YES, NO, MAYBE: THE AMBIGUOUS RELATIONSHIPS BETWEEN STATE-OWNED ENTERPRISES AND STATES

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Yes, no, maybe: the ambiguous relationships between State-owned enterprises and States

Carole Rentsch, Matthias Finger\(^1\)

**Abstract.** In the process of liberalization and, with the introduction of sector-specific regulators, the position of State-owned enterprises (SOEs) of the network industries has changed not only within national economies, but also vis-à-vis their respective States. Reacting to this new environment, many SOEs started to pursue ambiguous non-market strategies, simultaneously seeking autonomy and State protection. In response to these strategies, States, in their various roles, particularly as both owners and regulators of SOEs, became especially interested in the control of strategically important SOEs. In this paper, we observe ambiguous relationships of SOEs with the French, German and Swiss State. We show that the positions of States vis-à-vis their enterprises is also ambiguous and the behavior, thus, may not always be effective, due mainly to role conflicts.

**Keywords.** State-owned enterprise (SOE), public sector reform, regulation, universal service

**JEL-Codes.** L32, L33, L38, L51

**Introduction**

The relationship between State-owned enterprises (SOEs\(^2\)) and States\(^3\) is a major area of research from various academic disciplines, such as political science (e.g., Walder 1995), economics (e.g., Kowalski et al. 2013), and public management (e.g., Schedler, Müller, and Sonderegger 2013; Huber 2012; Lioukas, Bourantas, and Papdakis 1993; Hafsi and Koenig 1989). Moreover, the so-called “stakeholder approach” (Freeman 1984), and literature on firms’ “non-market” strategies (Bonardi 2008), provide theoretical backgrounds on how enterprises manage their relationship with their environment, including the State. The public corporate governance approach (Schedler, Müller, and Sonderegger 2013) more specifically addresses the State–SOE relationship. However, it focuses on the State’s interests, rather than on the ambiguous relationship between SOEs and the State. We argue that both States and SOEs are autonomous entities with interests of their own. Yet they are not entirely independent from one another, and actually strongly depend upon each other.

Hafsi and Koenig (1989), based on research about Canadian, European, and Algerian public enterprises, suggested that there is a pattern underlying the evolving relationship between SOEs and the State: three possible modes of interaction form a logical cycle, starting from mutual dependence and cooperation, progressing to an adversarial period and finally, evolving towards autonomy. So, when an SOE is founded, its objectives tend to be closely aligned with the State authorities’ objectives. Eventually, conflicting views about the role of the SOE as a policy instrument arise. Depending on contextual variables, it is possible that the SOE will, in a third stage, become autonomous (Bernier 2011). While our analysis basically concurs with this view, we want to explore the third stage in more detail. In particular, we think that the third stage, whereby the SOE is “autonomous” from the State is too simplistic, and needs refinement.

Over the 25 years that have passed since the study by Hafsi and Koenig (1989), SOEs have significantly evolved. In the European Union (EU), some SOEs have been privatized, others have remained under public ownership but have been exposed to competition, especially in the context of the European Commission’s (EC’s) liberalization agenda. Reform, however, has been uneven as regards deregulation, privatization and competition (Bernier 2011; Finger and Laperrouza 2011; Clifton, Comín, and Díaz-Fuentes 2006). While privatization has been systematically applied in the United Kingdom, it was much less widespread on the continent. Similarly, privatization did rather take place in the telecommunications and the air transport sector, but much less in

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electricity, railways and postal services. As a matter of fact, corporatization is the much more widespread phenomenon (Finger and Laperrouza 2011).

In this transition process, not only the SOEs per se, but also their positions vis-à-vis their respective owners, have significantly evolved. In this paper, we are mostly interested in corporatized as well as partly privatized firms, and not in the phenomenon of privatization per se. Partly autonomous firms display, in our view, the most complex relationships with the State.

