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**The extent and the perspectives of the postal universal service in
the dawn of the total postal market liberalization**

Theses of Doctoral Dissertation

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I. Summary of the research topic

The European Union with its steps towards the opening of the market has arrived to the point recently to execute the total liberalization of the postal services. With this the latest target date for the total liberalization in Hungary became 31st December 2012. Taking into consideration that the traditional postal service appears for the inhabitants of the country as an evident basic service, it has to be a basic target of the regulation changes in connection with the liberalization that the customer comfort of the citizens should grow.

I have analyzed the transmission of postal matters. I have not examined the other elements of the postal market in wide sense, as they are not in loose connection with my main topic, so I have referred to them only in case it was needed for the solidier analysis of the consignment circulation. That is why I mean under the concept of post only the consignment transmitting activity.

I have examined the extension of the public service nature of the postal service and its expected future that is related to the science, to the technology and to the approach of the citizens. I have also analyzed the realistic opportunity of the substitution of the new communication channels with the postal matter circulation. My other question is about the change and the tendencies of the regulating environment related to the total liberalization, concentrating especially on the Hungarian market and on the regulation model that is the most appropriate for the interests of the citizens who appear as customers on the market. I have analyzed which theoretical model would be the most appropriate from the theoretically possible regulation models, taking into consideration the Hungarian specialties and the interests of the citizens, and which refinements are needed on the model before the finishing the specific detailed rules.

II. Analysis, research methodology and resources

During my analysis I have worked basically with legal method, with law analysis, and I have used the method of law comparison, too. Besides this, as we can not get acquainted with the topic from the law regulations in the needed depth, to get to know to the regulated reality substantially, some fields of the economic science were for my help.

In chapter II. I have gone through the historical development of the Hungarian postal regulation from the beginning till the changeover. During the introduction of the organic development I have concentrated on the solutions that can be regarded as samples currently, too. I went into details about the solutions and legal methods that can be used as samples after the total liberalization. The extent of the postal service and especially the extent of the traditional transmission of postal matters has changed continuously during the centuries. This change gets into a new phase nowadays during the liberalization of the postal market, and with this new questions have to be answered that are generated by the new situation. During the search for the appropriate answer we can use the historical experiences and we can take the successful solutions of the past as basis adapting them to the new situation or simply using them to work out new solutions. The basics for my work were mainly the law regulations from the certain period of time, but I have also taken into consideration historical works about this topic.

In chapter III. I have examined the attitude of the individual customers towards the consignment circulation with a gallup poll done with questionnaires, and I have drawn inferences from them about the possible changes for the future. I would like to say thank you to professor dr. Éva Kuti, who has helped me in the analysis of the filled in questionnaires, and also to the students of Budapest College of Management, who helped me in the distribution of the questionnaires.

In chapter IV. I have surveyed a special segment of the consignment circulation – the one of the direct marketing consignments’ – examining the whole DM market, using the related literature and statistics from Hungary and from abroad, too. Taking the experienced and prognosed trends of the consignment circulation market into consideration, the DM consignments seem to be a dominant element of the traditional letter circulation in the long term. This is on the one hand because of its own growth, on the other hand because of the

decrease of the other elements of the market, such as consignment circulation of individuals, invoice letters, and official consignments. Because of such realignment there can be a need to rethink the regulations, to adapt the rules of the advertising market to the postal market, as upon statistics about Western-Europe the DM consignments mean a significant part in the postal consignment circulation.

In chapter V. I have analyzed the concept of the network industries and I have proved that in modern life there are a lot of needs that can be fulfilled most effectively through networks. The postal matter transmission belongs to these, too. During the survey I have worked mainly with economic theories and data. For the theoretic questions I have used basically foreign literature, for the certain comparison of the industries I have used Hungarian resources.

In chapter VI. I have examined the public services from the point of the current Hungarian regulation related to the consignments of the public authorities and to the special consignments of the business sector. I have searched for the answer of the question if the evident treated public service nature of the services can be changed in the long run through changes of the regulations. I have used basically the current Hungarian law regulations for this.

In chapter VII. I have looked through the current status of the financing of the analyzed services before the total liberalization. I have used the law regulations of Hungary and of the European Union, and the survey of the Commission. After comparing them I have drafted the possibilities of the latter regulation of the financing. I have come back to this partly at the modified provisions of the directive.

In chapter VIII. I have surveyed the status of the examined market before the liberalization, based on the impact studies prepared for the bid of the Commission. Although a part of the used studies were made some years ago, the conclusions and tendencies of them have not changed, so I have used them taking the new analysis into consideration and referring to the studies that were prepared since then.

In chapter IX. I have analyzed the postal market directive of the European Union: the 97/67/EC directive. In the first part of the chapter I have looked through the regulations of the original directive from 1997, as these meant the base frame for the regulations of the total

opening of the market after the modification. I have mainly used the method of law analysis to examine the directive, concentrating on the regulations that will stay after the total opening of the market, and on the ones that are the most important from the view of the opening of the market and because of this they will be modified basically. In the second part of this chapter I have analyzed the 2008/6/EC directive that is the base for the total liberalization. I have concentrated on the points where the 97/67/EC directive was modified in an important way. Besides the analysis of the law regulation, I have surveyed the secondary law regulations of the European Union, the literature and the Hungarian law regulations.

