the lines of European approaches to the issue. Providers who can prove that they provide the same basic services as the basic service provider would be released from the obligation to contribute to the fund. Swiss Post disapproves

Fig. 1: Swiss Post's letter prices

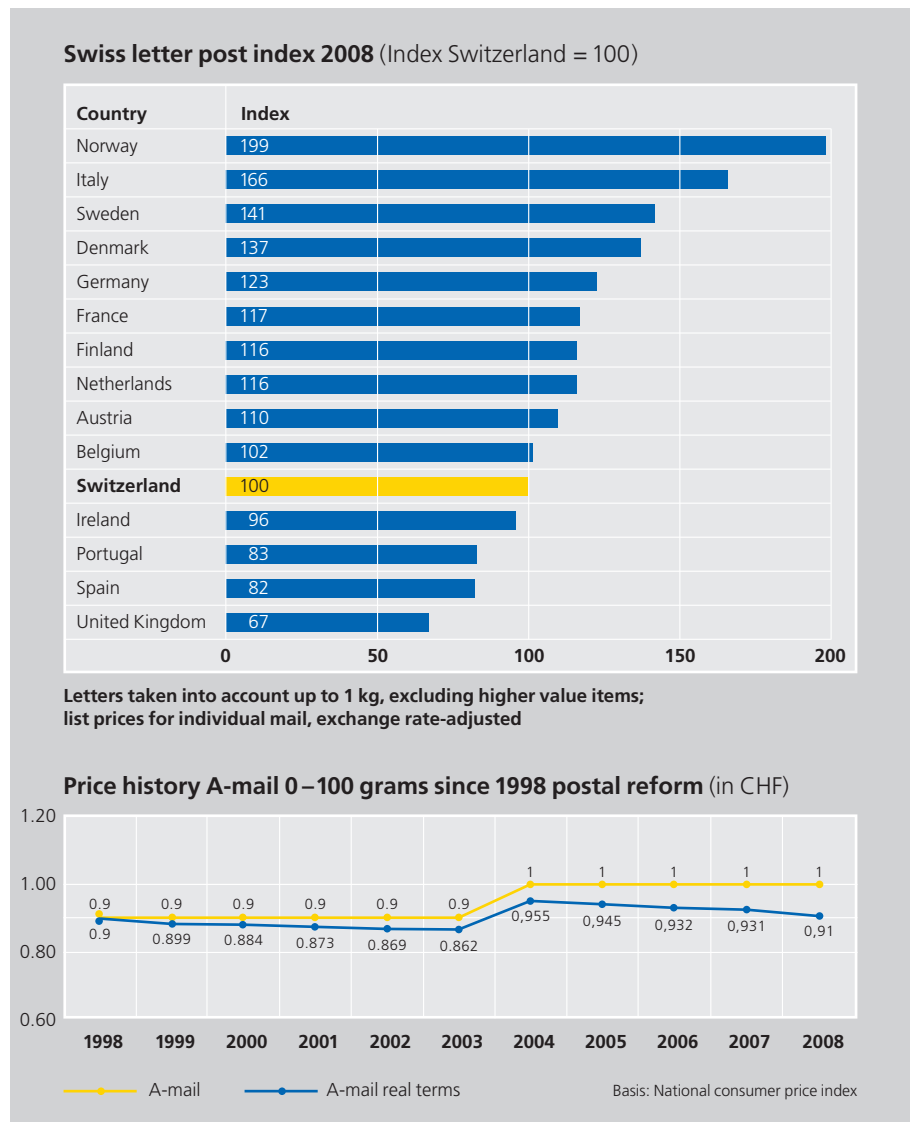
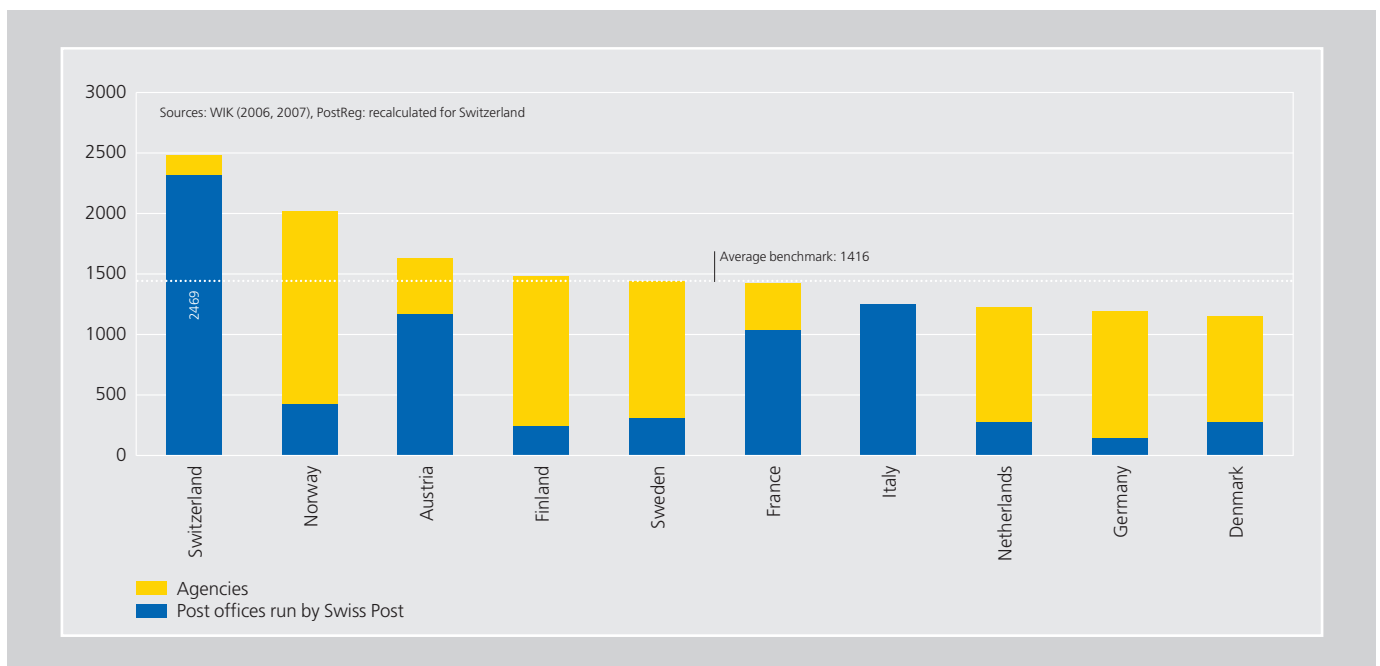


