

# Competition, Wages and Politics in the Delivery Sector: The Case of Postal Minimum Wages in Germany

Alex Kalevi Dieke, WIK  
Ralf Wojtek, Heuking Kühn Lüer Wojtek

Paper presented to the 16th Conference on Postal and Delivery Economics

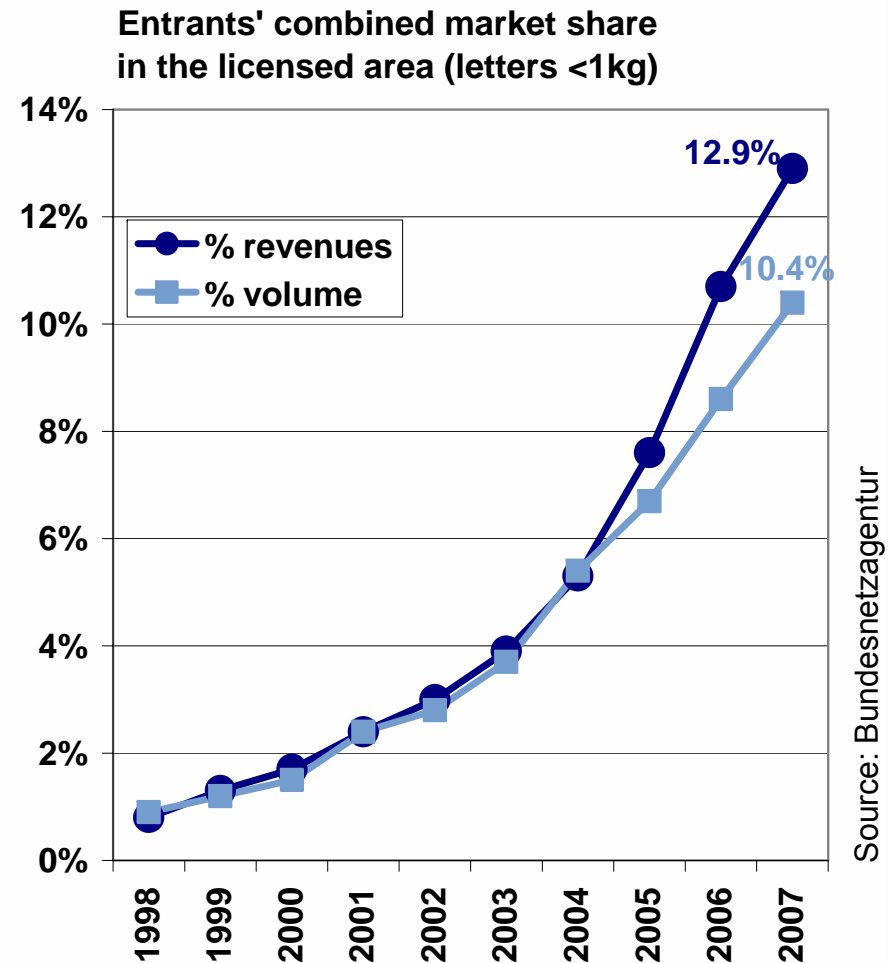
Albufeira, 30 May 2008

- Competition in the German mail market (2007)
- Wages and labor conditions in the German mail market (2007)
- Political history of postal minimum wages in Germany
- Legal aspects
- Impact of minimum wages on the mail market
- Conclusions

# Competition in the German mail market

## 1998-2007: Entrants' market shares grew constantly

- ~850 active licensed operators, mostly local, many very small
- Virtually all deliver end-to-end
- Most competition is for value added services/D-licences, e.g. guaranteed overnight delivery, time-certain delivery
- Two operators started establishing nationwide operations in 2005-2007
  - TNT
  - PIN (owned by publishers)



# Wages and labor conditions in 2007

## Deutsche Post AG (mail segment)

- DP's total employment in mail segment: ~150,000
- DP applies uniform collective wage agreement (CWA)
- DP historically pays premiums over market pay
- Lower wage for new staff (premiums phase out)
  - Pay levels reduced by 30-40% for new staff in 2000-2003
  - About half of all employees still paid according to "old CWA"
- Hourly wage for delivery staff is between €10.14 and €12.72 under „new CWA“