In chapter X. I have compared the elements of the totally liberalized Finn and German regulations with the current Hungarian regulations right before the total opening of the market, taking also the possible solutions into consideration. I used mainly analysis of the law regulations during my work.

In chapter XI. I have listed the possible models for the total opening of the market and I have checked the possibilities they insure at theoretical level, apart from the detailed regulations. I have made this examination basically with the logical analysis of the law regulation and literature of Hungary and the European Union. At this point I shortly referred to elements of the new Hungarian regulation draft, compared to the models. At the closure of the script this draft was over the social dispute but has not been presented to the parliament yet.

III. Summary of the scientific results, the possibilities of the exploitation

1. The postal service did not have any alternatives during the history for a long time and the new technical solutions appeared first typically inside the frames of the enterprise that provided postal service. In the 2nd part of the 20th century due to the considerable development of the technology some new services came into existence that can mean the alternative of the traditional post.
2. In the period of the dualism the post was changed in a significant way. On the one hand the postal network was renewed, leaving the centuries of the feudalism behind, and it became a modern network operated by civil servants. On the other hand it has finished the

transport of people when the railway appeared. The new communication channels (telegraph, telephone, radio) that appeared in connection with the development of the technology were built out in the frames of the post that was the traditional communication provider.

3. The post for which the traditional task was to fulfill the communication needs had used its network which covered the whole country for the fulfillment of other needs in the past, too. The post office savings banks that were created during the dualism took over the tasks of the banks that were not enough well-spread in the countryside. The requirement that the deposit has to be connected to a name which is an issue from the near past in case of banks, was a basic criteria at the post office savings banks from the beginning.
4. In the postal act between the two world wars we can find the regulating public law aspect and the entrepreneur civil law aspect of the state especially mixed. The legislator has created a special case when he has ranked such activities as monopolies that are listed in the procedure of a certain company (Hungarian Royal Post) and has given the appropriate protection to them. With these Janus-faced aspects of the state were mixed, as the Hungarian Royal Post as a state owned company bore the civil law aspect of the state and despite of this the act has given the right to this civil law aspect to have rights related to the public law regulating aspect and even in an extent that significantly restrained the objects of the civil law, as it had the right to give monopolies to itself.
5. The privately owned units of the postal network have traditionally provided other types of services besides the postal ones since the creation of the postal network. The contribution in the postal service was only one element in the complex services, but beyond question the most important one.
6. After the residential service providers of the state have switched to the cash transfer circulation (the idiomatic cheque or yellow cheque) in their fee collection, the Hungarian National Bank that executed the transaction of the traditional cheque circulation was facing to new infrastructural and logistical demands that were very different from the ones in the past. As the Hungarian National Bank did not have such organization and resources and it was causeless to build up such, the transaction of the cheque circulation was given

to the Hungarian Post as an exclusive right that has been executing this money circulation since then.

7. The customers of the service can be ranked into three groups on the base of the number of consignments they have posted or received:

Small customer: receives and posts monthly less than 15 consignments

Medium customer: receives or posts monthly at least 15 but not more than 50 consignments

Big customer: receives or posts monthly more than 50 consignments.

The individual customers can be found at the posted consignments, as at the received consignments the ones received from the business service providers is a significant correction factor that originates from the different customer habits of the individuals.

8. We have done a Gallup poll with questionnaires among individuals, asking them about the number of certain types of consignments posted and received during the period of one year. From the regional summarized data we could determine that the consignment circulation is a mirror of the economic state of development of the country: in the regions with higher state of development also the data of the consignment circulation were higher. The data of the consignment circulation between individuals differ from the correlation between the economic state of development and the volume of the consignment circulation. Here we have found contradictory results from the general tendency: in the regions with lower state of development the rate of letters received from individuals is higher than in the regions with higher state of development. In the North-Hungarian region the total consignment circulation between individuals is almost 10% bigger than in the Central-Hungarian region. As we have found similar data in the other regions with lower state of development, too, we can draw the inference even from these small numbers of elements that with the economic and the related technological development the consignment circulation between individuals decreases.

9. In the next part of the questionnaire we have examined if the Hungarian individuals regard the e-mail as an alternative of the traditional letter. First we have asked them if they have an objective opportunity to use e-mail and after this – where we received a positive reply – we have surveyed the e-mail usage habits, and finally we have analyzed the willingness for the change of the product. At the examination of the objective possibility to the

substitution we have checked if the individuals have the computer knowledge that is needed to the use of electronic mailing programs. Less than half of the individuals had Internet access at home, so the objective substitution is not possible, as only half of the customers are in such position that they are able to changeover to a substituting product. At the analysis of the answers – first the summarized ones, then upon age groups – we have determined three virtual submarkets on the consignment circulation market: the market of sending good wishes (sending greetings), the market of private messages (in which the messages without good wishes belong to) and the market of official messages (the consignment circulation of individuals with public offices and enterprises).

