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Consumers & Markets



Re-monopolisation of letter markets: the case of PostNL-Sandd

Arno Meijer, 19th Königswinter Postal Seminar, 10 November 2021

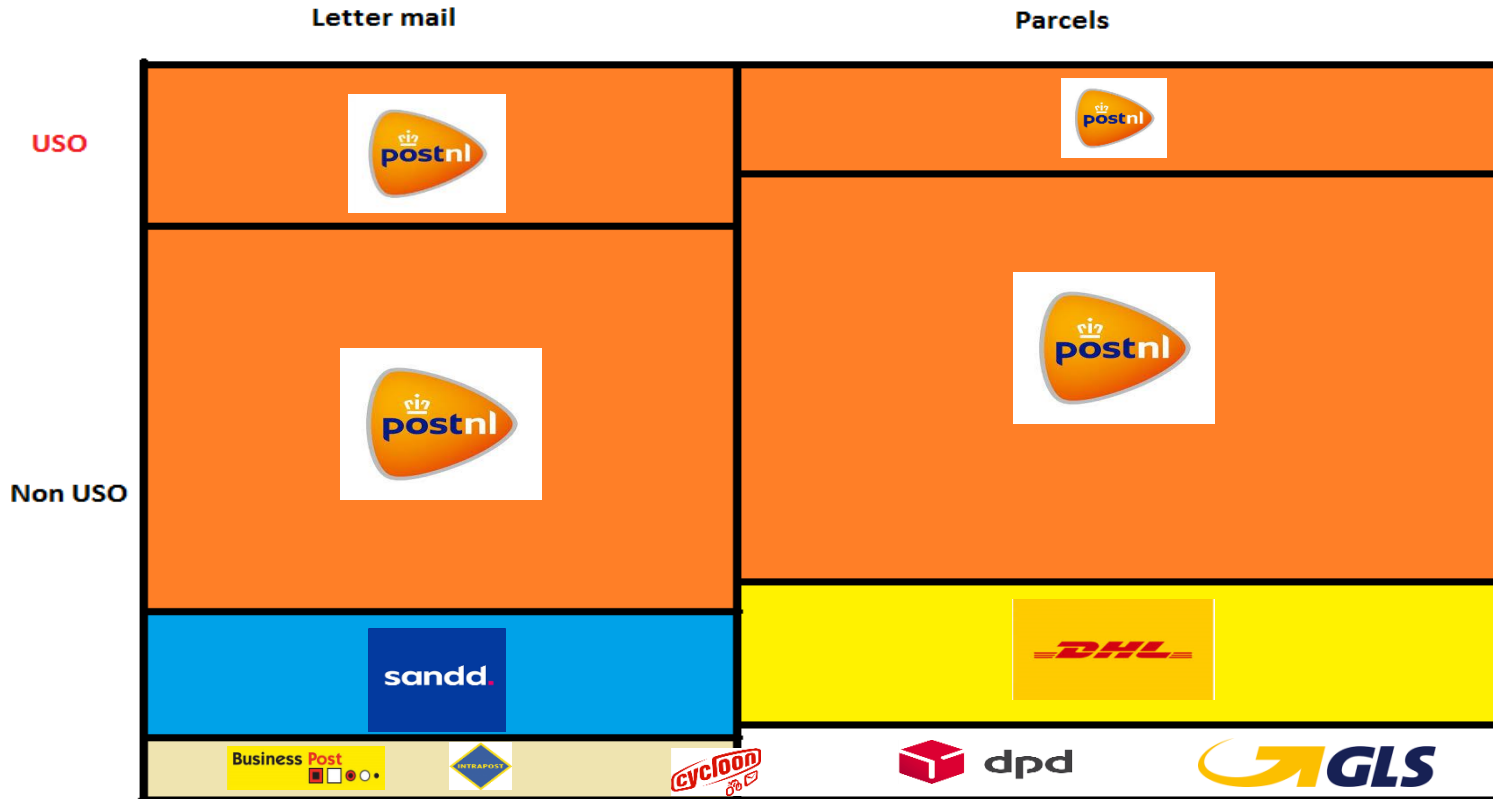


Dutch postal sector

Characteristics Dutch postal sector

- Free entry, only registration required
- USO
 - Consists of single piece domestic letter mail and parcel mail, outbound and inbound (bulk) letter mail
 - Price cap on a basket with all single piece USO services.
 - Price cap is adjusted every year on the basis of volume development and inflation, no leeway for ACM
- Non USO:
 - Domestic bulk letter mail and (bulk) parcel mail
 - Prices unregulated
 - Prices of non-24h bulk mail much lower than 24h bulk mail

