

Act 101 of 2003

on the Post¹

In order to provide the economy and the public with safe, adequate-quality and accessible postal services, to expand postal market competition and to enforce the legislation of the European Community, Parliament herewith enacts the following law.

PART ONE INTRODUCTORY PROVISIONS

The Objectives of the Act

Article 1

The objectives of the Act are

- a) to ensure universal postal services available and accessible for everyone;
- b) to promote:
 - ba) postal technological development and efficiency improvement;
 - bb) the protection of consumer interests in their existing or future relations with players of the communications market;
 - bc) free trade in postal services in line with international agreements;
 - bd) development and protection of the postal market;
 - be) the freedom of players in the postal market, the enforcement of their rights and obligations;
 - bf) market entry for new service providers and equality of opportunity for cooperation among and enforcement of the interests of players in the postal market;
 - bg) the integration of the Hungarian postal market into that of the European Union, meeting international postal obligations;
 - bh) performance of the state's functions concerning the postal activities including those related to security and preparation for emergency and qualified periods.

The Scope of the Act

Article 2

(1) The scope of the Act shall extend to postal activities carried out or used in the territory of the Republic of Hungary, those performing and using such activities, the government organisations directing the postal sector and the National Communications Authority (hereinafter referred to as the communications authority).

(2) The provisions of this Act shall be applied to postal services related to crossborder postal items and other cross-border postal activities to the extent that international agreement or separate agreement concluded pursuant to the Deed of Foundation of the Universal Postal Union do not provide otherwise.

¹ The Act was adopted by Parliament on its session of 17 November 2003.

Definitions

Article 3

For the purposes of this Act

1. *Recorded service*: A special postal service whereby the postal service provider handles the postal item as a recorded item.
2. *Addressee*: To whoever the sender sends the postal item.
3. *Document exchange service*: A type of postal service whereby the postal service provider provides the mutual exchange of postal items between users without the involvement of third persons by rendering premises and other assets available.
4. *Universal postal service*: A specific range of postal services qualified as services in the public interest available to all users at a specified quality against an affordable price irrespective of geographical location.
5. *Universal postal service provider*: The postal service provider designated by this Act to provide a universal postal service.
6. *Licensed postal service provider*: A postal service provider who provides services included in the universal postal service pursuant to authorisation.
7. *Value guarantee*: A special postal service whereby the postal service provider is liable for compensation up to the amount specified by the sender upon posting, for the recorded postal item.
8. *Sender*: Whoever is indicated as "sender" in the postal item as the item originates from him or in the absence of this, with whoever the service provider has concluded the postal service contract.
9. *Guaranteed delivery time service*: A type of postal service whereby the postal service provider undertakes an obligation to deliver the postal item within a specified period or by a specified point in time.
 - 9.1. *Courier post*: A guaranteed delivery time domestic postal service, in the course of the performance of which the postal service provider undertakes an obligation that its employee accepting the recorded postal item shall keep the item under his personal supervision until personal delivery to the addressee in such a manner as to enable the sender to provide for changing the addressee or address of the postal item at any time during this period and, in the event of an unsuccessful personal delivery, to take the necessary measures
 - 9.2. *Express mail*: A type of domestic or international postal service whereby the service provider delivers the recorded item inland during the guaranteed period, that is, by 12 noon on the day following posting and, internationally, in accordance with the provisions of arrangements concluded on the basis of international agreements ensuring the individual identification of the item and, on that basis, its traceable management in the technological process.
10. *Official document*: A recorded item posted by the agencies of public administration, the judiciary and law enforcement as well as by the private pension funds, the posting and delivery (or attempted delivery) of which and the dates thereof have legal consequences attached by legislation or which serve as the basis of the calculation of due dates specified in legislation. Official documents may be posted using the acknowledgement of receipt introduced for this purpose.
11. *Access point*: The mail collection box, mobile post or postal service office operated by the service provider with a view to letting the postal item access the postal network.
12. *User*: The sender and the addressee and the user of the postal money transfer activity, postal payment intermediary and the money order service.
13. *Integrated post*: A type of postal service whereby the management of the postal item traceable also by the sender and, in the absence of an opposite instruction by the addressee, its personal delivery is supplemented by at least one of the following special postal services if the user so requires and in accordance with his choice: receipt of the postal item in a place designated by the sender; guaranteed delivery time service; delivery of the item to a new address in the event of a change in the addressee; verification of delivery; personalised service.
14. *Registered item*: A postal item whose acceptance is acknowledged in writing by the postal service

provider and whose delivery is evidenced by the addressee or other authorised recipient by his signature or in some other documented form

15. *Qualified period*: The period which, pursuant to the Constitution, qualifies as extraordinary status, state of emergency or state of martial law.

16. *Postage stamp*: Postal article of value that may be used to pay the tariff on postal items, issued by the universal postal service provider, which shall contain the inscription "Magyarország" or "Magyar Posta"—or the corresponding text in foreign languages—and shall refer to the tariff involved

17. *Postal money order service*: A type of postal activity whereby, following the forwarding of information concerning the payment of cash and other necessary data, cash is paid to the addressee (or other authorised recipient) or the amount is credited to the specified bank account.

18. *Postal equipment*: Any machine or technical device suitable for the payment of the fees for postal services, the production and sale of prints of value and endorsement (franking machine), the mail collection box or any other technical means used to accept postal items, and the base mail collection box used for the delivery of items installed as place of address beside public highways at the cost of the universal postal service provider.

19. *Putting postal equipment into circulation*: Following manufacturing in Hungary or importation from abroad, the first transfer of the postal equipment or of its right of use free of charge or pursuant to a onerous contract or, in the event of manufacturing or importation for the user's own purposes, its first commissioning.

20. *Postal article of value*: A product related to the use of a postal service put into circulation by the service provider against a charge. The printed forms required for using postal articles of value do not qualify as such, hence they are free of charge.

21. *Postal network*: The totality of the various resources and organisations developed with a view to providing postal services and their technical and traffic relations.

21.1 *Universal postal network*: The postal network used by the universal and the licensed postal service provider whose objective is primarily

- a) the acceptance and collection of postal items from the entire territory provided with the universal postal services,
- b) clearance and forwarding of postal items from places of processing to their destination,
- c) delivery of postal items.

21.2. *Network access*: The connection of a postal network to another postal network or to its parts in order to enable the use of network functions and services provided through the network with a view to serving users.

22. *Postal money transfer*: A money transfer carried out by the universal postal service provider that is effected

- a) without the use of a bank account,
- b) based on the order of a natural person made out in favour of a natural person,
- c) to a destination inland or abroad,
- d) between the participants of the cash transfer system or the service locations of the universal postal service provider,
- e) in cash.

23. *Postal contractor*: The person (organisation) used for the conclusion and performance of the postal service contract by the entity, who (which), within the scope of his (its) activities, accepts, clears, forwards and delivers postal items or carries out any of these activities independently in the name and on behalf of and under the liability of the postal service provider. The postal contractor shall be not qualified as a postal service provider.

24. *Postal intermediary activity*: A postal activity whereby the mediator

- a) deposits the postal items of the sender in a contractual relationship with the mediator for the postal service provider with a view to establishing an additional postal service contract at the service location closest to the place of acceptance designated by the postal service provider for depositing such items, or
- b) pursuant to the authorisation received from the addressee, takes over the postal items from the postal service provider sent to the addressee and delivers them to the addressee by delivery or rented post office box

against a charge.

25. *Postal item*: An item corresponding to the weight and size limit specified by separate legislation, with an address on the item, its cover or the associated list. The types of postal items include the item of correspondence, the direct mail, the printed matter and the postal package.

25.1. *Item of correspondence*: A postal item containing individual or personal communication, data or information appearing in any type of physical data medium (e.g., paper, magnetic or digital medium). The postcard is also an item of correspondence.

25.2. *Direct mail*: A postal item containing exclusively advertisements, materials for business acquisition or advertising materials for a range of addressees qualified as of being of large number pursuant to separate legislation which, apart from the name, address and identification number of the addressee or other data not modifying the nature of the message, are of the same content.

25.3. *Printed matter*: A postal item which contains neither individual, nor personal type of text, picture or figure produced by printing or other procedures of multiplication (e.g., book, catalogue, newspaper or periodical).