Christiansen (2011) reported that State-owned or partly State-owned enterprises in the OECD member states still employ more than nine million people (see also CIRIEC 2012). Worldwide, the number of SOEs is shrinking. Yet, their market power is increasing, "in part due to their consolidation into national champions across a range of strategic industries." (UNCTAD 2013: 40). As the United Nations Conference on Trade and Development (UNCTAD 2013) reports, there are currently 18 SOEs among the world’s top 100 trans-national companies. Hence, SOEs are, even after the liberalization process, major economic players. As Okhmatovskiy (2010) noted, State ownership of enterprises is not likely to disappear. The numbers highlight the importance of SOEs, but do not say anything about their relationship with the State. While it is likely that the relationship played and continues to play an important role in their growth, we are particularly interested, in this article, in the ambiguous nature of this relationship, be it for expansion or other things.

In this paper, we therefore analyze the development of this complex relationship between SOEs in the network industries of France, Germany, and Switzerland, and their respective States. We interpret liberalization and the introduction of regulators as a first action initiated by the State. SOEs, in turn, react to their newly created market environment with a more strategic behavior, notably aiming at increasing their independence from the State, while simultaneously seeking some protection. The State, in turn, counter-reacts, reaffirming its own interests. Figure 1 illustrates the four steps of the process, which we will discuss in the four subsequent sections. These sections are preceded by an empirical description of the selected SOEs. Our analysis is guided by the following questions: (a) What are the characteristics of this relationship? (b) What are the positions and behaviors of both SOEs and States?

Figure 1. Reaction and counter-reaction to liberalization and regulation. Source: authors.

<table>
<thead>
<tr>
<th>Name</th>
<th>Country</th>
<th>Sector</th>
<th>Revenue (2012)</th>
<th>State ownership (%)</th>
<th>Regulator</th>
<th>Employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>EDF</td>
<td>F</td>
<td>Energy</td>
<td>€72.7 bn.</td>
<td>85</td>
<td>CRE</td>
<td>160,000</td>
</tr>
<tr>
<td>La Poste</td>
<td>F</td>
<td>Post</td>
<td>€21 bn.</td>
<td>100</td>
<td>ARCEP</td>
<td>267,000</td>
</tr>
<tr>
<td>SNCF</td>
<td>F</td>
<td>Rail</td>
<td>€33.8 bn.</td>
<td>100</td>
<td>ARAF</td>
<td>250,000</td>
</tr>
<tr>
<td>GDF Suez</td>
<td>F</td>
<td>Energy</td>
<td>€82 bn.</td>
<td>37</td>
<td>OCRe</td>
<td>138,000</td>
</tr>
<tr>
<td>Deutsche Bahn</td>
<td>D</td>
<td>Rail</td>
<td>€39.3 bn.</td>
<td>100</td>
<td>Bundesnetzagentur</td>
<td>300,000</td>
</tr>
<tr>
<td>Deutsche Post DHL</td>
<td>D</td>
<td>Post</td>
<td>€55.5 bn.</td>
<td>21</td>
<td>Bundesnetzagentur</td>
<td>475,000</td>
</tr>
<tr>
<td>Swiss Post</td>
<td>CH</td>
<td>Post</td>
<td>CHF8.6 bn.</td>
<td>100</td>
<td>PostCom</td>
<td>62,000</td>
</tr>
<tr>
<td>SBB</td>
<td>CH</td>
<td>Rail</td>
<td>CHF8.2 bn.</td>
<td>100</td>
<td>SPE (RailCom)</td>
<td>29,000</td>
</tr>
<tr>
<td>Swisscom</td>
<td>CH</td>
<td>Telecom</td>
<td>CHF11.4 bn.*</td>
<td>51</td>
<td>ComCom</td>
<td>20,000</td>
</tr>
</tbody>
</table>