10. In case of sending letters which have important content for the individual sender it is unequivocal that the traditional letter is more famous than the electronic message and this is presumptive even in case of real price increase, too. Customers basically forward messages with different natures by postal and by electronic correspondence. The reasons for this can be found unequivocally in the habits of the customers and not in the objective substitution of the products.
11. From the answers upon age groups to the question related to the habits about sending good wishes it can be determined unequivocally that the traditional postal greeting card market will continue to narrow. The personal meaning of the greeting card that someone is thinking of us is not unique; mainly young individuals associate the idea of personality to the electronic way of sending greetings, too.
12. The dominance of the traditional letters among the consignments that are important for the sender is commanding at all age groups and there can be seen only little differences among the opinion of the different age groups. In case of a significant price increase in the price of sending letters the customers still send important messages by letters, although the young generation shows bigger price flexibility here. The two communication channels are positioned more and more specially: the e-mail is used for the less important, ordinary consignments and the postal letter is used for the consignments with big importance. Besides this customer attitude it is also very important that the trust in the postal services is not too high, especially among young individuals.

13. In the long run with the spread of the electronic writing knowledge and with such modification of the regulating environment upon which the proving force of the electronic message will be the same as the one of the traditional postal consignment, it is expected that the electronic consignments receive bigger importance on the market of the official messages, but the changeover will last the longest time here from the three examined markets, even with the active participation of the state.
14. The addressed marketing consignments are the most important products on the DM market, which has more reasons. The first one is the psychological reason that you feel well if you receive a letter, and you feel pleasant and excited till you open it and get to know to the content of it. And even if the marketing consignment ends at the paper basket, the pleasant feeling is stored in the subconscious part of the mind, and in case of a well structured consignment the message of the consignment is related to it, too. The second reason is an economic one. The instruments of the DM market and especially the addressed marketing consignments are the most appropriate to survey the potential target market, to get to know the demands of it, as the potential customer can answer to the offer given in the consignment. According to this although the costs of the addressed marketing consignment are high, it is exceedingly appropriate for the market analysis and with the refinement of the target market the rate of return can be extended well. Upon the research of the advertisers the addressed marketing consignments have high efficiency rates on all fields and the only really strong competitor of it is the e-mail that has quite similar efficiency. In 2008 the value of the consumption on the base of DM instruments were 276 billion HUF, which is more than 7,8 times more than the advertising costs at the DM market of 35,1 billion HUF.
15. The postal service provider can stay on the DM market with the addressed marketing consignments with significant share in the long run. On the base of the international examples the increase of the volume of the addressed marketing consignments can be expected. The increase of the volume means the increase of the rate in the total postal consignment circulation and with this the postal service providers became interested in the continuous development of the product inside their own frames and also together with other players on the DM market. Although the addressed marketing consignment does not require different regulations from the general ones, taking the past and the expected future tendencies on the market into consideration, it will become a significant element of the traditional letter circulation in the long run. The reasons are the own volume increase and

the decrease of the other elements of the market like the consignment circulation of individuals, invoice letters and official consignments. With such changes the need for the rethinking of the regulation and for the takeover of the rules of the advertising market on the postal market appears.

16. Not only in Europe, but all over the world the network industries were regarded as natural monopolies. This can be proven in different ways and also the definitions of the natural monopoly can be different from each other. On the one hand it can be proven with macro economical model calculations that an optimal number of companies belong to a certain production level which number of companies can realize the production with the lowest costs and from theoretical point it can be possible that in some industries this certain number is one. On the other hand we can look at the question from economical-political point. According to this there can be such a market sector where the presence of only one company is reasonable from national-economical point of view and new companies are hampered to get on the market because of the protection of the market and the security of the service providing. The examples in the practice show that there is natural monopoly in such industries where the industry provides public service. The national-economical interest can be interpreted from the point of the current economical policy that is why the radical change of the economical policy can bring the need of the dismantling of the previously reasonable monopoly.
17. The state can be present on a certain market in three different roles: (1) as a regulatory authority, (2) as the operator of the network and (3) as service provider. In the interest of the market an emphasized attention has to be paid on the fact if the state can separate its three appearance forms from each other in a hermetical way, because any connections between them makes a strong distortion of the competition.
18. The network industry is such an industry that (1) insures the connection between the end points through the network that has physical end points and the connection between them is continuous or at least periodical (2) can be operated as an oligopoly between economically small number of companies or in some cases solely as a natural monopoly (3) provides services that are standardized because of the usage by huge number of customers (4) the provided services fulfil basic economic needs of the customers, and the benefit of the fulfilment can not be maximized by the customers individually (5) the

customers can get the service solely through the network, the use of another resource is impossible, but (6) the operator of the network is able to maximize its benefit through the improvement and the extension of the network. (7) The liberalization and the privatization of the networks do not coincide with each other by necessity. On the open market there is economic and also regulatory possibility to apply the entrepreneur role separated from the public power aspect of the state independently. (8) After the total opening of the market and the privatization the state does not have the possibility to file out from the market for good and all either. The role of the state changes, it has to act as a regulatory authority protecting the interests of the customers against the owner of the network that operates it as an entrepreneur.