25.4. *Postal package*: A registered postal item containing objects or goods.

26. *Reception of postal items*: Depositing postal items in the mail collection box or other postal equipment used for this purpose introduced by the postal service provider, acceptance of the postal items at the place of postal service provision or other access point; in the event of registered items, the written acknowledgement of the receipt of the item irrespective of the place of receipt.

27. *Collection of postal items*: The operation of collecting postal items deposited and accepted at the places of service provision and other access points of the postal network.

28. *Delivery of the postal item*: The operation of completing the performance of the postal service, in the course of which the postal item leaves the postal network at the place indicated in the address of the item (or at a different location pursuant to legal regulation). The delivery of the item includes personal delivery to the addressee (or other authorised recipient) as well as depositing at the place of address.

29. *Special postal service*: A value-added service related to the postal service improving the quality of the service—either prescribed by legislation with mandatory force or voluntarily undertaken by the service provider, which the service provider performs against a fee pursuant to the instructions of the sender or the addressee.

30. *Postal facility*: Any service location or postal equipment ensuring the provision of the universal postal service or any service belonging within the range of the universal postal service.

31. *Postal payment intermediary activity*: Acceptance of payments to credit a bank account through the postal clearing system or payments effected to debit a bank account through this system.

32. *Postal service*: A communication service involving the acceptance of postal items, their clearance as needed, their forwarding and delivery and the performance of operations corresponding to such jointly or in part, against a charge. The document exchange also qualifies as postal service.

33. *Postal service location*: The location or premises ensuring access to postal services at specified geographical points and specific points in time.

34. *Telegram*: A narrative communication posted by the user in accordance with the provisions specified in separate legislation through the electronic communications network or by way of the postal service provider, which is forwarded by the telegram service provider to the addressee by way of postal delivery or the intermediation of an electronic communication terminal.

35. *Acknowledgement of receipt service*: A special postal service available for registered items whereby the service provider has the addressee (or other authorised recipient) acknowledge receipt of the postal item in the document introduced for this purpose and return the document to the sender or, when the parties so agree, forwards its digitalised image or data content electronically or through an electronic medium.

36. *Item containing writing for the blind*: A postal item containing embossed writing, engraving, sound recording, special paper or magnetic discs and other information media used exclusively for the blind whose sender or addressee is a blind person or the acknowledged official institute of the blind.

37. *Period of jeopardy*: A state (situation) directly preceding the announcement of a qualified period assuming its occurrence which, based on the evolving circumstances of jeopardy, has a detrimental impact on the security, stability or constitutional order of the country, on law and order and public security, the security

of the life and property of the population and the natural and the man-made environment, requiring extraordinary government measures to be taken and the planned assignment of economic and financial resources.

Postal activities

Article 4

(1) Postal activities shall include

- a) the postal service;
- b) the postal intermediary activity;
- c) the issue, the putting into circulation and withdrawing from circulation of postage stamps and postal articles of value and their sale;
- d) the postal money transfer activity, the postal payment intermediary activity and the postal money order service;
- e) the postal subactivity of the telegram service.

(2) The postal service may be universal postal service or non-universal postal service.

(3) Those engaged in postal activities may use postal contractors in the cases, in the manner and based on the procedure specified in separate legislation, for the performance of postal activities.

(4) Non postal services

- a) the item forwarding specified by separate legislation provided by bailiffs,
 - b) if any person's or organization's own items are transferred to other person or organization by persons being with the person or organization in relation as employee, civil servant, public servant, judicial employee or in other service relation, or by private persons in legal relation with them as a member (excluded the sharholders), or
 - c) the item forwarding activity of proxies set forth in separate legislation;
- [provisions of points a) – c) hereinafter to be referred to as private delivery].

(5) Item forwarding, delivering using manpower hire or by persons in legal relation of assignment or contract shall not be deemed as private delivery and therefore qualifies as postal service.

(6) Postal services according to paragraph (5) do not qualify as universal postal service if the delivery of the sender's own items to other person or organization is provided by a person or organization providing delivery exclusively for the sender by persons being with them in relation as employee, civil servant, public servant, judicial employee or in other service relation, or by private persons in legal relation with them as a member (excluded the sharholders).

PART TWO THE POSTAL SERVICE

Chapter I

THE UNIVERSAL POSTAL SERVICE

The General Rules of the Universal Postal Service

Article 5

(1) The following services shall belong within the range of the universal postal service:

- a) postal services related to domestic and international items of correspondence, direct mail and printed matter of a weight not exceeding two kilograms;
- b) postal services related to domestic and international postal packages of a weight not exceeding 20 kilograms;
- c) postal services related to the domestic and international items containing writing for the blind of a weight not exceeding seven kilograms.

(2) Pursuant to the instructions of the sender, the universal postal service provider and the licensed postal service provider shall provide special registered service for items specified under paragraph (1) a) and c) and acknowledgement of receipt and value guarantee services with items specified under paragraph (1) a)-c).

(3) Services belonging to the range of universal postal services shall be adjusted to the needs of the users and to the technical, economic and social environment.

(4) The universal postal service provider may only operate in the form of a company limited by shares. The universal postal service provider may be the sole member or shareholder of a business undertaking.

(5) The universal postal service provider may use an item forwarding system based also on the speed of the processing of items when performing postal services related to items of correspondence, direct mail and printed matter.

(6) Irrespective of the weight limits specified under paragraph (1) a)-c), the courier post, the express mail, the integrated post and the document exchange arc not included in the universal postal service.

Article 6

(1) Services included in the range of the universal postal service and the special service according to Article 5 (2) shall be provided

- a) by the universal postal service provider in a full range throughout the entire territory of the country,
- b) by the licensed postal service provider with respect to the services specified in the licence, throughout the administrative territory specified in the licence

so that they include the collection of postal items and their delivery to homes at least once every workday with the exception specified in legislation.

(2) The universal postal service may be restricted or suspended:

- a) in the event of a reason outside the control of operation of the universal postal service provider (force major),
- b) to protect the defence, national security, public health and public security interests of the Republic of Hungary

in the manner specified by legislation.

(3) Apart from the exceptions according to paragraph (2), the universal postal service may be suspended by the universal postal service provider only with the written consent of the minister in charge of the postal sector (hereinafter to be referred to as the minister) and, by the licensed postal service provider, with the written consent of the communications authority granted in advance. The service provider shall inform the users affected by the suspension before its commencement by way of announcement.

Reserved Services

Article 7

(1) The following postal services (hereinafter referred to as the reserved postal services) may be provided exclusively by the universal postal service provider:

- a) services related to domestic and international items of correspondence and direct mail of a weight not exceeding fifty grams provided that the fee for the service is less than two and half times the fee for the item of correspondence in the first weight step of the fastest standard category within the universal range of services;
- b) postal services related to official documents unless otherwise provided by law or government decree.

(2) Irrespective of the weight and price limits specified under paragraph (1) a), the postal services provided free of charge in relation to domestic and international items containing writings for the blind shall not be reserved postal service.

(3) The universal postal service provider shall have exclusive right to use the post horn badge and the stylised version of the badge and the postage paid print including the inscription "Magyarország" or "Magyar Posta" or their foreignlanguage equivalents and, to issue and put into circulation postal articles of value bearing the inscription "Magyarország" or "Magyar Posta" or their foreignlanguage equivalents.

Chapter II

RULES OF ENTRY TO AND WITHDRAWAL FROM THE MARKET

Eligibility to Provide Postal Services

Article 8

(1) Any natural person, legal entity or business undertaking that is not a legal entity may provide postal services, except for reserved postal services specified under Article 7 (1), pursuant to licence or notification.

(2) Services included in the range of the universal postal service—with the exception of the provisions of paragraph (3)—may be provided pursuant to the licence issued by the communications authority, non-universal postal services may be provided based on notification of the communications authority.

(3) The universal postal service provider shall provide universal postal service by force of this Act.

(4) The communications authority shall keep authentic records of the postal service providers and the services provided by them. The records shall include the data indicated in the licence and the notification. To record the data of the universal postal service provider, the rules concerning the licence shall be applied as appropriate.