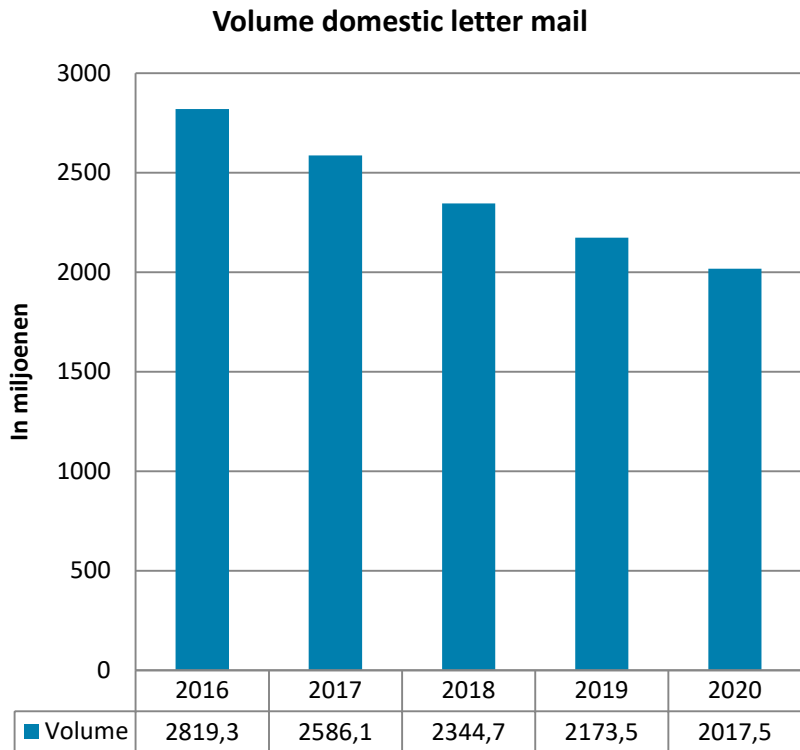
Competitive landscape (2018)



Turnover (2018): 900-1000 mln euro

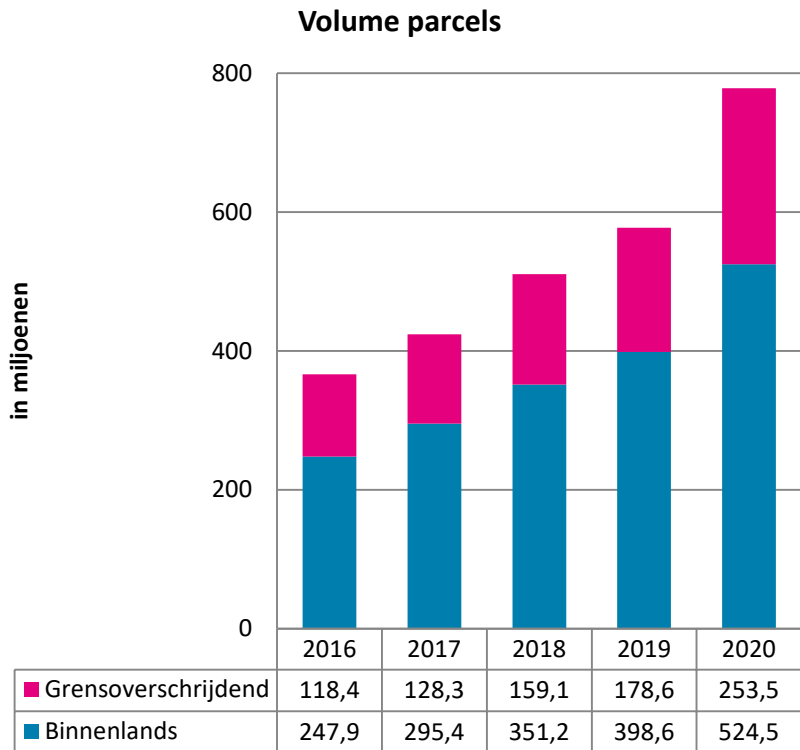
Turnover (2018): 1300-1400 mln euro

Volume developments



- Single piece letters decrease rapidly (double digit), 2020 increase due to covid-19
- Steady decrease of letter volumes bulk mail (8-10%), also during covid-19