Fig. 2: Post office density in Europe, an overview



of state contributions because it should be possible to finance the services of the postal market from within the sector itself.

3. Securing entrepreneurial freedom

Virtually all successful postal companies in Europe are set up as public companies under private law and enjoy great independence. Public companies under private law are also the customary legal form in the postal market. A conversion of Swiss Post into a public company under private law and majority ownership by the Swiss Confederation would among other things enable Swiss Post to enter into strategic alliances. While the status of a public company under special law proposed in the Postal Organisation Act would offer an improvement compared to the current legal form of a public law entity, it would remain an exception in European terms. Furthermore, most European postal companies can to a large extent determine freely the markets in which they wish to operate. In the context of opening and shifting markets displaying a powerful dynamic of innovation, the purpose clause in the draft must therefore be amended: indeed, successful postal companies increasingly develop and diversify along

the entire value chain in the cross-border postal and logistics markets. The proposed purpose clause limits the scope available to Swiss Post and threatens its future.

4. Regulation of network access undermines basic service funding

The scheduled access of other companies to Swiss Post P.O. boxes and address data aims to enable good collaboration between individual postal service providers. However, this does not require comprehensive regulatory power on behalf of regulatory authorities. The agreement reached by Swiss Post and DHL regarding the use of P.O. box facilities shows that cooperation agreements can work well when relying on purely commercial considerations. State intervention and the obligation imposed on Swiss Post to grant network access make no economic sense, as there are no monopolistic bottlenecks in the postal market. As shown by examples both in Switzerland and abroad, everyone can quite easily set up required structures on their own. State intervention in access prices to Swiss Post's network would undermine the financing of basic service.

