

PRICE REGULATION IN GERMANY

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Regulatory Framework

- Given a dominant position in the relevant market all prices for single piece items are subject to approval, all other prices can be reviewed
- Prices can be approved in a price cap procedure or - if this is not possible - in single rate approval-procedure
- Prices have to be based on costs of efficient service provision and may not
 - contain any surcharges as a result of the dominant position,
 - contain anti-competitive discounts,
 - discriminate between users

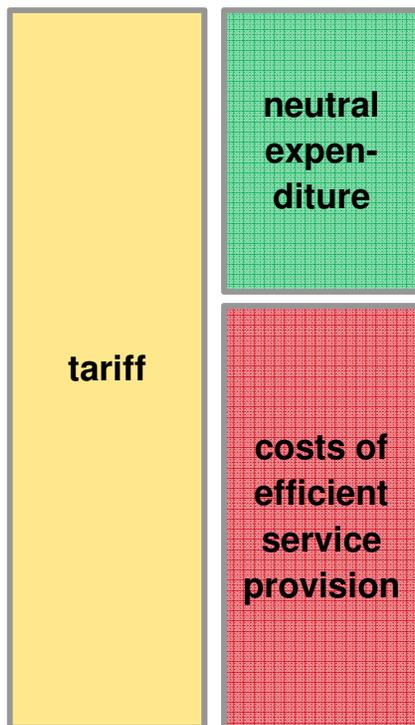
unless there is a legal obligation or another objective reason. In particular the costs of observance of general working conditions, the costs of universal service provision and costs due to the legal succession of Deutsche Bundespost (i.e. pensions)

Benchmarks of price regulation according to the Postal Act and the Postal Rates Ordinance

benchmarks PostG / PEntgV

abusive pricing

predatory pricing

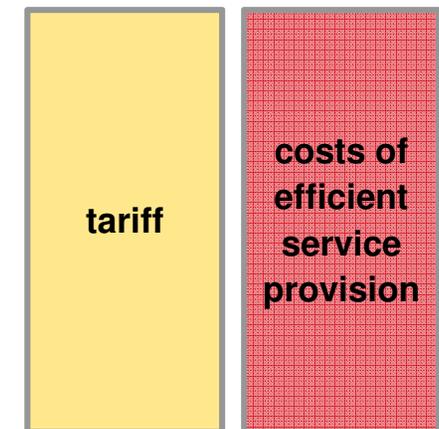


neutral expenditure:

- > costs due to a legal obligation or other objective reasons
- > namely the costs of universal service provision, expenditures from legal succession of Deutsche Bundespost, costs of observing working conditions

costs of efficient service provision:

- > long run incremental costs of efficient service provision
- > plus appropriate amount for volume neutral common costs
- > plus profit mark up (determined by benchmarking other European postal operators)



Example: Advertising Mail

- As a reaction to declining volume in advertising mail Deutsche Post devised a new product designed especially for retailers or other advertising firms to address their potential new costumers
- Aim of the product was to stimulate the overall demand for direct mail in the long run by showing that direct mail leads to a higher conversion rate than electronic media
- The price was lower than “normal” direct mail but well above incremental costs
- Following an official review the Federal Network Agency prohibited the price in June 2016 on the grounds that
 - incremental costs is not the appropriate benchmark
 - any price below efficient costs is anti-competitive per se
- Deutsche Post took the product of the market
- The case has been taken to court and is still pending

Outlook in view of a possible revision of the Postal Law

- When revising the Postal Law one should keep in mind that
 - the market for letter mail items is constantly declining
 - the need for ex ante price approval for single tariffs is a hindrance to the introduction of new services and products
 - the average expenditure of a private household in Germany for postal services is very low (expenditure for postal services is 0.12 % of the average household income, i.e. less than 4 € per month)
 - compared to this the administrative burden for the regulated firm and the regulatory authority is rather high
- The legislator should examine if it would not be possible to
 - allow for more flexibility by relinquishing the need for ex ante price approval
 - apply the benchmarks of competition law with respect to lower price limits
 - take into account electronic substitution in market definition