19. Before the wide-spread of the modern information technologies it was unequivocal that there were no alternatives for the consignment circulation through the postal service provider, especially for the letters. Currently the customers have a real choice to choose between the traditional and electronic way of consignment transmission. The possibility to choose becomes virtual, only where the regulations of the state assume the traditional postal matter circulation.
20. A recorded delivery is a postal matter where the addressee admits the receipt of the consignment on a separate blank with his or her signature, and this signed blank is sent back to the sender by the postal service provider. With this the sender can prove the receipt of the consignment that has emphasized importance mainly in court and administrative procedures. The authorities, courts, other state bodies, conciliatory bodies and private pension funds send so-called official documents to their customers. These have the same attributes like the recorded deliveries. The difference between the two services is that official documents can be sent only by such bodies that are authorized for that by a law regulation, but recorded deliveries can be sent by anyone to anyone. The LII. act of 2009 about the electronic delivery of official documents and about the electronic recorded deliveries was an important step in the process of the development of the electronic administration. This act has created at least partially the alternative of the traditional postal service in the official consignment circulation. This development of the law was induced by the development of technology and this was a significant step towards the disappearance of the official documents sent by postal way. The legislator has not created the legal background yet that would make the electronic delivery confirmation

possible for the recorded deliveries sent by anyone. Taking into consideration that in the electronic mailing systems the user – i.e. the addressee – can deny the sending of the confirmation of the digital receipt and reading, the technological and legal background was not created yet with which the receipt of the consignment can be proven officially in the electronic consignment circulation. The creation of this system on the base of the examination of the technologies is the task of the legislator.

21. The case circulation of the authorities will go more and more towards the electronic case circulation thank to the LII. act of 2009. The governmental and the customer portal have been strengthening this for a longer period of time. The case circulation of the courts is traditionally paper-based assuming postal consignment circulation. The first step towards the electronic communication was the creation of the electronic company procedures which has been executed totally till today. It will bring a significant change in the civil procedures when the part of the act related to this comes into force. According to this the legal representative communicates electronically with the court, the submissions are submitted solely in electronic form, and the communication between the courts and the expert happens in electronic form as a main rule.

22. No law regulation makes it obligatory that invoices are to be delivered paper-based in a postal way. The service providers use the own delivery at some places, acting as competitors for the postal service, but only for their own invoices. No law regulations order the appearance of the invoice on a paper either. The rules for the invoices can be found in the CXXVII. act of 2007 about the value added tax. According to this there is a possibility to draw electronic invoices in the frames of the conditions involved in the act, i.e. the invoice has to be provided with an electronic signature with increased security and with a time stamp and it has to be transmitted in an electronic data change system for which a former agreement was made. Taking into consideration that although the broadband Internet provision is significant and continuously growing, only few electronic signatures exist, so this means no real alternative and competition for the postal invoice circulation. It is even more so, because the law regulation makes it obligatory to send a paper-based invoice summary to the customer that can happen only in postal way. It is expected that in some years the technological conditions in the B2B sector will be created for the fulfillment of the law regulations, but the same can not be anticipated for the

individuals soon. The obligatory regulation about the paper-based invoice summary ensures the market for the postal service provider in an indirect way.

23. Taking into consideration the demand of the individuals – and in smaller extent the sector of the small and medium sized companies, especially the segment of micro enterprises – for the postal cash transfer order as a payment method, this can be regarded as a public demand for a public service. Although the service has alternatives in the financial sector, the target customers have not regarded them as real alternatives or still do not regard them as such. Besides the modern financial institution culture according to the examples from Northern-Europe the decrease of this payment method and the re-channelling of it into the financial institution sector is expected with the increase of the competition in the bank sector in the long run.
24. In case of the postal service it is needed to check continuously in which extent its public service nature is realized, and for which customers it can be regarded as a service of general economic interest. The public service nature is a question related basically to individuals, as enterprises, even if micro enterprises can use theoretically alternative channels for the transmission of messages and consignments. The competitors of the postal services at macro-societal and economic level are the modern telecommunication channels. In order to make these not only theoretical competitors, but real alternatives of the postal service, an active legislation work is needed, with which the indirect legal barriers can be dismantled that make the use of the alternative channels difficult or impossible.
25. The detailed finishing of the financing rules was important from the beginning of the liberalization process. The target of it was basically the creation and the control of the equal conditions of the competition which target will be the same after the total liberalization, too. A part of the rules forbids the cross-financing, as without this the enterprise could finance its business unit with deficit from the one with profits. The other part of the rules controls the extent of the costs occurring from providing the universal service, if these are cleared on the market, or it is needed to resort to one of the possible financing mechanisms. The two parts of the regulation have a connection mainly at the subsidy mechanisms, as if the enterprise receives financial means from the subsidy mechanism, these can be used in other fields of the company if is the strategic decision.

Such use of the subsidy is on the one hand contradictory with the target of the subsidy, on the other hand it brings the donated service provider into an undue advantage in the competition on the certain segment of the market. To hamper such financial rearrangements that are more and more implicated, the opportunity is the consequent application of the detailed financial accounting systems. Of course it is no task of the legislator in the Union to work out the detailed rules of the financial accounting, it is just the creation of the theoretical frames of the regulation, and the member states can create their specific rules in their own regulation system inside the frames of these. The most specified rules in the regulations and in the combination and analysis of the financial data are not law regulations, but international financial standards. The total liberalization does not make the detailed financial separation needless, as the determination of the universal service stays very important also after the directive 2008/6/EC, only the emphasizes of the accounting and the separation change, as the costs of the reserved service have no meaning after the total liberalization, but the costs of the universal service stay important and can be a base for taking part in the compensation mechanism.