Notes: "2013. F = France, D = Germany, CH = Switzerland
Sources: APE 2014; BNetzA 2014a; DETEC 2014; Deutsche Bahn 2014a; Deutsche Post DHL 2014a; EDF 2014; GDF Suez 2014; La Poste 2014a; SBB 2014; SNCF 2014; Swiss Post 2014; Swisscom 2014a

We present an evidence-based paper that summarizes the literature and draws on real-life cases in the network industries of France, Germany, and Switzerland. Table 1 shows the largest SOEs (by revenue and employees)
that operate in the regulated network industries of France, Germany, and Switzerland. The cases discussed in this paper are highlighted and described in detail in Tables 2 to 5. We have chosen at least one SOE from each country, and we have selected SOEs that are fully or majoritarily State-owned and one SOE where the State has a relevant minority stake. The cases we report on are especially typical, and hence suitable to illustrate general trends (Patton 1990). Data collection was conducted online, considering laws, regulations, and governments’, enterprises’, and regulators’ websites. Furthermore, both authors are particularly familiar with the selected SOEs.

1. Presentation of the four selected SOEs

We first present four SOEs; namely La Poste, the French corporatized postal operator; Deutsche Bahn (DB), the integrated German railway operator; Deutsche Post DHL, the partly privatized German postal operator; and Swisscom, the partly privatized Swiss telecoms operator. In each of the four cases, we focus our description particularly on the SOE’s relationship with the State as owner and regulator.

Table 2. La Poste, France

<table>
<thead>
<tr>
<th>Key facts</th>
<th>State as owner</th>
<th>State as regulator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Origins:</td>
<td>Ownership representative: Agence des participations de l’État (APE), which holds 30 percent of La Poste’s shares. For the remaining 70 percent, the economics and the finance ministers jointly supervise La Poste.</td>
<td>Description of regulator: Autorité de Régulation des Communications Electroniques et des Postes (ARCEP) was put into place in 2005. ARCEP’s executive board comprises seven members appointed for a six-year term based on economic, legal and technical qualifications in the areas of the postal matters, electronic communications, and regional economics.</td>
</tr>
<tr>
<td>Today:</td>
<td>Means of governance: There is a contract between the owner and La Poste that defines La Poste’s tasks. The spatial planning and development mission is subject to direct State governance (rather than to regulation). Some of the implementation procedures are specified in implementation decrees. Negotiations take place between la Poste and both national and regional political representatives.</td>
<td>Activities: The regulation of postal activities aims to reconcile the universal postal service with the phasing-in of competition. ARCEP regulates the postal sector by: - Issuing licenses and implementing the rights and obligations attached to them - Monitoring La Poste’s universal service mission, and in particular its performance in terms of quality of service - Pricing and accounting control ARCEP is consulted on draft laws and regulations for the postal sector. ARCEP has sanctioning powers applied to both the universal service provider and the licensed operators.</td>
</tr>
<tr>
<td>Products (% of revenue 2012):</td>
<td>Financial involvement in universal service provision: La Poste’s universal service mission and its spatial planning and development mission are financed from two different sources (postal universal service compensation fund and national postal territorial equalization fund). La Poste benefits from local tax relief.</td>
<td></td>
</tr>
<tr>
<td>- Mail (49.7)</td>
<td></td>
<td>Independence: ARCEP is an independent regulatory authority.</td>
</tr>
<tr>
<td>- Parcels/Express (25.6)</td>
<td></td>
<td>Further applicable regulators: The Competition Authority (Conseil de la Concurrence’).</td>
</tr>
<tr>
<td>- Banking (24.1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Other (0.6)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Innovative products, such as value-added mail services, e-commerce, assistance for elderly people.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Corporate strategy:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Accelerate development of existing activities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Ensure, modernize, and self-finance public-service missions</td>
<td></td>
<td></td>
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<tr>
<td>- Develop new services for which there is a public interest</td>
<td></td>
<td></td>
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<tr>
<td>- Be a “social employer”</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Enhance competitiveness of the group &amp; achieve economic “health”</td>
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</tr>
</tbody>
</table>

Universal service obligation:¹ Distribution of mail², parcels³ and press to all French households on six days of the week; access to banking services for all citizens; spatial planning and development mission. All collection and delivery services handled by La Poste must be offered with distance-independent prices. Access points of La Poste must be within a reasonable distance for all citizens.