(5) The communications authority shall update the list of postal service providers and the services provided by them in its public electronic database on an ongoing basis and publish these records annually in its official journal.

Licensing Postal Services

Article 9

(1) Postal services belonging within the range of the universal postal service, which are not reserved, may

be provided pursuant to a service licence. The issue of such a licence does not affect the obligation of the universal service provider to provide the service throughout the territory of the country.

(2) The postal service licence may be applied for in order to provide one or more services according to Article 5 (1) covering the entire administrative territory specified in separate legislation. Several services providers may apply for licences for the same specified administrative area.

(3) Postal services subject to licensing may be provided only when the conditions of the service specified in legislation are guaranteed.

(4) Human resource conditions shall be deemed guaranteed when the ability of the postal service provider to perform, and the professional aptitude of the senior officials of the service provider and its senior employee in charge of professional activities or that of the individual entrepreneur are verified in the manner specified in separate legislation and these persons qualify as not having a criminal record.

(5) The objective conditions shall be deemed guaranteed when the postal service provider has the suitable real property, premises, vehicle fleet and technical equipment required for the collection, clearance, transmission and delivery of postal items, and financial collateral of a magnitude specified in separate legislation as well as the general terms and conditions of contract approved by the communications authority.

(6) Separate legislation shall stipulate the detailed rules concerning the personal and objective conditions of providing the service and the other terms and conditions of issuing the licence.

(7) The application for a service licence shall include:

- a) the name (company name) and address (seat) of the person or entity desiring to provide the service (hereinafter for the purposes of this article: the applicant),
- b) the trade registry number of the undertaking or other official registry or identification number specified in separate legislation,
- c) the name and address of the representative of the applicant and of the person designated to maintain contact with the authorities,
- d) the description, statistical code of the service to be provided, a reference to the section of this Act specifying the service and brief description of the mode of providing the service,
- e) specification of the administrative territory in which the applicant desires to provide the service.

(8) The following shall be enclosed with the application for a service licence:

- a) the original or attested copy of the extract of the trade registry for the applicant or his entrepreneurial certificate or of any other document verifying entry in the records maintained by an authority (court of justice) not older than 30 days,
- b) in the event of a legal entity that is not recorded in the trade registry, a copy of the legal regulation, resolution or document concerning the establishment of the legal entity and, when the establishment of the legal entity not recorded in the trade registry is subject to registration, a copy of the document verifying registration,
- c) the general terms and conditions of contract related to the postal services,
- d) a sample of the print, inscription or method for the date and the inscription postage paid that the applicant intends to use suitable also for the identification of the postal service provider,
- e) access data of the central customer service (e.g. address, phone number, Internet access), where users may lodge queries and complaints with the service provider in relation to the service or where they may lodge their claims for compensation,
- f) the documents verifying the matters provided for in paragraphs (4) and (5) with the exception of the official measures approving the general terms and conditions of contract.

Notification of the Postal Service

Article 10

- (1) The intention to commence the provision of postal services that are not universal services shall be notified to the communications authority for registration at least thirty days prior to commencement.
- (2) The notification shall contain the data according to Article 9 (7).
- (3) The documents according to Article 9 (8) shall be enclosed with the notification.
- (4) Prior to registration, the communications authority shall verify whether the matters included in the notification meet the statutory requirements. When the matters included in the notification meet the statutory requirements, the notified service shall be registered and the service provider shall be notified of the fact of registration.
- (5) The communications authority shall refuse registration when, on the basis of the data included in the notification and the annexes enclosed with the notification it can be established that the notified postal service cannot be provided in accordance with the notification or the registration of the notifying entity would breach the law in other ways.
- (6) Apart from the case of the refusal of registration, the postal service shall be deemed to have been registered thirty days after notification and its provision may be commenced even if the communications authority fails to issue the notification according to paragraph (4).
- (7) The service provider shall notify the communications authority when it fails to commence the provision of the service within hundred and eighty days from its registration in spite of the notification.

Notification of changes

Article 11

- (1) In the event of changes in the mandatory elements of content of the application for a postal service licence or notification made with a view to registering a postal service, the changes shall be notified to the communications authority in the manner specified by separate legislation for the application for a service licence or the notification of postal services.
- (2) The rules applicable to the licensing of a postal service or its notification shall govern as appropriate in the event of changes in the officially registered human resource and objective conditions of the postal service, the circumstances affecting the quality of service and the financial collateral or any other conditions incorporated in legal regulation or the general terms and conditions of contract.

Termination of the Postal Service

Article 12

- (1) The communications authority shall delete the postal service from the registry when the postal service provider fails to commence its provision within hundred and eighty days calculated from the date of registration or when it has prohibited the provision of the service by a final and enforceable decision in accordance with the provisions of legal regulation.
- (2) The postal service provider shall notify the communications authority of the intention to terminate the provision of the postal service, as well as the liquidation of the postal service provider—unless otherwise provided for in the service licence—at least sixty days before termination. At the same time, the postal

service provider shall also inform the users of this. The information on the termination of the service and the liquidation of the service provider and dates thereof shall be disclosed in at least two national dailies in the event of a service covering the entire country or in the manner locally usual in the event of a service covering a smaller area of public administration.

(3) Based on the notification, the communications authority shall delete the postal service or the postal service provider from the registry. In the period between the notification of termination (liquidation) and deletion from the registry, the postal service provider may not enter into a new contract in the event of

- a) the termination of a service for a service corresponding to that to be deleted,
- b) the liquidation of the service provider for any postal service.

Contracts already concluded shall, however, be performed and the postal items already handled shall be delivered.

Chapter III

RULES OF PROVIDING POSTAL SERVICES

The General Rules of Providing Postal Services

Article 13

(1) In the course of providing postal services, the conditions specified in legal regulation, the service licence or the notification shall be observed and the quality and other requirements set forth in legal regulations and undertaken by the postal service provider in the postal service contract shall be met.

(2) Provided that the same conditions obtain, the postal service provider shall provide its services to the users under the same terms and conditions of contract in accordance with the requirement of equal treatment.

(3) Provided that the same conditions obtain, the postal service provider shall develop its business relations with other postal service providers in accordance with the nature of the business relationship and the requirement of equal treatment.

(4) To deal with user reports, to examine complaints and to inform consumers

- a) the universal postal service provider and the licensed service provider shall run a customer service in premises open to clients, which is also accessible by phone,
- b) the non-universal postal service provider shall run a customer service in premises open to clients or accessible by phone

and shall ensure Internet access to the customer service.

(5) Postal service providers and persons (organisations) engaged in postal intermediary activity shall co-operate with the organisations authorised to gather intelligence or to secretly acquire data and, simultaneously with the commencement of their activities, provide the conditions required for the application of the tools and methods of gathering intelligence and the secret acquisition of data. The provision of such data and the service according to Article 30 (7) shall be free of any fees, charges and reimbursement.

(6) The universal postal service provider shall have contingency plans in preparation for defence and disaster prevention the content of which shall be specified in legislation and be continuously reviewed and updated in order to deal with any breakdown in operation arising owing to technical, traffic, disaster or other emergency situations and have the reserves of the magnitude and composition required for the performance of tasks arising from legal regulations concerning preparation.

(7) The universal postal service provider shall co-operate with the competent organisations to develop and

implement the action plan to be applied in the event of a period of jeopardy or a qualified period in the manner specified by separate legislation.

(8) The universal postal service provider shall be entitled to reimbursement of its costs incurred through the measure it has taken on the basis of the action plan during the period of jeopardy and a qualified period and of the actual costs of the postal services provided by it in accordance with the legal regulations concerning the enforcement of defence interests.

(9) The universal and the licensed postal service provider may employ technical means or traps not causing injury or damage to health based on the authorisation of the agency entitled to detect crime with a view to prevent the commitment of criminal acts against it or to detect the perpetrators of criminal acts.

(10) The employee of the universal and the licensed postal service provider performing postal service or security service may—in the course of his duty—keep gas spray and, in accordance with the provisions of the relevant legal regulations, a gas or alarm pistol, which he may use only in a situation of rightful defence or in an emergency.