26. For the member states that joined in 2004 and 2006 the total opening of the market without a proper preparation could cause huge disturbances and social dissatisfaction. That is why it was important to give longer preparation time for the new member states to adapt the directive about the total opening of the market. For the countries that are prepared for the opening of the market, the delay of the target deadline could cause serious disturbances on the market, in case of the countries that are not prepared enough, the scheduled opening of the market would cause the same.

27. In the examination of the preparedness for the market the results of the most developed universal service provider are more than three times better than the results of the less developed one. The question is if such universal service providers come into existence that cover more member states besides the regulations of competition are kept. There is a theoretical possibility for this, as it is possible that enterprises work in more countries besides keeping the competition regulations of the Union. This can be realized as an entity according to the company law or as a company group. The decision about the certain way of realization can be made among the given economic circumstances by the strategic points of the management of the company or company group. The result can be an enterprise that is new on the market and that can get licenses in more member states. The

permitted fusions of companies can even lead to a universal service provider that is active in more member states. On the base of these and taking the license periods of the member states into consideration, the possibility of such fusions appears in the mid run. The leading role in these will expected to be the one of the most developed service providers which are mainly from the countries that are members of the Union for a longer period of time.

28. To secure that the universal service stays operable also after the start of the competition on the market, already the original directive 97/67/EC gives the possibility to create a compensation fund that is handled by an organization independent from the players of the market. The enterprises that are active on the postal market pay into this fund on the base of certain principles. The deficits that originate in the accomplishment of the universal service obligation are compensated from this fund for the universal service provider.
29. To avoid cross-financing the 97/67/EC directive prescribes the obligation to introduce an internal setting system for all universal service providers. The directive determines only the principles of this system, the detailed regulations have to be made by the member states. In the frames of the detailed regulations every universal service provider works out its system which is approved by the national regulatory authority of the member state. The base of the setting system is that all costs can be accounted only to the certain service, towards which these costs have appeared. The incomes and costs of all services have to be registered on separate accounts. During the cost analysis first the direct costs are assigned to the certain service. The categories of the indirect costs are divided among the services on the base of three aspects. In the first step the cost category is assigned to the service through a cost analysis on the base of the origin of the cost. In the second step the cost category is assigned to the service on the base of the direct connection of this with another cost category which was already assigned to the service in the first step. Finally the costs that are not assigned yet are divided among the services on the base of a general cost measure. This rate can be calculated if we divide the total costs assigned to the service with the costs that are not assigned to any services yet.
30. The quality of the services is increasing continuously in the whole territory of the Union even quicker than determined in the 97/67/EC directive. The measured data of the universal service providers regarding the delivery date of the consignment are much better

than the reference numbers determined in the directive, even in case of the deliveries inside the borders of the countries. Besides the quality improvement of the postal services it is important to mention the role and the work of the national regulatory authorities that were created by the directive. Since the implementation of the directive the organizational and professional independence of the regulatory authority was totally achieved. The tasks of giving permissions and to do control are performed with high level of professionalism, but taking the differences of the creation way of the regulatory authority into consideration, the chance to appear on the market is different in the member states. The Commission founded ERGP on 10th August 2010. This body will unify the operation of the regulatory authorities of the member states. The results of this will be able to be seen after the total liberalization of the market.

31. According to the 2008/6/EC directive the member states can introduce financing solutions to sustain the universal services as public ones which are not contradictory to the Union law. This rule has more targets. One of them is to eliminate monopolies, another one is the creation of the competition and the provision of its being without distortions, the third one is the protection of the interests of the customers, which means the access to the universal service. One of the solutions is the public procurement. The other solution is the use of the compensation fund. If it can be stated on the base of the net costs calculated upon the appendix of the directive that the fulfillment of the universal service providing obligation means an inequitable burden for the universal service provider(s), the member state can compensate the universal service provider from the state funds or it can work out a cost dividing mechanism between the universal service provider, the other service providers and the customers. Taking into consideration that the postal market is traditionally a market with a monopoly in the continent independently from the several steps towards the liberalization, the operation of the totally liberalized market could be observed in practice in the territory of the Union only in the member states that have introduced the total liberalization firstly. Even these have only a few years experience, so it is very difficult to make a model which is very well-established theoretically and which would give an unequivocal answer to the question if it is needed to operate compensation funds in the long run. It can be assumed that the compensation funds will be introduced after the totally liberalized market operates continuously in such member state(s) where the measured circulation data show a need for this.

32. The service permission gives the right to the service provider to do the activity, and in case a service providing obligation is given with the permission, the service provider has to do its activity in the appointed field. It is the right of the member state to decide to appoint an appointed universal service provider or not. This restriction can be applied by the regulatory authority only for the appointed universal service provider. The non-appointed service providers can not be obliged to fulfil the obligation of universal service providing. The regulatory authority can bind the giving of the service permission to the providing of a service with determined quality.
33. It is a public law obligation of the member states that originates in the constitution to provide the universal service for the citizens. This obligation is independent from the fact if the member state provides this service itself or it lets enterprises do it in the frames of the rules of the liberalized market competition. In case the service would not be provided by the certain enterprise because of any reasons, the state has to take care about the providing of it. To avoid the extra time and costs needed for this, the member state can appoint a service provider which has the obligation to provide service in such case, too. The compensation of this has to be done by the state. Earlier the target of the compensation was the contribution to the obligation of providing the non-profitable universal service. Now the target is to provide the controlling and permitting operation of the state body that controls the market. It is obviously the interest of all market players that the regulatory authority operates in an appropriate way, as the continuous external control is indispensable to keep the free competition.
34. For the interest of the competition it is possible that the member state regulates the non-discriminative access to the elements of the postal infrastructure in its own competence. The legislator of the Union has outlined some elements as examples – postal code system, address database, after sending system, address modification, postboxes and letterboxes – which are indispensable to the fulfilment of the providing of the universal service. These are owned by the universal service provider before the liberalization, not taking the little differences due to the regulations in the member states into consideration. It is expected that after the total opening of the market new players appear on it, the previous universal service provider will have a huge competition advantage as an owner of these databases and this would hamper the operation of the competitors on the market. To avoid such it will be the task for the regulatory authority to provide the access taking the detailed