# Wages and labor conditions in 2007

## Competitors

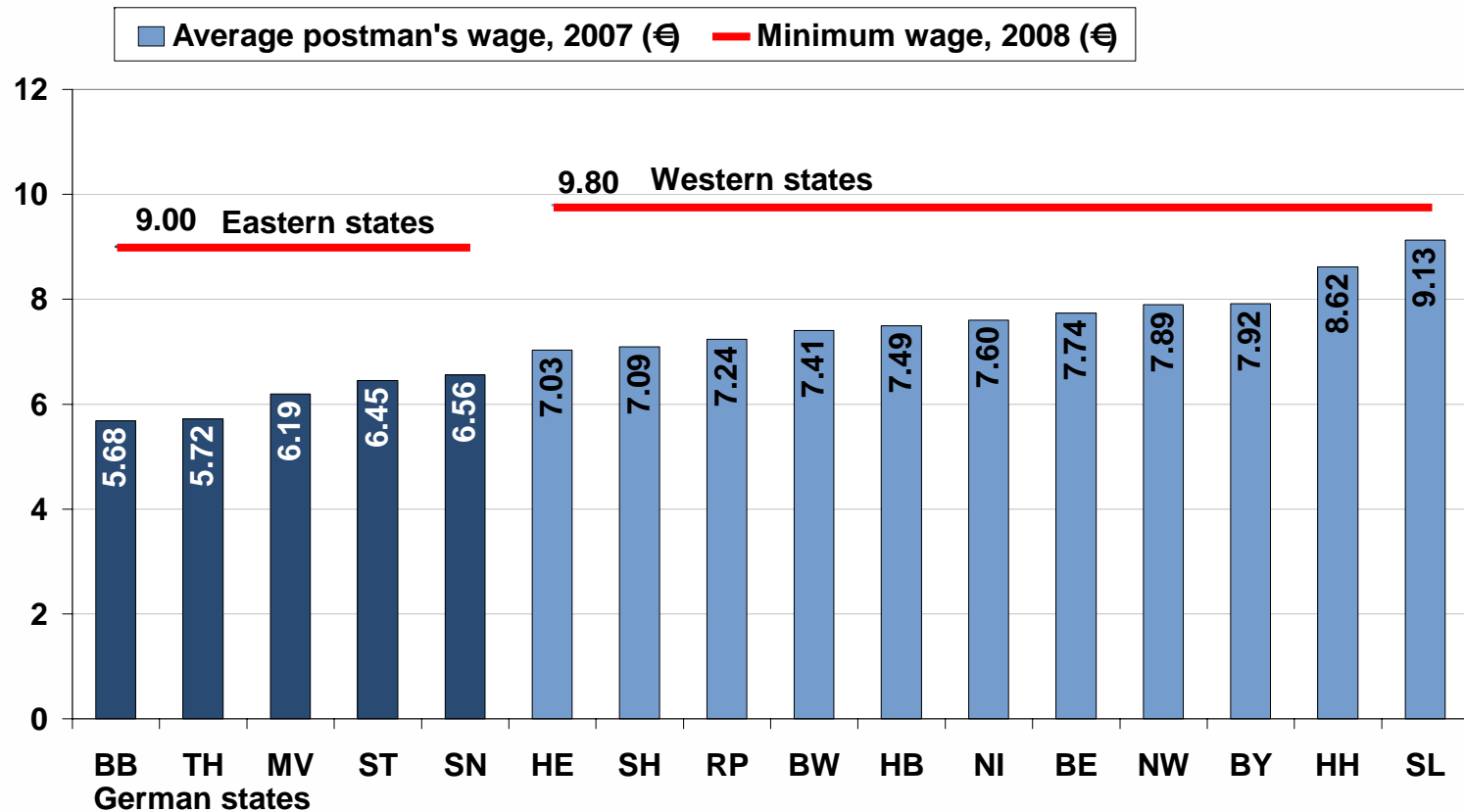
- Competitors' total employment in 2007: ~55,000
- Most competitors did not apply collective wage agreements before 2007
- High share of part-timers (in particular for delivery)
- Various pay models: per hour / per piece / per hour plus piece rate