The Postal Service Contract

Article 14

(1) The provisions of Act IV of 1959 concerning the Civil Code of the Republic of Hungary (hereinafter to be referred to as the Civil Code) concerning contracts shall be applied to the postal service contract with the differences and additions incorporated in this Act.

(2) The postal service provider may deviate from the provisions of this Act in its general terms and conditions of contract (hereinafter to be referred to as the rules of business) only when the Act expressly permits such deviation. This provision does not exclude the possibility of the postal service provider announcing services and special services in its rules of business, which are not regulated by this Act.

(3) The contracting parties may, by mutual will, deviate from the provisions of this Act concerning the service contract and liability but exclusively in favour of the user.

(4) The postal service contract (hereinafter to be referred to as the contract) comes into being by the acceptance of the postal item, or by undertaking the service.

(5) The postal service provider shall verify the commencement of the performance of the contract or, in the event of non-recorded items, the commencement of processing, with the date print on the item that shall meet the detailed requirement stipulated in separate legislation that shall also be capable of identifying the postal service provider. The sender and the service provider, however, may agree that instead of the service provider the sender places the date print on the item verifying the commencement of the performance of the contract.

(6) The postal service provider shall accept, process, forward and deliver the postal item meeting the provisions of legal regulations, national standards, international agreements and the provisions of the service provider's rules of business in accordance with these and deliver them to the addressee (or other authorised recipients). The detailed rules of the right to receive and the mandatory elements of form and content of the authorisation applicable in relation to using postal services shall be set forth in separate legal regulation.

(7) The postal service provider shall stipulate the detailed conditions of posting postal items and the detailed rules of providing the services in its rules of business. The universal and the licensed postal service provider shall disclose its rules of business (and any amendments thereto) at its postal service locations as well as on its Internet website at least fifteen days prior to its introduction. The postal service provider not having a service location shall publish its rules of business (and any amendments thereto) in its Internet website at least fifteen days prior to its introduction.

(8) When using postal services,

- a) an object directly and closely related to the content of the communication, data or information may also be placed in an item of correspondence,

- b) an object directly and closely related to the content of the text, the picture or the figure may also be placed with the printed matter,
- c) text, picture and figure related to the applicability, purpose or use of the content of the postal package or containing information required for its settlement as well as communication, data and information directed exclusively at the addressee may also be placed in the postal package of the mailed postal items.

(9) The postal service provider shall refuse to conclude the contract when

- a) the performance of the contract conflicts with legal regulation, international convention or agreement;
- b) the content of the item obviously injures or endangers life and health, causes bodily harm or endangers the human environment;
- c) the item to be forwarded conditionally fails to meet the requirements concerning such items.

(10) When either of the facts according to paragraph (9) comes to the knowledge of the postal service provider after the conclusion of the contract, the postal service provider shall refuse to perform (or to continue to perform) the service and it shall notify the sender thereof. Any additional costs arising from the refusal of performance and returning the item to the sender shall be borne by the sender.

(11) The postal service provider may refuse to conclude the contract when:

- a) the performance of the service is suspended or restricted pursuant to legal regulation,
- b) the traffic conditions required to perform the service are temporarily not available for reasons outside the scope of its operation.

Compensation for the Service

Article 15

(1) The fees due for the postal service shall be paid in cash or by postage stamp or in other ways upon the acceptance of the postal item. The postal service provider may specify different terms of payment in its rules of business.

(2) The universal postal service provider shall accept the valid postal stamps issued in Hungary and the reply coupons issued by the Universal Postal Union as payment of the charges of postal services related to items of correspondence.

(3) The postal service provider may claim the fee for its service within a year from the acceptance of the item.

(4) To frank the postal item, the postal service provider may use only such device, print, mark or method on the basis of which the name (company name) of the postal service provider and the value of the postage can be established and which can be clearly distinguished from franking by any other postal service provider.

The Delivery of the Postal Item

Article 16

(1) The postal service provider shall deliver the postal item—with the deviations and exceptions set forth in legal regulation—to the addressee or other authorised recipient by placing the item in the mailbox used for this purpose in the place indicated by the sender or by handing it over to the addressee or other authorised recipient.

(2) The other authorised recipient other than the addressee shall be liable for handing over the postal item to the addressee in accordance with the general rules of the Civil Code.

(3) Prior to the acknowledgement of receipt of a registered item in writing, the addressee (or the other authorised recipient) shall identify himself with the official certificate specified by separate legislation. The postal service provider may ask for identification also in the event of delivering a non-registered item.

(4) The postal service provider shall enter the description and the alphanumerical code of the document verifying personal identity in the document of delivery. Should the owner of the document protest against this, the service provider shall enter this in the document of delivery as a circumstance thwarting delivery and shall return the item to the sender.

(5) The postal item accepted by the postal service provider shall constitute the property of the sender until its delivery to the addressee or other authorised recipient until proven otherwise.

(6) Should the addressee or, in the event of services indicated in the rules of business, the sender so request by using the relevant service, the postal service provider may deliver the postal item to a required new address (forwarding service) instead of the address originally indicated. With a view to the performance of this service and safe delivery to the addressee, the postal service provider shall be authorised to keep a registry of addresses (name, address, seat or premises).

(7) The postal item

- a) which cannot be delivered to the addressee (or to the other authorised recipient) and cannot be returned to the sender for reasons outside the control of the postal service provider,
- b) whose postage has not been paid by the sender or, in the event of an agreement to this effect, by the addressee (or other authorised recipient)

shall qualify as undeliverable.

(8) The postal service provider shall keep the undeliverable item safe. Safekeeping shall be governed by the rules of the Civil Code concerning responsible safekeeping with the following deviations. The postal service provider shall

- a) keep the non-registered item for six months from its posting, whereafter it may annihilate the item,
- b) in the case of registered items, call upon the addressee to take over the item or, should that be unsuccessful, the sender within a month from the sixtieth day following the establishment of non-deliverability also indicating the due date and the legal consequences of failing to take over the item. When neither the addressee, nor the sender responds to that call and fail to take over the item, the postal service provider shall keep the item for six months from its posting, whereafter
 - ba) it may annihilate the item of correspondence, the direct mail and the printed matter,
 - bb) it may open the postal package [Article 30 (5)], and may sell its

contents or, when it cannot be sold, it may annihilate it;

c) when it establishes that the content of the postal package is perishable, it may immediately open the undeliverable postal package and may sell it or, if it cannot be sold, may annihilate it.

(9) The postal service provider shall deposit the proceeds of the sale according to paragraph (8) bb) and c) with the court after deducting the costs incurred also indicating these costs.

Cross-Border Items

Article 17

(1) The postal service provider shall present the postal items arriving from abroad or sent abroad to the customs authority with a view to customs control in accordance with the legal regulations governing customs.

(2) The postal service provider shall forward the postal item arriving from abroad which contains dutiable goods to the designated customs office in accordance with the customs regulations and shall notify the addressee thereof.

(3) The postal service provider shall redirect the postal item sent abroad to the sender, which cannot be cleared by customs, unless otherwise provided for in customs regulations or by the sender.

Chapter IV

LIABILITY FOR COMPENSATION

The Liability of the Postal Service Provider

Article 18

(1) The provisions of this Article and Articles 19-27 shall be applied to the liability of the postal service provider for damage outstanding against the user or third persons as a result of the annihilation, partial or total loss of and damage to the postal item and the delayed performance of the service. The postal service provider may undertake liability more stringent than the provisions of Articles 19-27 in its rules of business (more favourable to the user).

(2) With respect to issues not regulated in this Act, the agreement between the postal service provider and the user or in the absence of this the general rules of the Civil Code shall govern the liability of the postal service provider, including the extent of the compensation.

(3) In the case of a postal item annihilated or totally lost, a claim for damages cannot be enforced under the pretext of delay.

Liability for the Annihilation and Loss of and Damage to the Postal Item

Article 19

- (1) With the exception of the provisions of Article 20 (3), the postal service provider shall be liable for the damage arising from the annihilation, total or partial Loss of the postal item or damage to it in the period from the acceptance of the item until its delivery or return delivery to the sender except when the damage was caused
 - a) by an inevitable reason outside the scope of operation of the postal service provider,
 - b) by the internal characteristics of the item or deficiencies in packaging that could not be noticed from the outside, or
 - c) by an item of a third person other than the injured party.
- (2) The postal service provider shall prove the deficiency in packaging and also that the damage was caused by an inevitable reason outside its scope of operation or in spite of its performance in accordance with the contract—an item of a third person other than the injured party.
- (3) The sender shall prove that the damage was not a consequence of the internal characteristics of the item and that the damage was not due to the deficiencies of packaging.
- (4) The postal service provider shall not be liable when only the external packaging of the postal item is damaged.