member state regulations into consideration. The equal access can be provided through database access in case of some network elements that were listed as examples above. In other cases service providers have to establish special contractual relationships with each other, where the lack of discrimination is very important.

35. The access to service and the affordability are basic targets. The 2008/6/EC directive appraises the question of affordability separately focusing on the geographical conditions. There can be such service regions on the liberalized market where due to the specialties of the geographical situation the providing of the service is profitable only with extremely high service prices. It is a novelty in the directive that the provision about the special postal matters of blind people takes place here, which makes it possible that the member states work out own regulations for this special market, even in the frames of postal services free of charge.

36. According to the main rule the service providers have to make a cost settling that is determined in a detailed way. There are complex conjunctive conditions of the ignorance of the detailed cost-settling rules as follows:

(1) The national regulatory authority states that the providing of the universal service means no inequitable financial burden for the universal service provider

and on the base of this statement

(2) the member state does not apply any of the possible financing mechanisms

and the national regulatory authority made sure of that

(3) none of the universal service providers receive any direct or indirect subsidy from the state

and the national regulatory authority also made sure of that

(4) the real competition is created on the national postal market

then the national regulatory authority can decide about the ignorance of the detailed cost-settling rules.

37. If the state would like to keep the ownership of the postal service provider company, then the regulatory authority has to be totally separated from this company and from its body that practices governance rights. The problem of the state with „two faces” appears here. On the one hand the state practices public power, on the other hand it appears as a

subjective of the civil law on the market. It caused continuous conflict in the past to separate these two faces of the state, as the state meets the subjects of the law in the public power sphere in a hierarchical relation and in the field of the civil law it meets the same subjects of the law in an equal relation. The solution of this conflict is the organizational separation. According to this there are separate organizational bodies of the state that practice the tasks of public power and these do not appear in the civil law relationships, and there are other bodies of the state that appear solely in civil law relationship and they do not practice public power at all.

38. The declared target of the legislator to provide the highest possible level of service for the customers can be realized with the continuous increase of the quality requirements. The postal service providers increase the quality levels themselves because of their own market interests and because of the competition, but it is the task of the regulatory authorities to check that the service providers do not harm or damage the customers, even with the decrease of the quality levels. In such case the ultimate argument can be about the lead time determined in the directive. But in such areas where the customers are used to a quality level higher than the minimal one, even the decrease to the level of the directive can mean a significant harm of interest. Although the member states and the national regulatory authorities have the opportunity to prescribe higher quality requirements for the domestic consignments and these can be prescribed not only with normative means, but also in the service license, the uniform handling of the customer interests can be a reason to give the right for the same quality to the customers in case of domestic and external deliveries.

39. If we analyze the postal acts of the different countries, we can state that if the cases with low importance are excepted from the effect of the law, the autonomy of the local communities can grow, following the principle of subsidiarity. The legislator of the Union knows and applies the „de minimis” rule for the cases with low importance and this appears in the legal practice of the Union in several cases in an active way. In case of the local consignment circulation with small volume a simplified announcement obligation and control can lead to the strengthening of the local small and medium sized company sector, and especially of the segment of microenterprises. The exact determination of the small volume is needed (volume of the consignment, area, etc.)

40. It is an important step in the opening of the market when the handling of the consignment circulation that is needed for the own procedures of the company is given to the certain company or to one of its joint companies. In the interest of this the major part of the B2C circulation – mainly the invoice letters – can get out from the traditional postal matter circulation, if the enterprise can make it itself more efficiently. The practice already exists in Hungary that the service provider does not send the invoice to the customer in the postal way, but through its own employee, but if the own consignment circulation can be provided by a joint company of the service provider, the spread of the model is expected due to the advantages of outsourcing.
41. From the potential methods of the regulation of the total opening of the market the most advantageous is when the right of providing service is given in the frames of an application process. The application regions should be formed at county or at region level, but taking into consideration that the license areas have to be without breaks. The provisions of the Finn law about this should be considered during the creation of the Hungarian system, but on the base of the Hungarian experiences in other fields of the law we can expect the creation of a much more detailed system of criteria and requirements than the Finn one, which will orient to the Hungarian traditions. These will appear in the new postal act that will come into force at the total liberalization of the market, and also in the enforcement regulations based on this act.
42. The provision of the Finn law which makes it possible that the applicant gets the right of service for a region only if it undertakes the same right for another region is an important example. In Hungary it is also possible that such license area will be created for which there will be no applicants who could operate it with profits. Providing the universal service in the whole territory of the country – even in the „empty” regions without applicants – is the task of the state. It is the easiest solution if a license holder of a profitable region provides the service in the „empty region”.
43. The requirements towards the new enterprises that appear on the market have to be basically economic and professional ones. In the frames of these requirements the minimal capital has to be determined that is needed to cover the costs of the secure providing of services, involving the costs of the forming and operating of the infrastructure. Taking the