The financial market

While the Postal Act intends to introduce full competition to the postal market, the Postal Organisation Act considerably limits Swiss Post's scope of action in the financial market. The new postal legislation is intended to align Switzerland with legal developments in Europe. In this instance, it does not succeed. Instead, the new postal legislation causes considerable prejudice to Swiss Post not only within Switzerland but also in comparison with its most important international competitors, such as DHL (German post) and DPD (French post). This applies especially to the issue of the company's purpose. In return for market liberalisation, Swiss Post must be granted the necessary entrepreneurial freedom to successfully compete in the financial markets as well as the postal and logistics markets. Specifically, the draft must be amended in the following areas:

1. Greater entrepreneurial freedom in the financial market

PostFinance is Switzerland's fifth-largest financial institution, numbering over two million private customers and over 300,000 business customers. PostFinance manages over 43 billion Swiss Francs in customer deposits (see fig 3). PostFinance provides a stable cornerstone of the Swiss financial market. PostFinance should be allowed to offer mortgages and SME loans not on a commission basis anymore, but in its own name as part of its lending business.

Just like successful postal companies abroad, Swiss Post must also be able to determine its areas of activity as freely as possible in order to grow in profitable markets. The purpose clause of the Postal Organisation Act must therefore be amended, as foregoing a banking licence places tremendous limitations on Swiss Post's entrepreneurial freedom. A European overview shows that the vast majority of other successful postal companies' financial arms operate with a banking licence (see fig. 4).

Fig. 3: Development of customer deposits, PostFinance and market

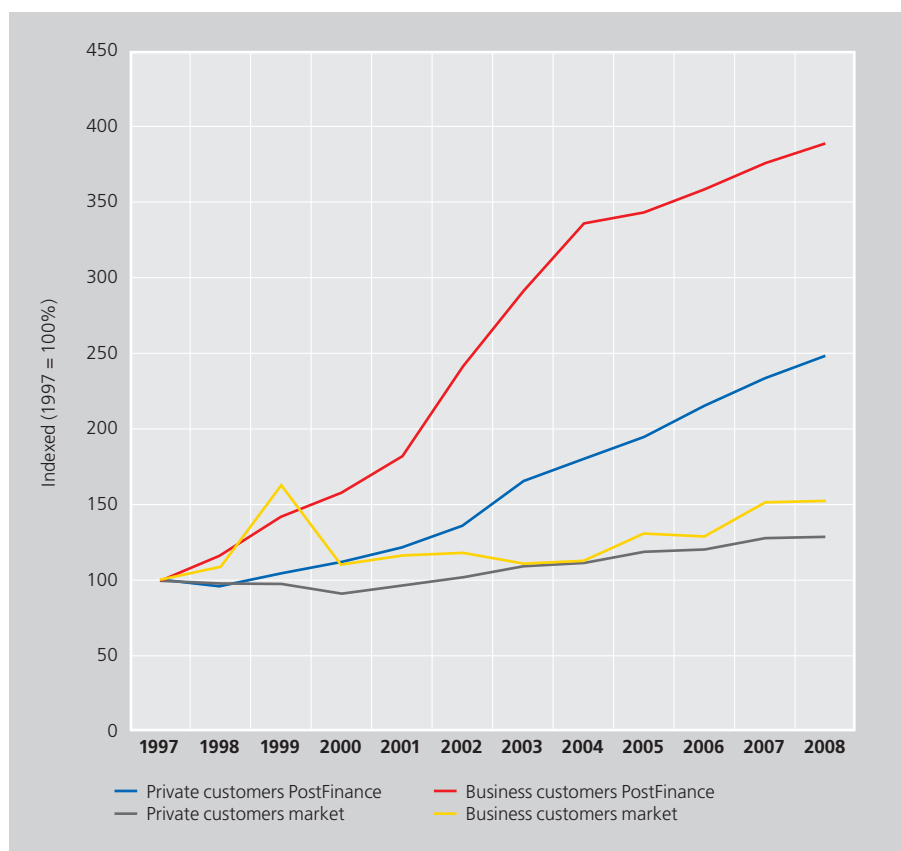
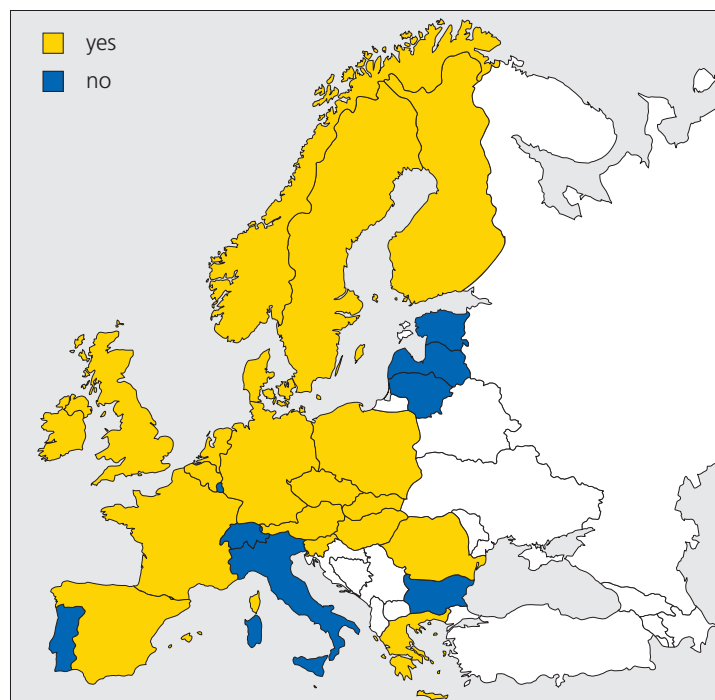