Article 20

- (1) When within the universal postal service a registered postal item is annihilated, is lost in full or in part or is damaged, the postal service provider shall pay a flat rate compensation.
 - a) The amount of the flat rate compensation payable in the event of the annihilation or total loss of the item shall be fifteen times the charge payable for the service.
 - b) In the event of the partial loss of or damage to the item, the ratio of the amount of compensation payable to the total amount of the flat rate compensation as set forth in point a) shall be the same as the ratio of the damage incurred to the total value of the item.
- (2) In the event specified under paragraph (1) a), the postal service provider shall also repay the charge paid against the service.
- (3) The postal service provider shall not be liable for compensation in the event of the annihilation, total or partial loss of or damage to the non-registered postal item accepted under the universal postal service unless the damage was caused wilfully or by severe negligence.

Article 21

When the postal item posted with the special service of value guarantee (hereinafter to be referred to as the value guaranteed item) is annihilated, lost in total or in part or is damaged, the postal service provider shall pay compensation as follows:

- a) in the event of the annihilation or total loss of the item, the amount of the compensation payable shall be the amount of the value indicated in the value guarantee,
- b) in the event of the partial loss of or damage to the item, the ratio of the amount of compensation payable to the amount of the value indicated in the value guarantee shall be the same as the ratio of damage incurred to the total value of the item.

Liability for the Delayed Delivery of the Postal Item

Article 22

(1) In the case of a domestic postal service, the postal service provider shall pay a flat rate compensation for the delayed delivery of a guaranteed delivery time postal item, unless it proves that the delay was caused by an inevitable reason outside its scope of operation. The amount of the flat rate compensation shall be twice the fee paid for the guaranteed delivery time postal service.

(2) In the case of domestic postal service, the postal service provider shall not be liable for compensation for the delayed delivery of a non-guaranteed delivery time postal item.

(3) When within domestic traffic, the delivery of the postal item or an attempt to deliver is not effected within fifteen days from posting, in the absence of a different agreement between the parties, the item shall be deemed to have been lost and the rules applicable to the loss of the item shall be applied to compensation.

(4) When the postal item deemed to have been lost pursuant to paragraph (3) is found, the item shall be delivered. The compensation already paid pursuant to paragraph (3) shall not be repaid to the service provider even if the item is delivered.

Special Cases of Compensation

Article 23

(1) Under domestic postal services, in the event of the annihilation or total loss of the guaranteed delivery time and also value guaranteed postal item, the postal service provider shall pay the higher of the compensation amount set forth in Article 21 a) and the flat rate compensation amount specified under Article 22 (1) as compensation.

(2) Under domestic postal services, in the event of the annihilation or total loss of the guaranteed delivery time but not value guaranteed item, the compensation payable shall be determined on the basis of the damage caused by the annihilation or total loss of the item, but the amount of compensation shall not be less than the amount of the flat rate compensation set forth under Article 22 (1).

(3) When under domestic postal services, the guaranteed delivery time and also the value guaranteed postal item is partially lost or damaged, and the postal service provider delays with the delivery of the remaining part of the item or the damaged item, the service provider shall pay compensation both because of the delay in delivery and the partial loss of or damage to the postal item. The amount of compensation may extend up to the higher of the amount of the full value indicated in the value guarantee [Article 21 a)] and the flat rate compensation payable because of delay [Article 22 (1)].

Other Rules concerning Compensation

Article 24

In the cases according to Articles 20-23, the postal service provider may not claim that the damage caused was less than the flat rate compensation therein specified or the amount of the value guarantee, and the user may not claim that the damage caused was greater than the flat rate compensation therein specified or the amount of the value guarantee.

Article 25

The postal service provider shall not be liable for the non-performance of the service or performance not in accordance with the contract in relation to postal items that can also be delivered to a mailbox if, in the property where the item should be delivered, there is no suitable and accessible mailbox of an adequate size that is lockable, is in the ownership or use of the addressee, located close to the entrance of the property, equipped with an inscription suitable for identifying the addressee. The size of the mailbox and the cases when the mailbox need not be positioned close to the entrance to the property shall be specified by separate legislation.

Enforcement of the Claim for Compensation

Article 26

- (1) The sender shall be entitled to enforce the claim for compensation with the exception according to paragraph (2).
- (2) The addressee shall be entitled to enforce the claim for compensation when
 - a) the postal item was delivered to him, or
 - b) the sender has ceded the right of enforcing the claim for compensation to the addressee.

Article 27

- (1) The user may enforce his claim for compensation owing to the loss or annihilation of the postal item against the postal service provider—with the exception of the case according to paragraph (2)—from the fifteenth day from the posting of the item within a term of preclusion of one year.
- (2) When the fact of the loss or annihilation of the postal item is revealed in the course of a complaint procedure and at the time of the arrival of the service provider's response to the complaint establishing the fact of loss or annihilation less than thirty days remain from the term of preclusion set forth in paragraph (1), the term of preclusion shall be extended up to the thirtieth day following the arrival of the response.
- (3) The partial loss of or damage to the postal item — when that is perceptible - shall be immediately indicated in the delivery document upon the delivery of the item or its return delivery. Failure to do so shall mean forfeiture of rights. In the absence of a delivery document or when the partial loss of or damage to the item is not immediately perceptible upon delivery (return delivery), it shall be reported to the postal service provider in writing within three workdays from recognition at the latest, however, within a term of preclusion of eight days from delivery or return delivery.
- (4) The user may notify the postal service provider of a claim for compensation because of the delayed delivery of the postal item in writing within a term of preclusion of fifteen days from receipt of the item.
- (5) The postal service provider shall respond to the indication or report of the user according to paragraphs (3) or (4) in writing within thirty days.
- (6) When the user has made the indication or report according to paragraphs (3) or (4) within the term of preclusion therein stipulated, he may enforce his claim for compensation within a term of preclusion of one year from receipt of the answer of the postal service provider or, when the postal service provider fails to answer, after thirty days following the indication or report.
- (7) The service provider shall set forth the rights and obligations of the user related to the enforcement of claims for compensation and the mode of enforcing the claim in its rules of business.

Damage Caused by the Postal Item

Article 28

The general rules of the Civil Code shall be applied to compensation for damage caused by a postal item to the postal service provider or to any third party in the course of performing the postal service.

Chapter V

RULES OF HANDLING DATA—DATA AND SECRET PROTECTION

Reporting

Article 29

- (1) The postal service provider shall provide the communications authority with the data related to the postal activities required for the use of postal services, the implementation of access and the performance of the tasks of the communications authority in the manner and in the cases as specified by legal regulation even if they qualify as business secrets.
- (2) The postal service provider shall ensure public access to the data stipulated by legislation.
- (3) With respect to reporting according to paragraphs (1) and (2), the provider of the data shall be responsible for the timeliness, credibility, accuracy and controllability of the content of the data.

