
Postal Price Regulation in a Competitive Environment

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Introduction


- Emerging competition in postal markets
- How does an incumbent postal operator set prices in a competitive environment?
- Main pricing instrument: Rebates
- What do competition and regulatory authorities say?

Agenda


- Rebates and their effects
- Case examples
- Conclusions

Rebates and their Effects

- Quantity rebates
 - Cost based
 - Economies of scale
- Turnover related rebates
 - Basis: fixed amount of turnover
- Total turnover related rebates
 - Alt1: related to all turnover
 - Alt2: rebate for A granted only if buying product B (and C...)
- Fidelity rebates
 - Related to *share* of turnover/volume



Uncritical if non-discriminatory



Exclusion of competition

Extension of market dominance

Predatory pricing

Discrimination

Case Example 1

The „Infopost Schwer“ Case

- In 1999/2000, Deutsche Post granted linear rebates to mail order companies
- Requirement: high share of total volume shipped by DP
- Regulator BNetzA stated lack of cost relationship
- Discriminatory effect of rebate
 - Not related to specific absolute volumes
 - Rebate dependent on reaching a certain share of customer's demand
- Close to fidelity rebate



Exclusion of competition

Case Example 2

Hays vs. DePost-La Poste

- Contract with preferential tariff for B2C (still under monopoly at that time) services terminated by DePost-La Poste
 - Continuation linked to additional contract for exchange service (B2B)
 - B2B service was provided by private operator Hays
- Bundling agreement
- EU-Commission:
 - Not admissible to grant tariff advantage on sales on one market dependent on contracting in another market
 - Tying of B2C and B2B agreements leads to lack of critical mail mass for alternative operators providing similar B2B services



Extension of market dominance

Case Example 3

France Télécom/Wanadoo

- Subsidiary Wanadoo offered internet access services at price level below average incremental / average total costs
- ECJ refers to the AKZO-rule:
 - Prices below average incremental costs = abuse
 - Prices below average total costs = abuse if part of a scheme to exclude competitors
- Dominant undertaking has no absolute right to align prices to competition
- In this case: prices below costs and indications for plan of predation



Predatory pricing

Case Example 4

European Commission vs. Deutsche Post

- Deutsche Post offered high rebates on B2C-parcels in the 1990ies
- Requirement: customers must ship their total (or a high share of) volume with DP
- EU-Commission: resulting prices were below average total costs and partly below average incremental costs
 - Concept of incremental costs: predatory pricing is not in the legitimate economic interest of DP
 - Fidelity rebates keep competitors from reaching critical mass

▶ Predatory pricing (fidelity rebate)

Case Example 5

EU-Commission/Conseil de la Concurrence vs. La Poste

- Selective rebates to certain large customers and to subsidiary Datapost
 - Arbitrary access volumes
 - Datapost and large customers were the only companies above threshold
 - Result: Number of consolidators/companies benefiting from rebates decreased by 50%
- EU-Commission:
 - Price discrimination abusive
 - La Poste imposed technical and financial conditions arbitrarily, which is abusive

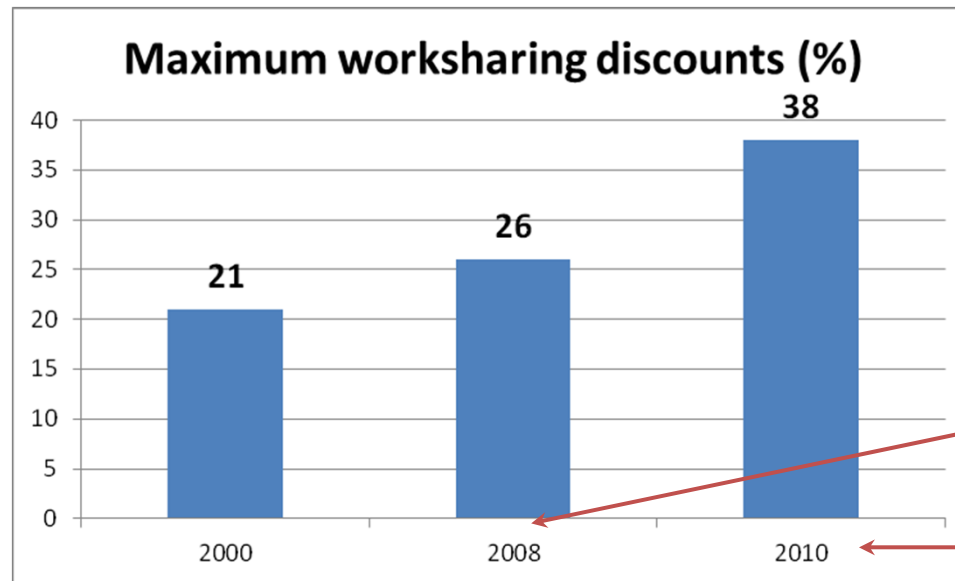


Discrimination

Case Example 6

Work-sharing Prices in Germany

- Prices for work-sharing set by Deutsche Post and controlled (ex-post) by National Regulatory Authority (BNetzA)



Full liberalization

Full VAT duty of DP

- Negative effect on end-to-end competition

▶ Regulation of price strategies beyond competition law?

Case Example 7

Postcomm vs. Royal Mail: Zonal Pricing

- In 2007, Royal Mail planned to offer lower prices for high density zones (for end-to-end bulk mail products)
- Postcomm rejected application; Royal withdrew before final decision
- PostComm: zonal pricing can be admissible provided that prices are
 - Revenue neutral;
 - Cost-reflective;
 - Imply no unacceptable changes for customers (*not met*)
 - Meet requirements of Third Postal Directive
 - No discrimination among senders (*not met*)



Discrimination; regulatory concerns

Conclusions

- Competition rules and postal regulation go hand-in-hand
- Pricing strategies must not preserve or reinforce former monopoly
- Extension of dominant position into new markets is problematic
- Price discrimination is problematic
- Specific regulatory attention to be paid on
 - Zonal pricing
 - Work-sharing