

# Liberalisation and social regulation of the letter market in Germany

- Experiences and conclusions -

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# Introduction

## ■ Input Consulting GmbH

- is a subsidiary of the German service sector union ver.di
- was founded 1994 by the former German Postal Workers Union (DPG)
- works as a consultancy for political institutions/foundations and for ver.di – especially for the ICT and postal & logistics department of ver.di headquarters
  
- Latest postal sector publications:  
(available: [www.input-consulting.com](http://www.input-consulting.com))
  - Universal service, jobs and competition in liberalized postal markets – experiences, problems and prospects; Contribution for the 2nd UNI Postal Global Union World Conference, Athens, Greece, 27 - 28 April 2007 (in English)
  - Liberalisation and Precarisation – Employment Conditions of the New Letter Service Providers in Germany (December 2006), Study on behalf of ver.di (English summary)
  - Comparative Study on the Liberalisation and Regulation of the Postal Sector in selected EU Member States (June 2006), Study on behalf of ver.di (only in German)

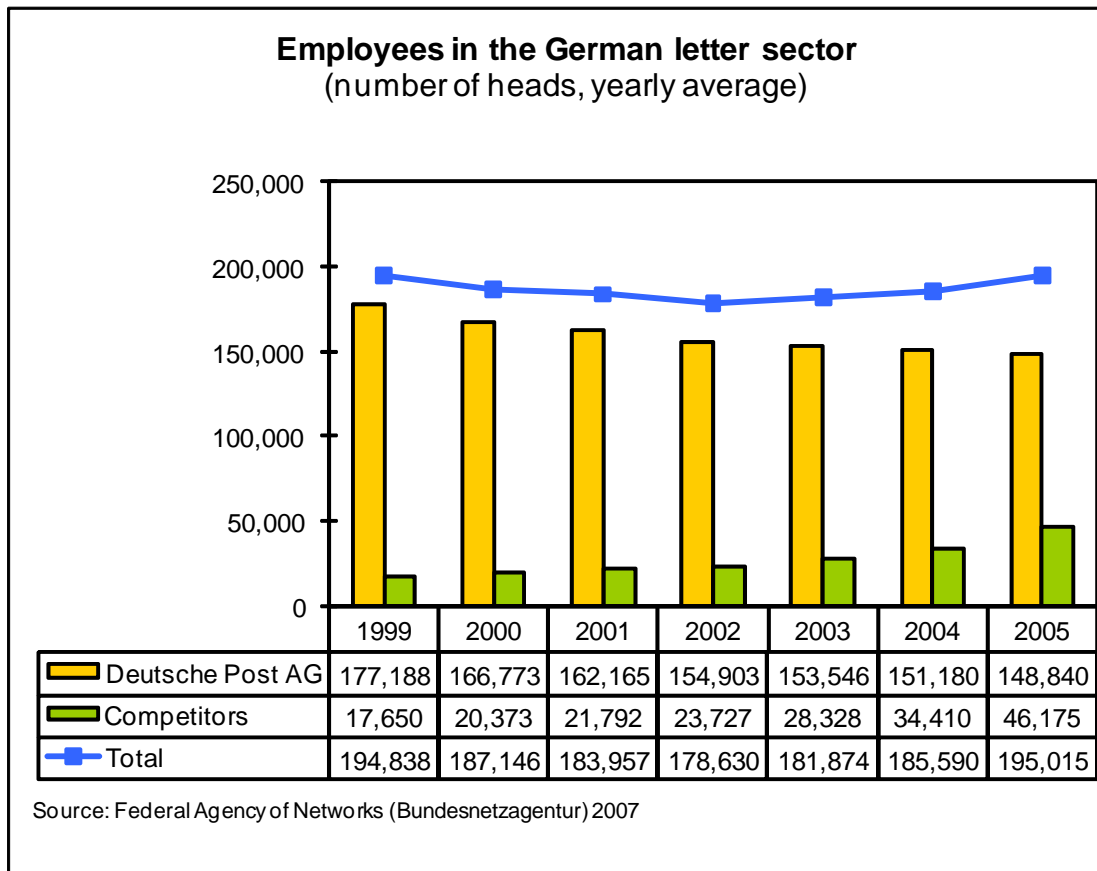
# Liberalisation of the German letter market