Protection of Personal Data, the Obligation to Protect Secrets

Article 30

- (1) The postal service provider may handle, process and forward the data related to the performance of the postal service or acquired in the course of performing the service—with the exception according to the provisions of paragraphs (2)-(6)—in accordance with the provisions of the Act on the protection of personal data and access to data of public interest.
- (2) The postal service provider may acquaint itself with the content of the item forwarded by it only to the extent necessary for performing the service.
- (3) The postal service provider
 - a) may not open the sealed postal item, with the exception of the case according to paragraph (5);
 - b) may study unsealed postal items only in the interest of establishing the data necessary for acceptance, processing, forwarding and delivery and to the extent corresponding to that;
 - c) shall not disclose the data that have come to its knowledge in the course of performing the service to third parties other than the sender, the addressee (or other authorised recipient), and the organisations referred to in paragraph (7);
 - d) may not hand over the item to anyone other than the sender, the addressee (or other authorised recipient), and the organisations referred to under paragraph (7) with a view to acquainting themselves with its contents,
 - e) may not provide information to any party other than the sender, the addressee (or other authorised recipient), and the organisations referred to under paragraph (7) about the performance of the service.
- (4) For the purposes of paragraph (3) d), the person who presents the document verifying posting the item shall be regarded as having the same rights as the sender. For the purposes of paragraph (3) c) and e), the person, who discloses the individual identification data (for example code or tag number) of the postal item to the postal service provider through means of electronic communications (telecommunication equipment, Internet) shall also be regarded as having the same rights as the sender.
- (5) The postal service provider may open the sealed postal item when
 - a) the cover of the item has been damaged to the extent that its opening is justified with a view to safekeeping its contents and if repackaging without opening the safekeeping of the contents of the

- item cannot be ensured;
 - b) this is justified in order to prevent the danger caused by the content of the item;
 - c) an event according to Article 16 (8) bb) or c) obtains.
- (6) The opening of the postal item shall be carried out by a committee consisting of at least two members, who shall enter the fact of opening and the measures to be taken in a protocol. The postal service provider shall designate the members of the committee from among its employees, members, proxies or contractors. When the committee cannot be operated, the opening may be effected in the presence of the representative of the local government authorised for this purpose. The fact of opening shall be entered on the item and, when this is possible, the sender shall be notified of the opening and the reasons thereof.
- (7) The postal service provider and the person (organisation) engaged in postal intermediary activity shall ensure, by taking the necessary organisational and technical actions, the confidentiality of the items, narrative communications and notifications forwarded using the postal service. The postal service provider and the person (organisation) engaged in postal intermediary activity shall hand over or present the postal item, narrative communication or notification to the organisations authorised thereto in separate law to enable their interception, storage and intervention into the item or narrative communication in other ways provided that the legal conditions thereof obtain and there is a request thereto.

Address Registry, List of Post Office Box Holders

Article 31

- (1) The postal service provider may keep an address registry related to the forwarding service only with a view to safe delivery to the addresses and only until the expiry of the forwarding contract.
- (2) The security of querying the address registry and the prevention of abuse shall be guaranteed by the postal service provider by way of technical arrangements.
- (3) The data in the electronic address registry may not be linked to any other data or registry.
- (4) The printed or electronic post office box holder lists accessible through the postal service provider may contain, without the written consent of the holder, only those data on the box holder that are absolutely necessary for the holder's identification (name, address, seat or premises).
- (5) The right shall be guaranteed for the user that, upon his request,
 - a) he be omitted from the list of printed or electronic post office box holders without incurring additional costs,
 - b) it be indicated in the list of post office box holders that his personal data shall not be used for the purposes of direct business acquisition.
- (6) The post office box holder shall be informed of his rights according to paragraph (5) upon concluding the contract on the post office box.

The Liability of the Postal Employee, Proxy and Contractor

Article 32

The employee, member, proxy and contractor of the postal service provider shall have the same obligation to protect data and secrets as the postal service provider even after the termination of his employment, membership, assignment or contract and shall be liable for any breach of that obligation.

Chapter VI

THE FEES OF POSTAL SERVICES AND ACCOUNTING REQUIREMENTS

The Fees of Postal Services

Article 33

- (1) When developing the fees of universal postal services, the following requirements shall be taken into account:
 - a) fees shall be based on the costs of providing the service,
 - b) pricing shall be transparent, fees shall be non-discriminative and affordable by the users;
 - c) fees may not contain any premium or discount arising from market position contrary to competition and may not prefer certain users against other users using the same services under the same conditions.
- (2) With the exception of the fees for services related to cross-border postal items, the fees for reserved postal services [Article 7 (1)] shall be subject to official pricing pursuant to the act on pricing.
- (3) The postal service provider shall specify the fees and the conditions of their application in its tariffs and this shall be made accessible to all at the place of acceptance, furthermore, the tariffs of services regularly used by the public shall be displayed at the postal service locations.
- (4) The postal service provider may also agree on an individual fee with the user different from the tariff according to paragraph (3). The requirements according to paragraph (1) shall be met also in this case.
- (5) The conditions of applying individual fees shall be disclosed in the rules of business of the postal service provider.

Accounting Requirements and the Prohibition on Cross Financing

Article 34

- (1) The postal service provider shall record separately its revenues, costs and expenditures related to its postal services and other activities in its accounting system in accordance with the provisions of this Act and separate legislation.
- (2) The universal and the licensed postal service provider shall separate and present the revenues, costs and expenditures of the universal and non-universal postal services; within this, the universal postal service provider shall also present the revenues, costs and expenditures of the individual reserved postal services in its accounting system in a controllable manner.
- (3) The revenues of the reserved postal services shall not be put to cover costs and expenditures related to services outside the universal postal services.
- (4) The revenues of the reserved postal services may be put towards the costs and expenditures of individual services that are non-reserved but still belong to the range of universal postal service only to the extent that is absolutely necessary for performing the obligations concerning the universal postal service obtaining in the non-reserved service areas.
- (5) The universal and the licensed postal service provider shall submit a report of the data of the records kept in accordance with paragraphs (1)-(4) specified by the minister by decree which are necessary to supervise compliance with the rules concerning its financial management and price setting or are related to their identification to the communications authority within six months following the Tast day of the business year.

Chapter VII

COMPLAINT

Article 35

- (1) The provisions of the Act on reports and recommendations of public interest and complaints shall be applied to the complaint lodged against the postal service provider with the deviations according to paragraphs (2)-(4).
- (2) The report in which the user claims that the service provided by the service provider or the work performed by the employee of the service provider did not meet the legal requirements or the provisions of the rules of business in part or in full shall qualify as complaint. The complaint may also aim at the

termination of an individual legal injury or injury to interests. Use of the service of obtaining accurate information related to the forwarding and delivery of an item initiated by the user shall not qualify as complaint.

- (3) A complaint may be lodged
 - a) in relation to the item within a term of preclusion of one year from the day of posting,
 - b) in the event of an activity or behaviour complained against within a year from learning of it but at the latest within two years from affecting the activity or the behaviour.
- (4) The postal service provider shall examine incoming complaints by a simple, transparent and non-discriminatory procedure free of charge.
- (5) When the user does not accept the answer given to the complaint or the postal service provider fails to respond to the complaint within the due date, the user may turn to the communications authority and the Representative of Communications Consumer Rights in order to have the complaint or the complaint procedure examined.

Chapter VIII

RULES OF CO-OPERATION BETWEEN POSTAL SERVICE PROVIDERS

Article 36

- (1) The universal postal service provider shall provide access to its universal postal service network for the postal intermediary and the licensed postal service provider when the postal service provider requesting access intends to provide postal services with regard to postal items addressed to an area of public administration where it does not have a postal network suitable for delivery.
- (2) The postal service provider subject to this obligation may reject the offer of the entitled postal intermediary or service provider when it does not have a postal network suitable for delivery in the requested area of public administration or when the acceptance of the offer of the entitled postal intermediary or service provider would exploit the postal network of the postal service provider subject to the obligation in a manner or to an extent that would impede or jeopardise the reliable performance of its own postal activities or would require additional investment.
- (3) The postal service provider subject to the obligation and the entitled postal service provider (intermediary) shall provide in writing in a network access contract for:
 - a) the subject matter and objectives of the contract;
 - b) the network access points;
 - c) the service provided and its quality;
 - d) the remuneration payable;
 - e) the period of the contract;
 - f) the penalty payable in the event of breach of contract;
 - g) other terms and conditions held to be necessary by the parties.
- (4) The remuneration demanded against access shall be non-discriminatory, transparent and fair and shall be based on the costs related to providing access.
- (5) The postal service provider subject to this obligation shall respond to the request of the entitled postal intermediary or service provider in writing within thirty days. When the parties are unable to arrive at an agreement within ninety days from the date of the request, either party may turn to the communications authority that shall decide the disputed issues within thirty days.