Notes: ¹ Post, Telecom, Telegraph; ² Assigned by law on July 2, 1990 to Group La Poste for a duration of 15 years; ³ National and cross-border, up to 2 kg; ⁴ Up to 20 kg; ⁵ APE was established in 2004 in order to represent the State’s interests in French SOEs and enterprises with State investment. One of the major reasons for the creation of APE was the need to separate the different roles of the State vis-à-vis SOEs. APE, in its role of owner, manages the portfolio of the State and the contact with SOEs, taking into account economic, industrial, and social aspects; ⁶ ARCEP informs France’s competition authority, the Conseil de la Concurrence, of any abuses of a dominant position and practices that hamper free competition, which come to its attention in the postal area.

Sources: APE 2014; ARCEP 2014; La Poste 2014a; 2014b
La Poste has recently been corporatized, i.e., transformed into a shareholding company fully owned by the government, yet it conserves a particularly strong relationship with the French State, which sees it as a tool, especially for regional development purposes and access to banking services. Table 2 summarizes the key features of La Poste’s relationship with the French State.

DB entertains a particularly complex relationship with the German State, due, on the one hand, to its holding structure and, on the other, to the federalist nature of Germany. DB is corporatized and the owner aims to privatize its transport business, but not its infrastructure, which receives significant subsidies. DB is furthermore subsidized by region (Länder) for some of its regional transport services. Table 3 summarizes the relationships between DB and the German State.

Table 3. Deutsche Bahn, Germany

<table>
<thead>
<tr>
<th>Key facts</th>
<th>State as owner</th>
<th>State as regulator</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Origins:</strong></td>
<td>DB was founded in 1994 when Deutsche Bundesbahn and Deutsche Reichsbahn merged. In 2008, the Federal Government and the Bundestag agreed to the partial privatization of the DB Group. Owing to unfavorable developments on the global stock exchanges, the IPO was cancelled.</td>
<td><strong>Description of regulator:</strong> Bundesnetzagentur (BNetzA) is the German regulator for electricity and gas, telecommunications, post, and rail. BNetzA has been supervising rail competition since 2006. Within BNetzA, the rail department is divided into five sections. Two of these are responsible for policy issues, and three for operational aspects.</td>
</tr>
<tr>
<td><strong>Today:</strong></td>
<td>One of the world’s leading passenger and logistics companies, operating in over 130 countries, the biggest in Middle Europe. EBIT 2012: €2.7 bn.</td>
<td><strong>Activities:</strong> Ensure non-discriminatory access to the rail infrastructure; make decisions on train-path allocation and access to service facilities (such as stations, maintenance facilities, ports and sidings) and on non-discriminatory usage charges; monitor compliance with statutory pricing principles and price levels.</td>
</tr>
<tr>
<td><strong>Products:</strong></td>
<td>Mobility and logistical services: rail, road, ocean and air-traffic networks. Core business: railway in Germany (passenger and freight transport).</td>
<td><strong>Independence:</strong> BNetzA is independent from DB and the State. BNetzA is advised by a Rail Infrastructure Advisory Council.</td>
</tr>
<tr>
<td><strong>Degree of integration:</strong></td>
<td>DB is a holding company structured into passenger transport, cargo and infrastructure (tracks and stations).</td>
<td><strong>Further regulators:</strong> Competition authority (Bundeskartellamt); European Regulators: Independent Regulators’ Group-Rail; European Network Rail Regulatory Bodies.</td>
</tr>
<tr>
<td><strong>Corporate strategy:</strong></td>
<td>Vision: to become the world’s leading mobility and logistics company (profitable market leader, top employer, eco-pioneer). Strategy: - Offer first-class mobility and logistical solutions, both efficient and environmentally-compatible - Generate profitable growth - Internationalize the network of all transport modes - Develop end-to-end travel and logistical chains across all modes of transport</td>
<td></td>
</tr>
<tr>
<td><strong>Public-service obligation:</strong></td>
<td>Contractual arrangements with the Länder (regional governments) for tendered services.</td>
<td></td>
</tr>
</tbody>
</table>