- 1998: Commencement of gradual liberalisation of the German letter market
  - Restriction of the reserved sector of Deutsche Post AG to letters under 200 grams (EU: 350 grams)
  - Within the weight limits of the reservable service, “high-quality” letters are also excluded from the monopoly
- Further restrictions to the reserved service of Deutsche Post AG
  - 2003: Exclusive license for letters up to 100 grams
  - 2006: Reduction of weight limit to 50 grams
- Complete opening of the letter market as per 1/1/2008

# Market development and competition

- The letter market is a stagnating market; in Germany its volume has for years been approximately €10 billion
- Germany is already among the EU countries with the greatest intensity of competition in the letter market.
  - The new letter service providers (750 active “licensees”) hold in 2006 a 20.6% share of the liberalised section of the letter market, and 10.3% of the total market.
- Strong competitors with nationwide delivery network
  - PIN Group – owned by several big newspaper publishers (especially Springer-Verlag)
  - TNT Post Germany – subsidiary of Dutch TNT
- Competition in the letter market is primarily cutthroat and price-implemented.

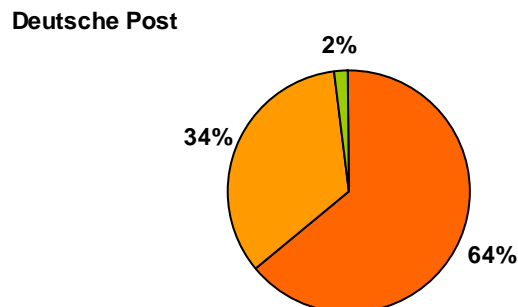
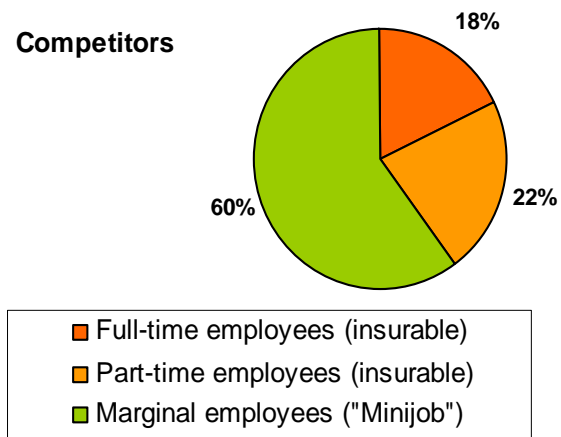
# Quantitative development of employment in the German letter market



- 28,348 jobs cut in the letter sector of Deutsche Post AG between 1999 – 2005
- 46,175 people were employed by the licensees in 2005, 28,525 jobs more than 1999
- Altogether, the volume of employment (headcount converted into full-time jobs) in the German letter sector dropped between 1999 - 2005 by 9.9% or 16,124 full-time equivalent jobs

# Qualitative development of employment in the German letter market

Share of insurable and marginal employees in the German letter sector (2005)



Source: Federal Agency of Networks 2007, author's calculation

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- Jobs subject to social insurance contributions and marginal employment are entirely asymmetrically distributed in the letter market
  - ➔ While the Deutsche Post AG almost exclusively employs social insurance-contributing employees or civil servants in the letter sector,
  - ➔ the majority (60%) of the employees of the new letter post services hold "mini-jobs" (i.e. regular monthly income not exceeding € 400, exempting the employee from social security contributions and income tax)
- ➔ The percentage of jobs subject to social insurance contributions in the German letter market has been in decline since 1999; the percentage of marginal employment more than doubled between 1999 and 2005.

# Working conditions among the new letter service providers

- The new letter service providers pay letter carriers low wages averaging € 7
  - Many deliverers earn less, especially when paid per item or if living in the eastern part of Germany.
  - The average pay attainable from the licensees lies more than 40% below the starting salary for deliverers of Deutsche Post AG (starting salary: € 12)
- The average wages among the licensees, even in cases of full-time work, are individually below the subsistence level
  - For many employees this results in entitlement to supplementary social benefits (“Arbeitslosengeld II”).
- The majority of licensee employees lack possibilities for a collective interest representation
  - Due to often vigorous resistance by management, only few licensees have works councils
  - Working conditions are not regulated in a collective agreement

# Liberalisation - conclusions

- ➔ The employment conditions among the new letter service providers exhibit marked precarious potential.
- ➔ The majority of licensees follow a business model that is based chiefly on the cost advantages of precarious employment.
- ➔ The competition in the letter market is less based on innovation, productivity and good service, and more based on wage and social dumping.
- ➔ With the liberalisation of the letter market, a sector formerly dominated by socially safeguarded employment and income conditions is on the verge of regressing to a precarious low-wage segment.