PART THREE

POSTAL ACTIVITIES THAT DO NOT QUALIFY AS POSTAL SERVICES

Postal Money Transfer Activity, Postal Payment Intermediary Activity and Postal Money Order Service

Article 37

- (1) The universal postal service provider shall provide postal payment intermediary activity and domestic postal money order service throughout the territory of the country.
- (2) In addition to the universal postal service provider, the activity and service referred to in paragraph (1) may be performed only by the licensed postal service provider, and only when it provides the full range of universal postal services other than the reserved services in the entire territory of the country.
- (3) The payment orders accepted in the course of postal money transfer activity and postal payment intermediary activity shall be forwarded and settled within the time period specified in separate legislation.
- (4) The detailed rules of performing the postal money transfer activity, the postal payment intermediary activity and the domestic postal money order service shall be set forth in separate legislation.
- (5) The universal postal service provider shall be entitled to carry out financial, investment service and supplementary investment service activities within the limits of the specific human resource, objective, technical and security conditions set forth in separate legal regulation.

Domestic Telegram Service

Article 38

- (1) The universal postal service provider and the universal electronic communications service provider shall provide domestic telegram service. They shall render the use of the service accessible to all in accordance with the detailed conditions set forth in separate legislation.
- (2) The service providers according to paragraph (1) shall co-operate with a view to providing the domestic telegram service in a manner set forth in separate legislation and incorporate their agreement to this effect in writing (telegram service contract).

Additional Rules concerning Postal Activities That Do Not Qualify as Postal Services

Article 39

- (1) The rules concerning postal service shall be applied as appropriate to the notification, registration and official supervision of the postal activity according to Article 4 (1) b). In other matters, the general rules of the Civil Code shall govern the activities of the postal intermediary.
- (2) The rules concerning postal service shall be applied as appropriate to the registration and official supervision of the partial postal activity according to Article 4 (1) e).
- (3) The general rules of the Civil Code shall govern the postal activity according to Article 4 (1) c).
- (4) The provisions concerning the postal service contract shall be applied as appropriate to the matters according to Article 4 (1) d) and e) with the deviations set forth in separate legislation.
- (5) In relation to payments and withdrawals effected under the postal money order service, the liability of the postal service provider shall extend to the verification of the amount that has not been settled by documentary evidence and the taxes and levies thereon.
- (6) In the course of performing the telegram service, a flat rate compensation shall be paid to compensate for damage originating from the annihilation, loss of, damage to or delayed delivery of the telegram, the extent of which shall be twice the fee paid against the telegram service.

PART FOUR

POSTAL FACILITIES AND EQUIPMENT

Rules governing the Location of Postal Facilities

Article 40

- (1) A possibility for the Location of postal facilities shall be guaranteed when planning and reorganising settlements, constructing and modernising roads and public utilities as well as upon the implementation and renewal of other facilities in a manner set forth in separate legislation.
- (2) In the course of installing and operating access points, care shall be taken that users have access to the postal network easily and free of impediment. The interests of the disabled shall be enforced when establishing the conditions of access.
- (3) The universal and the licensed postal service providers shall be entitled to place postal mail collection boxes in areas that qualify as public highways and to have impediment-free and rapid access to them with a view to emptying them. The manager of the public highway may refuse use only when the positioning of a mail collection box in the given place would clash with legal regulation. Only the costs actually incurred in relation to use shall be paid against such use.

General Requirements of Placing Postal Equipment into Circulation

Article 41

- (1) Provided that it meets the conditions set forth in the Act and separate legislation, the postal equipment may be put into circulation freely.
- (2) Postal equipment shall not jeopardise the life and health of users and other persons, they shall neither cause bodily harm, nor threaten their safety (basic safety requirements); and they shall meet the requirements of electromagnetic compatibility (EMC).
- (3) A given postal equipment shall be suitable for
 - a) the protection of personal data and the privacy of users;
 - b) preventing abuse;
 - c) use by users who are restricted in their movement and, when it is technically feasible, sight or hearing.

PART FIVE

TASKS OF THE STATE

State Tasks in Directing the Postal Sector

Article 42

- (1) For the purposes of this Act, the tasks of the state shall include the following:
 - a) development of the national postal policy; the establishment of the conditions required for implementation;
 - b) enforcement of the interests of the government, national security, administration of justice, policing

- and defence in the postal sector and controlling their implementation;
 - c) performing the international tasks related to the postal sector;
 - d) regulation of the postal market, specifying the conditions of market entry, ensuring equality of opportunity among market players;
 - e) the efficient operation of the state institutions of the postal sector, co operation with trade representative organisations;
 - f) ensuring the conditions of the universal postal service;
 - g) reconciliation of the regulation of postal services with data protection, consumer protection and environment protection;
 - h) ensuring co-operation between postal networks, postal service providers and services;
 - i) ensuring the conditions of organisation and operation required for enhancing the security of postal services and preparation for tasks under the period of jeopardy and the qualified period in accordance with national and international principles;
 - j) operating the information and statistical system required for the activities related to the postal sector, their regulation and supervision.
- (2) When performing its tasks, the state shall provide an opportunity for users to express their opinion.
- (3) The Hungarian administration shall be represented in the Universal Postal Union (UPU) by those authorised by the government at the congresses of the Universal Postal Union, otherwise, the ministry in charge of the postal sector, the communications authority and the universal postal service provider.

The Tasks of the Government

Article 43

Of the state tasks, the Government shall

- a) develop the national postal policy, the fundamental principles and conditions of postal activities and services and the state programmes aimed at the development of postal infrastructure;
- b) conclude international agreements related to postal service, represent the Republic of Hungary in the various international organisations related to postal service;
- c) through the minister in charge of the state tasks of consumer protection, ensure the enforcement of consumer interests;
- d) specify the security system for postal services and preparation for the period of jeopardy and the qualified period and it shall guarantee the conditions of performing the tasks of public administration;
- e) specify the conditions required for the enforcement of general and specific national security interests in the domain of postal service and the rules concerning the control of their implementation;
- f) may for a transitory period restrict or suspend postal services pursuant to the provisions of the acts on defence, civil protection, the organisation and direction of disaster management and protection against severe accidents related to hazardous materials and whenever a period of jeopardy or qualified period sets in for any other reason.

The Tasks of the Minister

Article 44.

Of the state tasks, the Minister shall:

- a) submit the proposal concerning the national postal policy to the Government and take action to have the relevant resolution implemented;

- b) co-ordinate the civil, governmental, national security, judicial, policing and defence activities related to the postal sector;
- c) designate the postal service provider participating in the performance of defence tasks and specify the tasks related to preparation for situations in periods of jeopardy and qualified periods;
- d) direct the performance of international tasks related to postal service, prepare the Government's international activities related to the postal sector, take action to have the international obligations implemented, represent the Republic of Hungary in international organisations related to the postal sector, and enter into international agreements on co-operation which do not belong to the scope of authority of the Parliament or the Government;
- e) pursuant to separate legislation, participate in the implementation of the national security and defence-type tasks of the postal sector;
- f) approve the annual stamp issue plan;
- g) in accordance with the provisions of the Act on statistics, take action to have the statistical information system related to his tasks and responsibilities established, operated and developed;
- h) develop proposals and programmes for the development of postal activities and services and, based on the developed proposals, contribute to the conditions of their implementation;
- i) take action to improve the standard of postal services by supporting standardisation and research and development activities;
- j) monitor the position of performing the universal postal service and take action to ensure the service;
- k) in agreement with the minister concerned, perform the tasks related to official price control;
- l) designate the organisations examining, controlling and attesting the conformity of postal services and postal equipment.

The Post-Related Tasks of the Communications Authority

Article 45

- (1) The post-related official tasks shall be carried out by the communications authority. Within this, the communications authority shall:
 - a) take action in relation to the notification and licensing of postal services, the management of the registries prescribed by legal regulation, market surveillance, the licensing of postal equipment, the approval of the rules of business, and other official matters,
 - b)
- (2) The provisions of Articles 9-10, 14-33, 35-53, 64, 68, 69, 70 (1), (2) and (4)-(9) and 74 and 75 of Act C of 2003 shall be applied to the communications authority and its procedures according to paragraph (1) with the deviations according to this Act as appropriate.