Average hourly wages paid by competitors (mid 2007)			
Function	Average	East	West
Sorters	€7.68	€6.11	€8.10
Drivers	€7.73	€6.23	€8.08
Administrative clerks	€10.97	€9.23	€11.24
Delivery staff	€7.28	€6.18	€7.71
Total average	€7.79	€6.38	€8.23

Source: Bundesnetzagentur

# Wages and labor conditions in 2007

## Competitors: Regional wage differences (by state)

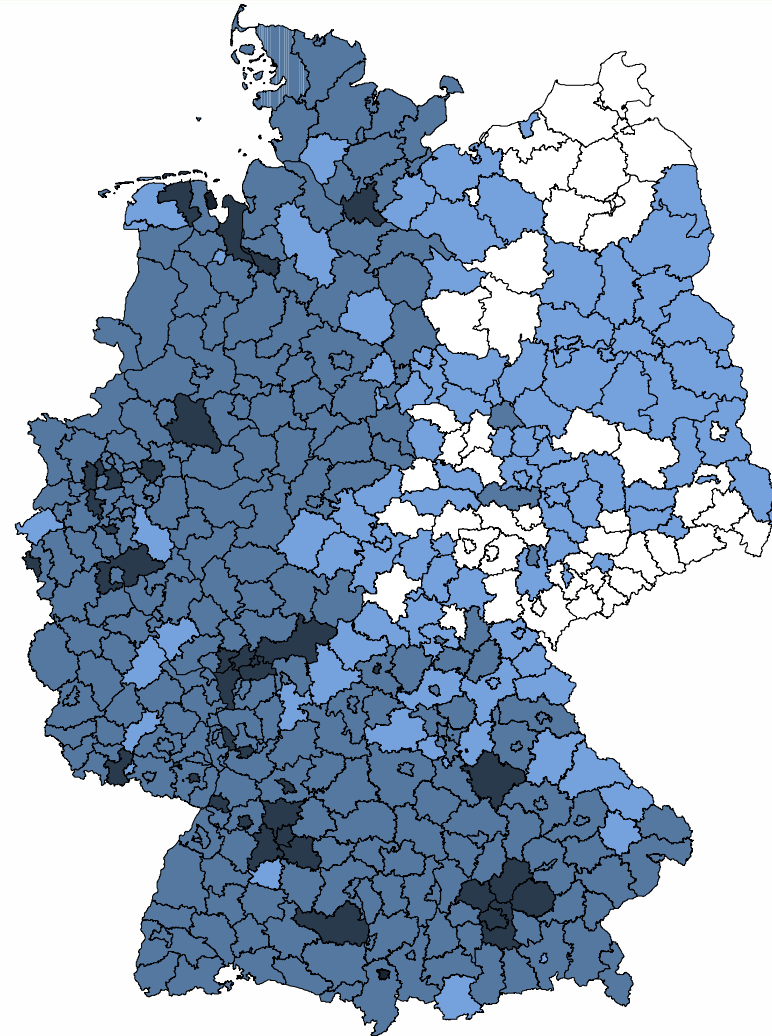
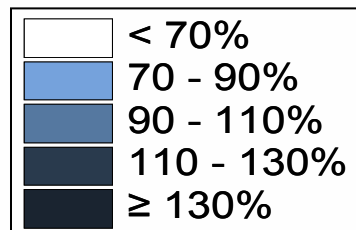


Source: Bundesnetzagentur/Quander (2008)

# Wages and labor conditions in 2007

## Subcontractors: Regional wage differences (by county)

- Both DP and competitors use subcontractors
- Hourly wages paid by subcontractors are well below those of Deutsche Post
- Example on map
  - Freight forwarding
  - Average wage differences by county („Kreis“) – National average = 100%



# Political history of postal minimum wages

## Status quo: costs and advantages

<b>Incumbent</b>	<b>Competitors</b>
High labor costs	Low wages
Over staffing	Full-time / part-time
Pensions	No benefits
Well trained personnel	Generally untrained personnel
High volume per man-hour (approx. 130)	Low volume per man-hour (approx. 30-40)
Unlimited access to mail boxes	Limited access to mail boxes
Unlimited access to roadside boxes	No access to road side boxes



# Political history of postal minimum wages

## Legal basis for wage regulation

- **Postal Directive (2008/6), recital (16)**
  - Member states may regulate labor conditions provided that this does not lead to unfair competition. Social considerations necessary.
- **German Postal Act (Sec. 6 para 3)**
  - Essential labor conditions of the postal market must be observed.
- **Minimum Labor Conditions Acts**
  - In most countries except Germany
- **German Collective Bargaining Act (TVG)**
  - Central Labor and Employers' Organizations may agree on terms which will then be declared mandatory by government decision.
- **German Migrant Workers Act (sec. 1 para 3 AEntG)**
  - Wages agreed in Collective Bargaining Agreement representing at least 50% of industry may be declared mandatory by government ordinance.