nature of the postal service into consideration, the postal service provider has to operate an extensive infrastructure to ensure the logistical tasks of the consignment circulation in an appropriate level. Another important requirement towards the postal service provider is the availability of the appropriate human resources. The postal service has a high demand of human resources, which can be provided mostly with employees with elementary or secondary education after a short appropriate professional course. But it is also important to have the highly qualified middle and top management which have special postal professional knowledge.

44. If the owner of the universal service right signs a contract with several other companies for the operation of post offices in a franchise system, it can significantly increase the number of access points without generating too much extra costs for the service provider. This increases the satisfaction of the customers significantly. Another important positive effect of this is that it creates market for several small and medium sized companies that have previously provided different – mainly retailer – service and now they join the postal network. With this there is an opportunity for the permanent postal service as a part of a shop with other profile in a separated area also in such settlements where a post office specialized solely for postal services can not be operated with profits. The involvement of sub-contractors raises the issue of the possibility of unfair market dividing agreements, especially in the long run. After more service cycles there are more service providers competing on the market, who have already won the right of service for one certain cycle. These enterprises have network and educated human resources that can be used also in the latter cycle in which they have not won. In this case the question is if the winner service provider has the right – and if yes, with which conditions – to use such companies as sub-contractors for the operation of certain post offices which have applied for the service right, but have not won it for the certain cycle.

45. In connection with the license cycles the question of the employees' mobility raises related to the postal workers. Through the competition restraint agreement known from the labour law the enterprise can exclude that its previous employee can start to work at a competitor company that is active in the same market segment. This can be either the winner of the license or any other company that intends to appear on the market as a universal service provider.

46. In the long run it increases the competition if besides the appointed universal service provider of the region another non-appointed universal service provider stays (appears) on the market either in connection with the tender or independent from it. From regulation side the regulatory authority can have an effect only on the appearance in connection with the tender. If an enterprise appears on the market independently from the tender, it is the business decision of the certain enterprise. If a service provider works during a whole cycle besides the appointed service provider, the increase of the competition at the next tender is secured because of two reasons. On the one hand there was a real competition during the cycle between the appointed service provider and the non-appointed one. On the other hand there will be a real competing company in the new application who has similar local practice and experience. The regulations of the compensation fund help to tempt the looser of the application on the market and to keep it there.
47. According to the essence of the construction of parallel services the service providers theoretically do not have to be in relationship with each other as all of them covers its whole own service territory with its own network. In this case the question of stamps could be handled logistically, i.e. with the increase of the places where stamps are sold, but the problem of the consignments with the stamp of another service provider arises in practice. As these consignments are usually thrown into letterboxes, the sender can not correct its mistake. Theoretically there are three answers to this question. (1) The service provider does not deliver these consignments or (2) the service providers work out an accounting system for such cases or (3) independent from the universal service right only one market player receives the right to issue stamps. The first possibility is unequivocally not applicable as it deeply harms the rights of the customer, as it does not receive any service despite the payment of the fee. The second solution requires a complicated accounting system from the involved service providers, but if we take the accounting systems of the international postal circulation into consideration, an operable structure can be worked out. The third solution seems to be the optimal, which means the appearance of the owner of the concession right to issue stamps on the market, separately from postal service providers. In this case the parallel service providers would use the same stamps for their services, which makes the role of customers easier as they can use the same stamps at all service providers.

48. The Draft of the new Hungarian postal act follows the model of the single universal service provider. The current universal service provider receives the tasks and responsibility of the appointed service provider till 31st December 2020. The NMHH will prepare a report about the activity of the appointed service provider, about its general experiences as an authority and about the development of the postal market till 30th June 2019. The Draft determined the rules of announcement and giving permissions upon the current regulations of the partial liberalization. The Draft re-regulates and decreases the minimum standards related to the access, which till now were the strictest in the European Union.
49. The Draft gives the exclusive right of production of stamps to the universal service provider. In my opinion it is an undue tie-in sale to connect the production of stamps to the universal service right. If there was a separate application for this, then the competition would grow on the market of stamps, too.
50. Taking the current Hungarian social circumstances and the law regulation environment into consideration we can state unequivocally that the postal letter circulation realizes a public service, which is needed for the individuals so that they can appear in the political, economical and social life as citizens with full value. The extent of this public service does not cover the whole universal postal service, only a part of the letter consignments that is equal to the limit of 50g determined in the 2002/39/EC directive.
51. The new ways of the transmission of consignments that have already appeared and the ones that will appear through the development of the science and the technology will take over the role of the traditional postal service regarding the transmission of consignments, taking over its public service function, too. The first condition of this is the stability of the new technologies, the second one is the change of the law regulation environment, so that the communication channels that are handled as alternative ones will be regarded as general communication ways with full value. The third condition is in close relationship with the previous ones, this is the modification of the ideas of the individuals, so that they regard these channels as real alternatives on all fields and as ones with full value. The time needed for this change will be about a decade long, taking into consideration the time needed for such big changes in the approach in other fields. Finally the new communication channels will take over the role of the traditional letter circulation.