**Notes:** * Both railways were State-owned: Deutsche Bundesbahn by West Germany, Deutsche Reichsbahn by East Germany. Discussions on rail reform relating to the privatization and merger of the Bundesbahn and Reichsbahn had been conducted since 1989; * About 370 railway companies are active in Germany; * Almost 70% of the railway companies in Germany are supervised by EBA. The remaining operators are supervised by the regions (Bundesländer); * Today, maintenance is basically financed by the railway companies; * Competitors pay usage charges to DB, which owns the infrastructure; * EBA, BNetzA, and the anti-trust authority share relevant information.

**Sources:** BMIV 2014; BMVI 2014; BNetzA 2014b; Deutsche Bahn 2014b; EBA 2014a; 2014b

The relationship between Deutsche Post DHL and its partial owner of 21 percent of its shares is rather loose. The Bankengruppe KfW is mandated by the German government to privatize the remaining shares. As a result of
postal-market liberalization and minority shareholding, the regulator, Bundesnetzagentur, put into place to accompany the liberalization process, is the major actor, as illustrated by Table 4.

Table 4. Deutsche Post DHL, Germany

<table>
<thead>
<tr>
<th>Key facts</th>
<th>State as owner</th>
<th>State as regulator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Origins:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A shareholding company founded in 1995 as a result of the Posts and Telecommunications Reorganization Act. The former “Deutsche Bundespost” was corporatized, resulting in three companies under private law, one of which was Deutsche Post. The federal government initially retained all shares. Gradually, shares were sold to private investors.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ownership representative:</td>
<td>KfW Bankengruppe, a German bank, which is organized as a public agency, holds 21 percent of the shares.</td>
<td></td>
</tr>
<tr>
<td>Description of regulator:</td>
<td>BNetzA is the German regulator for electricity and gas, telecommunications, post, and rail. For the postal market, it was put into place at the time of corporatization of Deutsche Post. Within BNetzA, Ruling Chamber 5 is responsible for rates regulation, network access regulation and special control of anti-competitive practices on postal markets.</td>
<td></td>
</tr>
<tr>
<td>Today:</td>
<td>Deutsche Post DHL, with its integrated brands DHL and Deutsche Post, is the world’s leading postal and logistics company, working in more than 220 countries and territories. EBIT 2012: €2.7 bn.</td>
<td></td>
</tr>
<tr>
<td>Products:</td>
<td>National and international mail and parcel services, dialog marketing services, press distribution (Germany), and mail system solutions. International road and rail transportation, air and ocean freight, and contract logistics.</td>
<td></td>
</tr>
<tr>
<td>Degree of integration:</td>
<td>Logistics services along the entire value chain.</td>
<td></td>
</tr>
<tr>
<td>Corporate strategy:</td>
<td>Three major goals: provider of choice for customers, employer of choice for current and future employees, and investment of choice for investors.</td>
<td></td>
</tr>
<tr>
<td>Universal service obligation:</td>
<td>Deutsche Post is obliged to provide universal postal services in Germany, as legally defined.</td>
<td></td>
</tr>
<tr>
<td>Means of governance:</td>
<td>Governance occurs mainly through the legal framework that is issued by the Bundestag and the Bundesrat. The law defines the content, the scope, the minimal quality standards, and the price frame of the universal service.</td>
<td></td>
</tr>
<tr>
<td>Financial involvement in universal service provision:</td>
<td>No financial involvement of the German State; Deutsche Post DHL could, in theory, ask for some subsidies for its universal service obligation.</td>
<td></td>
</tr>
</tbody>
</table>