# Social regulation of the postal sector – social licensing obligations (1)

- In 1998 the gradual liberalisation of the letter market in Germany was introduced with the adoption of the Postal Law.
- A transition from monopoly to competition flanked by social safeguards had and has highest priority for the trade unions
  - no competition by means of wage dumping and low-wage jobs
- After an intense political controversy and substantial trade union campaigns, provisions were made in the Postal Law (PostG) against the spread of precarious employment
  - “The license shall be denied when ... facts justify the assumption that the applicant substantially falls below the crucial labour conditions common in the licensed area.” (Art. 6 Sec. 3 PostG)

# Social regulation of the postal sector – social licensing obligations (2)

- Nevertheless, the social clause is not applied in practical regulation in conformity with the law
  - The Federal Agency of Networks, with the support of the Ministry of Economics, wants to push competition in the letter market at all costs. Social licensing obligations are rather obstructive to this.
  - Since this provision came into force in 1998, no license has been denied or later withdrawn by the regulating authority on the basis of infringement against the social clause.
  - After ver.di publicised the serious deficiencies in the new letter services in 2007, the Federal Agency of Networks came under political pressure and, in summer 2007, carried out a first area-wide survey of the wages and working conditions among the licensees (no final results until now).
- ➔ The example of Switzerland shows that consistent application of social licensing obligations can prevent wage dumping in the letter market.

# Social regulation of the postal sector – collective agreements (1)

- As yet, only Deutsche Post has collective representation of interests and collective agreement regulation of working conditions.
- As a reaction to the public debate on working conditions with the new letter services, TNT and PIN seek dialogue with ver.di and denounce competition at the expense of employees.
  - TNT agrees with ver.di, “that it is no longer acceptable that competition is waged on the German letter market at the employees’ expense”  
*(Press release by TNT Post Germany dated 31/01/2007)*
  - “The ver.di executive committee and the board of the PIN Group will together lobby for fairer competition flanked by social safeguards in the German and European letter market ... Competition may not be waged at the expense of the employees”  
*(Press release by the PIN Group dated 29/01/2007)*

# Social regulation of the postal sector – collective agreements (2)

- In February 2007, ver.di and the PIN Group agree to hold collective negotiations
  - ➔ During the collective negotiations, the PIN Group supplies neither information on the allied company, nor on its wage policy
  - ➔ In the collective negotiations with PIN on 21/06/2007, ver.di demanded a starting wage for letter carriers of € 10 per hour and the payment of holiday and Christmas allowances.
  - ➔ Since the PIN Group did not react to this wage demand, the negotiations were not continued.
- ➔ Considering the behaviour of the PIN Group, it appears that they were not seriously interested in concluding a collective agreement.
- ➔ Instead, the postal competitors apparently wish to demonstrate good will with relevant declarations of intent, thereby preventing political initiatives being taken to prevent wage dumping in the letter market.

# Social regulation of the postal sector – minimum wages (1)

- Once an opening of the market in the EU as per 1/1/2009 does not appear possible, a political debate flairs up in Germany, too, about early market opening on 1/1/2008 and its social consequences.
- After an intense debate, the government coalition decides in August 2007:  
“The monopoly will run out on 1/1/2008, but we will make a minimum wage”
  - ➔ The Federal government wants to create the legal framework for minimum wages in the letter sector.
  - ➔ The Federal Labour Ministry will declare a collective agreement on minimum wages negotiated by the unions and employers universally binding via a statutory ordinance, if this collective agreement covers 50% of the people employed in the letter sector.