52. The satisfaction of the customer demand can be realized mainly with one appointed universal service provider. This solution is followed by the Draft, too. It is basically an economic-political decision if this single appointed universal service provider works in the whole territory of the state or only in one certain region. The regulation of these two cases are similar, although in case of the regional model there is a need to work out detailed rules to secure the smooth consignment circulation between the regions. The application of the cost accounting rules of the 2008/6/EC directive is indispensable, as the real cost demand of the public service can be known from this, which is the base of the pricing with the target of the creation of the even higher customer comfort. Taking the expected technological development of the consignment transmission, the related change of the law regulation environment and the ideas of the customers into consideration, the continuous monitoring activity will be needed after the total opening of the market, too, so that the regulating environment can be adapted to the current situation.

53. The postal universal service contributes to the providing of the right to communicate and to freedom of speech of the citizens, as this right can be realized only in interactions. From the habits and trends of the individuals related to their consignment circulation the continuous decrease of the public service they need can be seen and it is foreseen in the future, too. Because of this there will be a level in the long run when the universal postal service will not fulfill a general public demand, because the individuals forward their messages as the appearance of their right to freedom of speech through other communication channels. The consignment circulation of the individuals decrease continuously, the knowledge of digital writing spreads quickly, the changes in the state regulations are towards the digital contact keeping first with enterprises, then with individuals, too. The public tasks that were provided traditionally by the universal postal service provider but do not belong to the universal postal services will be provided by other service providers to which these can be connected more, or these demands will be fulfilled by other services.

54. The wide-spread of the post offices operating as separate enterprises strengthens the competition among the universal service providers. The issue about the labour law competition restraint agreement does not appear this way in case of the majority of the middle managers who have the needed professional knowledge, as the separate post office

enterprise operates connected to the network of the current appointed universal service provider. The system strengthens the sector of the small and medium sized companies, which is traditionally an important segment of the economy, and the strengthening of it is among the targets of the Union.

55. In my opinion the introduction of the following model is optimal on the Hungarian market. One service provider should be appointed to each region taking the regional specialties of the country into consideration and avoiding the possibility of an „empty region”. There are two regulation techniques for this that should be applied in connection with each other. On the one hand the tenders should be announced at the same time, on the other hand with the requirement of the obligation that in case the appointed universal service provider of the region does not have the opportunity to provide the service temporary or permanently due to any reasons, the appointed universal service provider of another region undertakes to provide service in this region, too. Besides the tender about the appointed universal service providers the announcement of the tender about the stamp issuing should be the task of the regulatory authority, too. My opinion is that the stamp issuing tender must be independent from the universal service license, as through this it can be secured that the customer can use the same stamp for the service of all license owners. So my ideal model is as follows: the announcement of appointed universal service tenders for each region and a stamp issuing tender independent from them.

IV. Publications on the subject of this essay

1. Directive 97/67/EC the Ground Statutory Instrument of the Internal Postal Market (Editura Universitatii de Vest 2006. 14-48. ISBN 978-125-092-2)
2. A 97/67/EK irányelv, mint a közösségi postai piac liberalizációjának fontos mérföldköve (Heller Farkas Főiskola 2006/2. 22-30. ISSN 1789-4174)
3. A közösségi postai piac fejlődésének egyes kérdéseiről (ÁVF 2007 Tudományos Közlemények (18) 93-105 ISSN 1585-8960)
4. A postai szolgáltatások és a hálózat működése rendkívüli helyzetekben (Európai Kihívások IV. Szeged, 2007. 279-285. ISBN 978-963-482-857-0)
5. Full Market Opening in the Single Postal Market and the Carpatian Basin (Régiók a Kárpát-medencén innen és túl Eötvös József Főiskola Baja, 2007. 291-296. ISBN 978-963-7290-52-7)
6. Kérdések és lehetőségek a postai piac teljes liberalizációja kapcsán (VI. Nemzetközi Konferencia a közgazdász képzés megkezdésének 20. évfordulója alkalmából Miskolc, 2007. 35-42. ISBN978-963-661-788-2)
7. Az egyetemes szolgáltatók finanszírozása a teljes körű liberalizáció küszöbén (Európai Integráció – Elvek és döntések Veszprém, 2007. 309-317. ISBN 978-963-9696-30-3)
8. A magyarországi postaszabályozás fejlődése a kezdetektől a rendszerváltozásig (Jogtörténeti Szemle 2008/2. 31-41)
9. A liberalizált magyar postai piac – lehetséges piaci modellek és a szabályozás fő kérdései (ÁVF 2008 Tudományos Közlemények (19) 217-225 ISSN 1585-8960)
10. A postai szolgáltatás a modern információ-technológia korában (ÁVF 2008 Tudományos Közlemények (20) 137-149 ISSN 1585-8960)
11. Fogyasztói szokások elemzése a küldeményforgalom piacán (ÁVF 2009 Tudományos Közlemények (22) 105-117. ISSN 1585-8960)
12. A teljesen liberalizált postai piac gyakorlata – a finn törvény (Jogtudományi Közlöny 2010/9. 440-445.)