

Legal Alert

New Postal Law

March 2013

Since entry into force of the new Postal Law, some of the market previously covered by the monopoly of Poczta Polska SA has opened up, and obtaining authorization to conduct postal activity has become easier.

The Postal Law of 23 November 2012 went into effect on 1 January 2013, superseding the prior Postal Law of 12 June 2003. The new Postal Law implements the EU's Postal Directive (Directive 97/67/EC, as amended by Directive 2008/6/EC) into Polish law.

The most important changes:

- **Elimination of the monopoly of Poczta Polska SA for postal items of up to 50 grams**

Through 31 December 2012, Poczta Polska SA had a statutory monopoly on postal items weighing up to 50 grams. Companies seeking to compete with Poczta Polska in this area were required to charge a fee no lower than 21 times the fee for collection and distribution of postal items in this weight range, which was the fastest category specified in the price list for universal postal services of the public postal operator, Poczta Polska. In practice, in order to avoid this requirement, competing operators added metal plates, notebooks or other items to the envelope so that the weight of the envelope would exceed 50 grams.

Following entry into force of the new regulations, the designated operator (in practice, Poczta Polska SA) will continue to have exclusivity for:

- » Handling postal orders for payment of social insurance benefits, including public pension and disability benefits, and social welfare benefits, as well as postal orders for rural areas
- » Certifying posting of a postal order and registered mail with the force of an official document.

- **Modification of rules for obtaining authorization to conduct postal activity**

Depending on the type of postal activity, the old Postal Law required operators to obtain a licence in the form of an administrative decision or entry in the register of postal operators. Now there is only a requirement to obtain an entry in the register of postal operators. The procedure itself is analogous to that applied in the case of other registers of regulated activity. Obtaining authorization to conduct postal activity is relatively simple and fast.

- **Specific rules for designation of universal service provider**

The new Postal Law provides detailed rules for designation of the provider of universal postal services (a defined range of services that should be accessible throughout the country). The main procedure will be a competition decided by the President of the Office of Electronic Communications. Other procedures will be used if the competition is unresolved or the decision on selection of the designated provider expires.

In practice, the new regulations in this respect will not be relevant for another 3 years — the period for which the new Postal Law imposed the obligation to provide universal services on Poczta Polska.

- **Financing of universal services**

The provisions specifying the rules for financing of universal services provided by the designated operator will be vitally important for other companies providing services included within the range of universal services. In the event of occurrence of a net cost (the difference between the justified net cost of the activity of the designated operator and the net cost of the



activity of the same operator not covered by the obligation to provide universal services, less the indirect benefits connected with providing universal services and the benefits from special or exclusive rights awarded to the designated operator) and incurrence by the designated operator of a loss on universal services, providers of postal services included in the range of universal services are required to contribute their share of the subsidy for universal services, of up to 2% of their revenue from such services. If the total contributions toward the subsidy are insufficient to cover the loss on universal services, the designated operator should obtain the shortfall out of state budgetary funds.

- **Obligation of designated operator to provide access to elements of its postal infrastructure to other postal operators**

This obligation has to do with providing other operators access to such elements of the designated operator's infrastructure as:

- » Post office boxes
- » Collection boxes
- » Postcode system
- » Database of address changes for redirecting postal items.

Any disputes between operators in this respect will be resolved by the President of the Office of Electronic Communications by issuance of an administrative decision.

The Polish Parliament did not decide to introduce a far-reaching obligation to provide access to the postal network, which it was not required to do under the current EU rules.



Artur Salbert
+48 22 50 50 764
E-mail ►