Article 46

Within its responsibilities related to the post, the communications authority shall

- a) as needed, but at least once a year, make a statement concerning the need for the enactment or amendment of postal legislation related to its scope of authority, and co-operate in the preparation of legislation related to its responsibilities,
- b)
- c) perform the individual defence, policing and national security tasks related to the post as set forth in separate legislation and the related reporting,
- d) perform the audit tasks related to the cost calculation of the universal postal services and their accounting separation,
- e) perform its other tasks set forth in legislation.

The Fee of the Supervisory Activity

Article 47

To cover its costs related to its activities of postal supervision, the postal service providers shall pay a supervisory charge to the communications authority. The extent of this charge shall be at most 0.2% of the net sales revenue of the postal service providers arising from postal services in the preceding year; the amount of the supervisory charge shall be specified by the minister annually within this limit by decree.

Supervisory Fine

Article 48

- (1) Under its supervisory activities, the communications authority may apply sanctions in the event of the following breaches of the law unless the breach of the law is more severe:
 - a) provision of postal services without licence or notification,
 - b) irregular marketing, distribution or operation of postal equipment,
 - c) provision of postal service differently from a notification or licence,
 - d) non-compliance with quality requirements specified in separate legislation,
 - e) non-performance or inadequate performance of the reporting obligation (disclosure of erroneous or false data or suppression of data important from the viewpoint of the evaluation of the case, failure to provide information or not within the due date, or impeding the inspection of documents related to the postal service or the conducting of the procedure in other ways),
 - f) breach of the obligation of accounting separation,
 - g) non-performance of other obligations set forth in postal legislation except for the breach of the postal service contract and the liability for compensation.
- (2) The top limit of the amount of the fine shall be
 - a) 0.5% of the sales revenue of the service provider in breach of the law in the cases according to paragraph (1) a) and b);
 - b) 0.3% of the sales revenue of the service provider in breach of the law in the cases specified in paragraph (1) c) and d);
 - c) 0.2% of the sales revenue of the service provider in breach of the law in the cases specified in paragraph (1) e) - g).
- (3) For the purposes of paragraph (2), sales revenue shall mean the net operating sales of the service provider in breach of the law arising from postal services in the preceding year.
- (4) When the service provider in breach of the law did not carry out activities qualifying as postal services in the preceding year or did so but for a period of less than 12 months, the period calculated backwards from the establishment of the breach of the law shall be taken into account for the purposes of the fine which, however, shall not exceed 12 months.
- (5) In the absence of data on sales revenue, the lower limit of the amount of the fine shall be one hundred thousand forints, its top limit shall be ten million forints.

PART SIX

MISCELLANEOUS AND CLOSING PROVISIONS

Representative and Voluntary Organisations

Article 49

In the course of the preparation of postal legislation, the right to participation and expressing an opinion shall be guaranteed to voluntary consumer protection organisations and the representative organisation of the service providers at the fora and bodies of interest reconciliation.

The Designation of the Universal Postal Service Provider

Article 50

The universal postal service provider shall be the Magyar Posta Részvénytársaság.

Entry into Force

Article 51

- (1) This Act shall enter into force on the 1st day of January 2004.
- (2)
- (3) A separate act shall provide for the abolition of Act XL of 2001 on communications.

Transitory Provisions

Article 52

- (1) Service providers providing postal services on the basis of notification prior to the entry into force of this Act shall supplement or amend the postal service provided by them in accordance with the provisions of this Act within sixty days following its entry into force.
- (2) The service providers providing postal service on the basis of licence prior to the entry into force of this Act shall supplement or amend the postal services provided by them in accordance with this Act and separate legislation setting forth the detailed rules of licensing within sixty days from the entry into force of this Act.
- (3) Service providers engaged in activities that qualify as postal intermediary services pursuant to this Act which, however, did not qualify as postal services prior to the entry into force of this Act, shall make the notification concerning the postal intermediary service by the sixtieth day from the entry into force of this Act.
- (4) The legislation in force at the time of concluding the contract shall be applied to postal service contracts entered into force prior to the entry into force of this Act and the related liability for compensation.
- (5) When, pursuant to legislation, the rules of business of the postal service provider that had provided postal services even prior to the entry into force of the Act, must be approved by the authority, the service provider shall submit its rules of business to the communications authority within sixty days from the entry into force of this Act. Until approval by the authority, the service provider shall apply its rules of business in force prior to the entry into force of the Act, except for the provisions which are contrary to this Act or other legislation enacted pursuant to the authorisation conferred by this Act.
- (6) Postal service locations already in existence by the time of the promulgation of this Act shall be freed from any impediment by the due date specified in separate legislation. Requirements set forth under Article 41 (3) c) shall be complied with by 31 December 2007 at the latest.

Authorising Provisions

Article 53

- (1) Authorisation shall be conferred upon the Government to establish, by decree:
- a) the scope of authority and responsibilities of the authority with regard to the post and the detailed rules of its procedures,
 - b) the conditions of market entry for postal service providers, the quality requirements for providing the service, the framework and mode of informing users in the event of terminating the postal service, the detailed rules governing the human resource, objective and other conditions of the postal service licence and the areas of public administration specified for the provision of the service pursuant to the licence;
 - c) the detailed conditions of the postal service contract with special emphasis on the size and weight limits of postal items, the delivery of postal items, the legal consequences of performance not in accordance with the contract and the rules concerning postal service contractors;
 - d) the detailed rules of the delivery of official documents;
 - e) the human resource, objective, technical and security conditions for postal money transfer activity, the postal payment intermediary activity and the postal money order service and for the financial service, investment and supplementary investment service activities carried out by the universal postal service provider and its contractor.
 - f) the detailed rules of providing telegram service;
 - g) the system, tasks and conditions of operation of preparing the post for periods of jeopardy and the qualified period;
 - h) the data protection and confidentiality obligation on the postal service provider, its employee, member, proxy and the postal contractor, the detailed rules of data handling and the special conditions concerning the protection of secrets;
 - i) the detailed rules of co-operation between postal service providers, postal contractors and the organisations authorised to gather intelligence and collect secret data.
- (2) The minister shall be authorised to establish by decree:
- a) the market surveillance, quality supervisory and audit activities of the communications authority;
 - b) the fees of the procedures of the communications authority, their extent, the mode, terms and conditions of their payment as well as the magnitude of the supervisory charge in agreement with the minister responsible for the taxation policy;
 - c) the principles and rules concerning the cost calculation of the universal postal services;
 - d) the range of data required for the performance of the tasks of the communications authority provided by market players not including personal data, the conditions of performing the reporting obligation on market players, the rules concerning data handling and the management of registries by the communications authority;
 - e) the detailed rules of keeping accounting records separately in accordance with Article 34 (2);
 - f) the designation of the postal service providers participating in defence tasks and the specification of the tasks of preparation;
 - g) the establishment of a duty system for the postal sector, its operation, tasks and responsibilities.
- (3) The minister shall be authorised to establish by decree, in agreement with the minister in charge of the state tasks related to consumer protection and the minister responsible for the state's tasks for enhancing the opportunities for the disabled, the requirements of the quality of postal services related to consumer protection.
- (4) In agreement with the minister responsible for the taxation policy, the minister shall be authorised to

establish by decree the official prices of the reserved postal services with the exception of services related to cross-border items.

(5) In agreement with the minister, the minister responsible for the national defence shall be authorised to establish by decree:

- a) the order of implementing Standardisation Agreement 2109 (EDITION 5) concerning the NATO Armed Forces Courier and Military Postal Service;
- b) the order of the distribution and transitory restriction of military postal items and postal items that can be mailed for the military post

Amended Legislation

Article 54

(1) The Annex to Act LXXXVII of 1990 on price setting shall be amended in accordance with the annex to this Act.

Alignment with the Legislation of the European Communities

Article 55

This Act, within the subject matter of the Europe Agreement concerning the establishment of an association between the Republic of Hungary and the European Communities and their Member States signed in Brussels on 16 December 1991, in accordance with Article 3 of Act I of 1994 promulgating the Agreement, contains regulations compliant with the following legislation of the European Communities:

- a) Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service,
- b) Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services.

Ferenc Mádl
President of the Republic

Dr. Katalin Szili
Speaker of the Parliament

Annex to Act 101 of 2003

The following provision in the table entitled B Services in Chapter I of the Annex to Act 87 of 1990 on price setting.