Volume developments

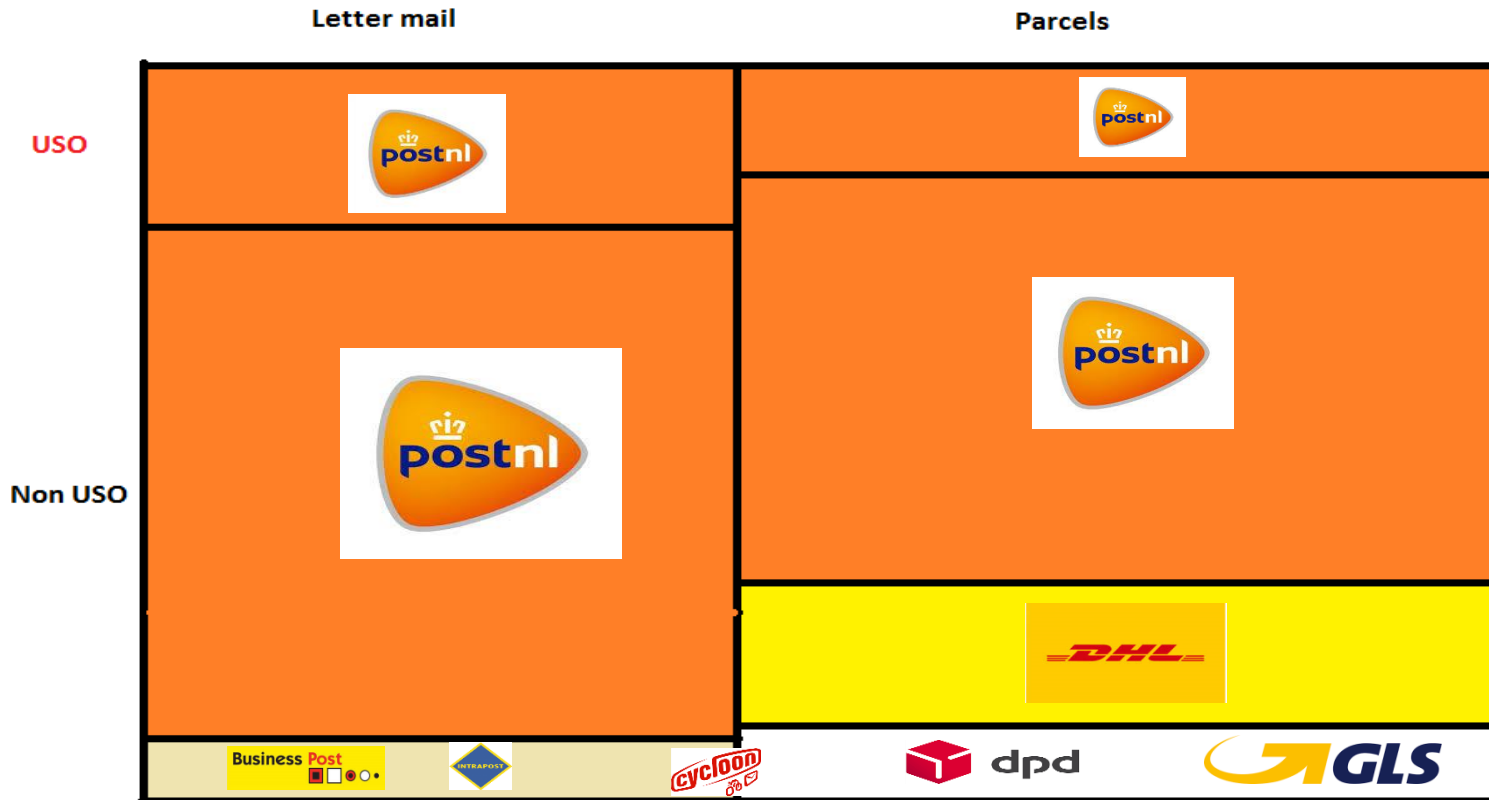


- USO parcel volume is small and quite stable
- Rapid increase of (bulk) parcels due to e-commerce and covid-19
- Cross-border increase in parcels



Merger PostNL - Sandd

Competitive landscape (2019, after merger)



Turnover (2018): 900-1000 mln euro

Turnover (2018): 1300-1400 mln euro

Merger decision ACM (September 2019)

- Competition assessment of ACM:
 - Significant impediment of competition on the markets for bulk letter mail and single piece letter mail as a result of the take-over of Sandd by PostNL
 - Merger simulation showed 30-40% higher prices for bulk letter mail
 - Disappearance of competition in single piece letters because Sandd own stamp offer would be removed
 - Efficiency defence failed
 - Non-horizontal effects on competitor postal operators
 - Competition risks on adjacent markets: markets for parcels and unaddressed mail
- Assessment of SGEI (article 41-3 of the Competition Act):
 - ACM cannot prohibit a merger if this is required to guarantee the sustainability of a service of general economic interest (SGEI); USO is a SGEI
 - ACM assessed profitability of USO: USO profitable until 2025 without the merger
- Conclusion: ACM prohibited the proposed acquisition of Sandd by PostNL in 2019, no merger licence

Merger licence by state (September 2019)

- State secretary of Economic Affairs decided to provide licence for the merger
 - Competence in Competition Act in case of compelling public interests (art 47 Competition Act)
 - Public interests: risk of sustainability of the USO, employment conditions
- Approval merger under conditions:
 - Access of competitor postal operators
 - State Secretary of Economic Affairs asked ACM to advice on access tariffs and conditions; advice given policy objectives set by the Ministry of Economic Affairs
 - Access tariffs based on retail minus; access conditions based on current practice
 - Former agreements of Sandd are respected until amended Postal Act
 - Max 9% RoS on letter mail division PostNL
 - PostNL needs to offer mail deliverers of Sandd a labour contract
 - ACM designated to enforce the conditions

Current state of affaires: court case ongoing

- October 2019: PostNL took over Sandd
- October 2019: Decision State secretary was appealed
- February 2020: Sandd network dismantled
- June 2020: Court of Rotterdam annulled decision State secretary
- August 2020: higher appeal at CBb by State secretary and PostNL
- March 2021: strengthened art 47 decision of State secretary
- August 2021: CBb hearing
- Expected: second hearing
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Thank you