# Social regulation of the postal sector – minimum wages (2)

- After the decision by the Federal government, ver.di requested the then only employer association in the sector to enter negotiations for minimum wages in the letter market.
- In spite of this demand, TNT and PIN Group do not join the Arbeitgeberverband Postdienste (employer association for postal services).
- On 4/9/2007, the trade unions and the Arbeitgeberverband Postdienste conclude a “Collective Agreement to Regulate Minimum Wages in the Postal Service Sector”
  - ➔ Minimum wage for all employees of € 8 (eastern Germany) and € 8.40 (western Germany) per hour
  - ➔ Minimum wage for letter carriers of € 9 (eastern Germany) and € 9.80 (western Germany) per hour
- The trade unions and employer association request that the Federal Labour Ministry declare this minimum wage agreement universally binding.

# The minimum-wage conflict: The foes form up

- Employer Association of New Letter and Delivery Services
  - 12/09/2007: Along with 30 other licensees, PIN and TNT found their own employer association
  - 14/09/2007: The new employer association asks ver.di to enter collective negotiations for a minimum wage agreement. Since, however, a valid agreement was already concluded for the sector, ver.di rejects negotiations for a rival collective agreement.
- Union of New Letter and Delivery Services
  - PIN and TNT organise a demonstration where the employees demonstrate against too high minimum wages!
  - On 10/10/2007 the president of the employer association announces the founding a “union” for the employees of the new letter services. The union committee consists of members of the PIN human resources department and one management consultant.
  - The employees of the new letter services are called upon by the employers to join this “union,” which currently has approx. 1,300 members.

# The minimum-wage conflict: Springer-Verlag media campaign



- The newspaper publishers active in the letter business and the yellow press of the Springer-Verlag misuse their media power to fight minimum wages in the letter sector

Full-page adverts against a minimum wage:

- ➔ “Yes to fair competition! No to a postal monopoly!”
- ➔ “Dear Ms. Merkel, You were elected to work for Germany, not for the Post”



# The minimum-wage conflict: TNT & PIN threaten to cut jobs

- PIN puts pressure on the government and announces that if a minimum wage of €9.80 is introduced for letter carriers, it will extensively cut jobs.
- The Springer-Verlag withdraws as main shareholder in the PIN Group, which then has financial difficulties and has since been up for sale. Springer CEO Döpfner declares that the introduction of minimum wages ruined the PIN “business model”.
- TNT considers leaving the German letter market if the minimum wage is introduced.
- Both companies attempt to circumvent a minimum wage with subcontractors and increased use of newspaper carriers.

# The minimum-wage conflict: Successful political breakthrough

- According to a survey, 85% of the people in Germany are for the introduction of minimum wages in the letter sector.
- In December 2007, the German Bundestag with a 81% majority vote creates the legal premises for a minimum wage in the letter sector.
- The Federal Minister for Labour and Social Affairs declares the minimum wage collective agreement universally binding as per 1/1/2008 with a statutory ordinance.
  - ➔ The minimum wages agreed apply for all enterprises and independent operating units in the letter sector that carry letters as a predominant part of their business activity.

# The minimum-wage conflict: The foes do not give in

- The private letter services conclude their own collective wage agreement with the Union of New Letter and Delivery Services with minimum wages of €7.50 in western Germany and €6.50 in eastern Germany.
- TNT and PIN file a suit at the administrative court against the validity of the universally binding minimum wages.
  - Berlin Administrative Court (07.03.2008): a minimum wage declared universally binding via a statutory ordinance may not displace any other collective wage agreements.
  - The Federal Labour Ministry appealed against this judgment, since a contrary jurisdiction of the Federal Labour Court was not taken into consideration.
  - According to estimations by the Federal government , the administrative court's judgment will not prevail in an appeals procedure before the higher court.
  - The statutory ordinance on minimum wages in the letter sector remains valid.

# Social regulation - conclusions

- ➔ Social regulatory instruments, like social licensing obligations, collective agreements and minimum wages, are suitable on principle to prevent negative consequences of market liberalisation for employees and to ensure fair competition in the letter market.
- ➔ When effectively applied, they consequently exclude those providers from the market whose business models are based solely on the cost advantages of wage dumping; the loss of precarious jobs must be taken into account.
- ➔ It is urgently necessary to socially regulate the letter sector if market liberalisation is not to be accompanied by the spread of poverty wages and poor working conditions.
- ➔ However, in our experience, the introduction of social regulatory instruments requires overcoming massive political resistance.