

COMPETITIVE MARKET REVIEW

A RESPONSE BY WWAV RAPP COLLINS GROUP

INTRODUCTION

WWAV Rapp Collins Group is the largest direct marketing services company in Europe and one of Royal Mail's biggest clients in the direct mail sector.

Whilst we provide a diverse range of services, our core offering is the creation of marketing communications programmes for blue chip companies such as Lloyds TSB, British Gas and Garnier and also fundraising organisations including NSPCC, Cancer Research UK and WWF. Key to these programmes is the use of direct mail as both a customer acquisition and retention tool.

WWAV has consistently supported the liberalisation of the postal services market in the UK. We believe that the successful introduction of competition in postal services will improve the efficiency and reliability of existing services, encourage innovation in the development of new services and result in a more dynamic and customer responsive postal system.

We welcome Postcomm's investigation into the competitiveness of the market as we strongly believe that customers will only feel the benefits of competition if the newly competitive postal services market is regulated effectively in order to prohibit anti-competitive behaviour and safeguard against any abuse of market position.

THE COMPETITIVE MARKET REVIEW

Postcomm, in its Competitive Market Review, has identified four main barriers to entry: economies of scale, Royal Mail's VAT exemption, the potential for anti-competitive behaviour by Royal Mail, and customer inertia.

Whilst we recognise that all these factors may contribute to the current lack of competition in the postal market, we are particularly concerned with the potential for anti-competitive behaviour on the part of Royal Mail.

WWAV's response to the review confines itself to the issue of anti-competitive behaviour and seeks to highlight our main areas of concern. We are concerned primarily that Postcomm's emphasis is based solely round preventing anti-competitive behaviour that damages rival postal operators when there is another form of anti-competitive behaviour that could have a significant detrimental affect on related markets. We envisage, however, that forms of this anti-competitive behaviour could also help stifle the growth of competition within the overall postal services sector.

Acquisitions, investments and the potential for anti-competitive behaviour

Royal Mail is increasingly keen to expand into related markets. We believe this trend will increase as it seeks to make up for revenue lost in its core business area as competition in postal services intensifies. Our concern is that there is significant potential for Royal Mail to discriminate, both upstream and downstream, in favour of operations in which it maintains a commercial interest.

WWAV is alarmed that there is no process by which the appropriateness of acquisitions or investments by Royal Mail are evaluated. Full and proper scrutiny of such ventures is vital since related markets can easily be distorted by discriminatory access to services through common ownership links.

Royal Mail has a stake in a number of related markets, having invested in a lifestyle database firm and a mailing house. To our knowledge, no proactive scrutiny of either deal was undertaken before the contracts were signed. We are concerned therefore that nothing has been done to ensure that Royal Mail cannot use its monopoly position to effectively subsidise both ventures, act anti-competitively and effectively prevent other service providers operating on a level playing field.

This leads us to believe that the current regulatory structure for the postal services industry does not, at present, provide adequate protection against anti-competitive behaviour.

Ring-fencing

As part of the Competitive Market Review, Postcomm sets out the suggestion from Postwatch and other stakeholders that Royal Mail's upstream and downstream activities should be separated into two separate businesses (section 4.14).

Although we believe that this would indeed guard against upstream and downstream discrimination, we also recognise the potential disadvantages of such a scheme (as outlined in sections 4.17 – 4.20).

We believe that a simpler solution to the problem exists: the strengthening of the sector's regulatory and investigatory structure, to make it more rigorous and proactive.

The role of the regulator

The 1999 blueprint for postal services liberalisation, "Post Office Reform: A world class service for the 21st Century", reassured organisations operating in the postal sector that the new Postal Services Regulator (now Postcomm) would have powers that would be "...concurrent with the OFT to oversee fair competition to ensure that the Post Office is not using its monopoly and size to suffocate innovation and enterprise, particularly in smaller companies".

WWAV does not believe that this promise of a strong regulator has become a reality. We believe that only by providing a proactive system of investigations can the regulator offer protection against anti-competitive behaviour.

It should also be noted that Royal Mail's involvement in related markets could also potentially stifle competition in the overall postal services market. As competition emerges in its core service areas, one of its potential responses is to try and secure the mail items that could be processed by competitors for itself by tying upstream services to Royal Mail downstream services. It could achieve this by discriminatory access to the core services through bundled prices for a package of services. Only detailed scrutiny of the financial records of, and the interaction between, Royal Mail's various interests will identify such anti-competitive behaviour.

Postcomm has stated that it would be "concerned" if Royal Mail engaged in any anti-competitive behaviour, and has stressed that it encourages complaints to be brought forward.

The burden of proof, however, rests firmly with the complainant. Postcomm will rarely investigate unless substantive proof has been produced. Only detailed scrutiny of the financial records of Royal Mail and rigorous examination of the interaction between different areas of Royal Mail's interests are likely to identify anti-competitive behaviour. We believe that this makes it nearly impossible for evidence of discrimination to be gathered by any organisation other than Postcomm or Royal Mail itself.

We believe the acknowledgement in the Review that "it is not always possible for complainants to provide conclusive substantive evidence in support of their complaints", should be a welcome first step on the way to allowing the regulator to be more intrusive and more powerful.

CONCLUSION

WWAV Rapp Collins welcomes this consultation on the competitive market and we urge Postcomm to approach the regulation of the postal sector in a more vigorous manner. In place of the current reactive process, we would like to see Postcomm establish a proactive system of checks and balances that will offer protection against anti-competitive behaviour by Royal Mail. We believe that this will allow the newly liberalised postal market to flourish.

CONTACT DETAILS

Robert Mayes
Group Communications Director
WWAV Rapp Collins Group
1 Riverside
Manbre Road
London
W6 9WA

Tel: 020 8735 8884

E-mail: robert.mayes@wwavrc.co.uk