



The new postal legislation

A good basis for the future

Parliament approved the new postal legislation in December 2010. The new regulations define the parameters for excellent services and a continuing high-quality basic service for customers. Swiss Post will receive modern structures and the commercial freedom to undertake its various tasks in the four core markets of communications, logistics, retail finance and public passenger transport. It is important for Swiss Post that the laws and regulations come into force as soon as possible.

Parliament first discussed and decided to initiate the full deregulation of the letters market back in autumn 2002. The parcels market was then gradually deregulated, and the monopoly in the letters market eventually reduced to 50 grams. With the adoption of the new legislation by the National Council and the Council of States in December 2010, the four-year-long task of developing a modern legal basis for the postal market and for Swiss Post Group has been successfully concluded. The Postal Act (PA) will govern the basic service and market regulations, and the Postal Organization Act (POA) will specifically govern Swiss Post.

Now that it is clear that Swiss Post will receive new operating conditions and modern structures, it is important for the Group that the new postal legislation is implemented quickly, and that Swiss Post is able to meet market challenges. These are important preconditions for enabling Swiss Post to maintain its position as a competitive service provider and continue to offer a high-quality basic service. Key aspects of the new legislation relate to the basic service (postal services, payment transactions and the press subsidy), access to change-of-address data and P.O. box

facilities, and the issues of supervision and working conditions. The main points of the new legislation are set out briefly below.

Postal Act

Basic postal service

In its section on the basic service, the Act lays down provisions concerning the nationwide network of access points, the delivery service and the press subsidy. It is important for Swiss Post to be able to continue to modify the basic service in line with customer requirements and technological developments (see box). Alternative forms of delivery can now also be catered for in the basic service. Access points include agencies as well as post offices. There is now a provision covering the number of postboxes: in future, at least one postbox must be installed at each locality.

The Postal Act stipulates that the basic service must continue to be financed from the income generated by Swiss Post products. There are no plans to immediately abolish the residual letters monopoly. However, the Federal Council is tasked, within three years of the introduction of the new postal legislation, with submitting to Parliament an evaluation report on the impact of deregulation down to 50 grams and on developments in European postal markets following full deregulation. The report must also include suggestions for further action regarding market deregulation, and should re-consider how the basic service is to be financed.

Financing

Swiss Post's overriding priority is still to provide a good, reliable and inexpensive basic postal and payment transaction service throughout the country. In the new Postal Act, Parliament has confirmed that the basic service will continue to be financed using the income from Swiss Post services and, for the time being, from the residual monopoly on domestic letters weighing less than 50 grams. Swiss Post wants to retain its financial independence. It already generates 80 percent of its turnover in the direct competitive market, and competes with electronic media for the remaining 20 percent. It will be able to provide the basic service from its own resources in the future too, if this basic service is defined in moderate terms, if Swiss Post is able to exploit the opportunities it has to reduce costs, and if appropriate prices can be set for services. Price control in the new regulations must make this possible.

Basic payment services

The Act also includes a section on the basic nationwide service for payment transactions. With the ability to adapt locations of payment transactions and develop payment methods in line with customer behaviour and technological change, Swiss Post will probably be able to finance payment transactions from its own resources.

The obligation to contract is to be amended for postal services and payment transactions. In future, Swiss Post will for specific reasons – defined in its general terms and conditions – be able to decline a business relationship in individual cases.

Press subsidy

The state contribution to the press subsidy will continue, increasing from CHF 20 million to CHF 50 million. Swiss Post is interested in maintaining a functioning press market, but is unable to subsidize the press in the long term over and above the state contribution to the same extent as it currently does. This problem has not yet been conclusively resolved. The future of the press subsidy and its effectiveness is being addressed in an independent study commissioned by DETEC. Swiss Post supports the recommendation of its authors that there should in future be a standardized pricing system for all newspapers, and that the indirect press subsidy provided via a price reduction for each individual copy should be passed on. With the current regulations, Swiss Post has two contradictory roles – it provides delivery services in a competitive market, and is also responsible for implementing the legislator's press-specific requirements. Swiss Post wishes to relinquish this dual role in the future. This can be achieved in the provisions of the Postal Act.

P.O. boxes and change-of-address data

The Postal Act governs access to P.O. box facilities and change-of-address data. In future, competitors will be able to negotiate conditions for this access on a commercial basis. However, the future postal regulator PostCom will be able to impose an agreement if the parties involved cannot reach an agreement themselves. Moreover, the new regulations do not include plans for any regulated partial service access to additional parts of the Swiss Post infrastructure, leaving negotiations on this subject to providers.

Employment conditions in the postal market

In future, all postal service providers will be obliged to conduct negotiations with employee associations on collective employment contracts. This is necessary so that competition in this extremely HR-intensive industry is achieved via service quality rather than at the expense of employees.

Postal Organization Act

Swiss Post is being given an explicit statutory basis for its activities in the four core markets of communications, logistics, retail finance and public passenger transport.

New legal form

With the new Postal Organization Act, Swiss Post is being converted into a public company under special law. It is therefore being given a proven contemporary legal form and the entrepreneurial freedom it requires. PostFinance is being converted into a public company under private law. Swiss Post is now preparing itself for the forthcoming changes to its legal form.

Industry-standard supervision

Separating the companies paves the way for industry-standard supervision that will meet the requirements of the various sub-markets. In particular, it will enable PostFinance, Switzerland's third largest financial services provider, to be controlled by the Swiss Financial Market Supervisory Authority (FINMA). «Swiss Post Ltd.» will provide the basic postal services. The obligation to provide a payment transaction service will be delegated to PostFinance Ltd.

Modern terms of employment

Following a two-year transition period after the introduction of the POA, Swiss Post staff will become private-sector employees. The Swiss Code of Obligations will therefore replace the Public Officials Act as the basis for employment terms and conditions. The obligation to negotiate a collective employment contract is intended to enable standards to be set for the industry and in the various sub-markets jointly with the social partners.

Tax liability

With the new Postal Organization Act, Swiss Post Group will be taxed in the same way as any other corporation. It will also become liable to pay cantonal taxes. In future, the cantons will be able to profit from Swiss Post's commercial success.

PostFinance Ltd.

In accordance with the new Postal Organization Act, PostFinance will be converted into a public limited company and placed under FINMA supervision. For this supervision, PostFinance requires approval under banking law. This will be sought from FINMA during the course of this year.

Until now, PostFinance has been able to carry out its business activities thanks to an exemption clause in banking law. When it is converted into a public limited company, Swiss Post will no longer be subject to this exemption. PostFinance will therefore need FINMA approval to continue its business activities. It will have to fund its business with the necessary equity. However, PostFinance will not be able to grant loans or mortgages under its own name, even when this approval has been granted. This was resolved by Parliament as part of the new Postal Organization Act. But PostFinance will still be able to provide its customers with a wide range of products and services thanks to its good alliances, and will continue to develop the business in a positive direction on this basis.

Swiss Post's position

Swiss Post sees the new postal legislation as a sound basis for the future. Aspects that still require substantiation will be defined in the legislative regulations. For Swiss Post, it is important that the legislation is implemented as quickly as possible and can meet the challenges of the markets.

The new legislation creates a basis on which Swiss Post can continue to provide a high-quality basic service for postal operations and payments financed from its own resources. To maintain this situation in the medium term, Swiss Post must be permitted not only to exploit opportunities for cost reductions, but also charge appropriate prices for its services.