Fig. 4: Banking status of European postal providers of financial services



2. Anchoring industry-standard supervision

The development of supervision processes has not kept pace with the growth of PostFinance: they consist of special solutions devised to meet specific supervisory requirements. The current crisis in the financial markets clearly shows the central importance of transparent and effective supervision. Swiss Post therefore backs the Swiss Federal Council in its intention to convert PostFinance into a public company under private law and to place it under the control of the ordinary Financial Market Supervisory Authority (FINMA), just as other banks. Swiss Post thereby foregoes any state guarantee for its future subsidiary.

3. Securing the funding of payment transfer services

The Swiss Federal Council intends to regulate postal and payment transfer services separately from each other in order to accommodate differing market characteristics. This presupposes that basic payment transfer service provision remains financially viable for Swiss Post. Only the ability to flexibly adapt payment transfer service locations and the development of payment methods to customers' requirements, as provided by the consultation text, will allow Swiss Post to ensure funding with its own resources.

Summary

As a responsible company, Swiss Post must go from the assumption that policy makers will fully liberalise the postal market. Swiss Post has a great interest in retaining its position as an efficient and successful basic service provider in the future. Therefore, Switzerland's second-largest employer wants to and will behave in such a way as to remain competitive even in a liberalised market. Thanks to successful increases in efficiency in recent years, along with satisfying business performances of the individual Group units, Swiss Post is currently doing well. These good results are necessary in order to make important investments, further promote a culture of innovation and customer focus, consolidate the employee pension fund and compensate the Swiss Confederation for capital provided. Swiss Post has put its time to good use and is now prepared to face greater contest and competition. Yet only well-balanced postal legislation can ensure that the scheduled market liberalisation yields the desired results. If framework conditions are right, Swiss Post is able and willing to compete in a fully open market to the benefit of its customers. This requires the following amendments to the new postal legislation:

Keeping a sense of proportion as to structural policy demands

- A restrictive infrastructure mandate is not necessary. The mandate of carriage for postal services is enough.
- Any regional requirements should apply to all market participants.

Strengthening the funding of basic postal service

- There should be no administratively laborious tendering procedure.
- Instead, Swiss Post should be granted the necessary leeway as regards its structure and conditions of employment. Only thus can it finance services using its own resources.
- The proposed fund model should relieve basic service providers from the obligation to contribute and there should be no state contributions.
- There should be no regulation of access to Swiss Post's network.

Securing entrepreneurial freedom

- A public company under private law and majority ownership by the Swiss Confederation is the best solution in a European context.
- Swiss Post should be able to determine for itself in which markets it wishes to operate, without any state guarantee.
- The proposed purpose clause limits the scope available to Swiss Post and threatens its future. The purpose clause therefore needs to be amended.

Placing PostFinance under industry-standard supervision

- Swiss Post welcomes the idea of placing PostFinance under FINMA supervision just as other banks.
- From a competitive viewpoint, a banking licence is the sensible and necessary solution.

Securing the funding of payment transfer services

- Only if legally allowed to flexibly adjust its payment transfer service locations will Swiss Post be able to finance itself.

Further information is available at www.swisspost.ch/politics, where you can also find Swiss Post's position statement answering the Swiss Federal Council's questions in the context of the consultation process on the revision of postal legislation.