# Political history of postal minimum wages

## The introduction of "postal minimum wages"

Late 2006	Unions and DP request that BNetzA look into wage dumping by competitors
Aug 2007	"Meseberg agreement" confirms liberalization as of Jan 2008, offers minimum wages (if requested by industry)
Aug 2007	Establishment of Postal Employers' Association (PEA)
Sep 2007	Collective bargaining agreement with union Verdi on minimum wages: <ul style="list-style-type: none"><li>• Western Germany<ul style="list-style-type: none"><li>- €9.80/hour for delivery</li><li>- €8.40/hour for sorting</li></ul></li><li>• Eastern Germany<ul style="list-style-type: none"><li>- €9.00/hour for delivery</li><li>- €8.00/hour for sorting</li></ul></li></ul>

# Political history of postal minimum wages

## The introduction of "postal minimum wages" (cont'd)

Sep 2007	First request made for mandatory effect (all delivery staff)
Sep/Oct 2007	Request denied by Federal Employers' Association
Nov 2007	Second request: limited to dedicated mail delivery
21 Dec 2007	German Migrant Workers Act amended to include mail industry
28 Dec 2007	Ordinance declares minimum wage mandatory
1 Jan 2008	Effective date
Jan 2008	First bankruptcies

# Legal aspects

## State of litigation

Jan 2008	Case brought by competitors their association against Government before Administrative Court Berlin
7 Mar 2008	Court decides in favor of plaintiffs. Grounds: <ul style="list-style-type: none"><li>• Violation of constitutional freedoms, esp. collective bargaining, freedom of profession</li><li>• Expropriation</li></ul>
Since Mar 2008	Appeal pending
Mar 2008	Complaint filed by TNT with EU Commission

# Legal aspects

## Application of competition rules

- **Art. 81 (Anti-Competitive Agreements):**
  - Agreement between “undertakings”: “*Albany*” rule
  - Decisions of associations of undertakings
  - Agreements on purchase or sales prices
- **Art. 82 (Abuse of Dominant Position)**
  - Relevant markets
    - Letters market?
    - Labor market?
  - Enforcement of unreasonable purchase or sales prices or similar conditions?
  - Broad interpretation possible

# Market impact of minimum wages


## First observations (January to May 2008)

- Some competitors (incl. PIN) apply 9.80 minimum wage
- Most competitors (incl. TNT) apply 7.50 as minimum based on “competitors’ wage agreement”
- Publishing houses can avoid minimum wage all together
- Substantial uncertainty in the market
  - Will minimum wage be repealed by courts?
  - Competitors set aside reserves for wage differences and social security contributions
- Approx. 7,000 lay-offs expected for PIN alone
- Increased lay-offs expected in areas where unemployment is highest (and general wage levels are low)
- Alternative delivery vanishes in rural areas – TNT’s expansion unclear – PIN Group in state of collapse

# Conclusions

- No conclusion on minimum wages generally – Sector-specific minimum wages highly questionable
- Third Postal Directive recognizes stress ratio between labor conditions and competition – recital (16)
- High minimum wages without regional differentiation ...
  - ... constitute a barrier to entry
  - ... lead to unemployment
- Should incumbents' wage levels be imposed on
  - the entire mail industry?
  - similar industries: Parcels? Newspapers? Freight? Retail?
- Competition authorities should be involved before sector-specific minimum wages are imposed

 HEUKING KÜHN LÜER WOJTEK

wik  Wissenschaftliches Institut für  
Infrastruktur und Kommunikationsdienste

Alex Kalevi Dieke, WIK  
a.dieke@wik.org

Ralf Wojtek, Heuking Kühn Lüer Wojtek  
r.wojtek@heuking.de