Notes:  
1. The others were Postbank and Telekom; 2. A strategically important move was the acquisition of 100 percent of the US-based company DHL in 2002. The strategic rationale for the acquisition was the expansion of the business in the US. After the complete acquisition of DHL, the Group combined all express and logistics activities under the DHL umbrella brand name; 3. one of the biggest private employers worldwide; 4. “Anstalt des öffentlichen Rechts;” 5. Postal services in Germany are offered by private enterprises who have to apply for a license for the commercial transport and distribution of mail over 1000 g. Currently, there are approximately 750 license holders at the national level, in addition to regional license holders.

Sources: BNetzA 2014c; Deutsche Post DHL 2014b; 2014c; KfW 2014; PostG 2014

The relationship between Swisscom, Switzerland’s primarily State-owned historical telecom operator, and the federal State as owner is rather loose, as entrepreneurial autonomy of Swisscom is crucial for its commercial success, and the company is well respected by the State as owner. However, the owner sets strategic goals for Swisscom’s domestic and international activities, and benefits from the high revenues Swisscom generates. The regulator is considered to be rather weak. Table 5 summarizes Swisscom’s complex relationship with the State.

2. From the origins of SOEs and the recent market liberalization

Initially, public enterprises, as part of central administrations of Western European countries, provided strategically important public services such as communications, transport, energy, insurance, and financial services (Millward 2005). These services were an integral part of a country’s objective to ensure economic, social, and national development. Some of them managed to gain a certain autonomy from the central
administration; however, they continued to pursue the original public-policy objectives, namely “promoting social and political unification, securing national defense and related strategic considerations, in some instances promoting economic growth” (Millward 2011, 377).

Table 5. Swisscom, Switzerland

<table>
<thead>
<tr>
<th>Key facts</th>
<th>State as owner</th>
<th>State as regulator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Origins:</td>
<td>Central administration, then PTT until market liberalization and separation of PTT into Swiss Post and Swisscom in 1998. Since 1998, shares have gradually been sold.</td>
<td>Ownership representative: The Federal Council has delegated the supervision of SOEs to the Department of the Environment, Transport, Energy and Communications (DETEC), which further delegates some tasks to the Federal Office of Communications (OFCOM).</td>
</tr>
<tr>
<td>Today:</td>
<td>Biggest Swiss telecommunications operator, EBIT 2013: CHF 2.258 bn.</td>
<td>Description of regulator: Established by the Law on Telecommunications of 30 April 1997, the Swiss Federal Communications Commission (ComCom) consists of seven members, who must be independent specialists, nominated by the Federal Council.</td>
</tr>
<tr>
<td>Products:</td>
<td>Fixed and mobile telephony, broadband internet, digital TV, IT services. Innovative products, such as energy solutions, secure cloud services, mobile payment, e-health.</td>
<td>Means of governance: 1) Strategic goals for four-year-period set by the Federal Council (executive branch). 2) Additional control via shareholding, as the Swiss State holds the majority of the shares (51 percent). 3) Two of 10 board members² represent the interests of the State as owner.</td>
</tr>
<tr>
<td>Degree of integration:</td>
<td>Swisscom owns the infrastructure and provides telecommunication services.</td>
<td>Financial involvement in universal service provision: The USO provider is legally allowed to apply for financial compensation if providing the USO causes costs. Compensation would be financed through contributions of all telecommunications companies in the market. So far, Swisscom has not applied for compensation.</td>
</tr>
<tr>
<td>Corporate strategy:</td>
<td>Three pillars: 1. Maximize (expanding market position in the core business in Switzerland), 2. Extend (developing business in Switzerland in areas related to core business), 3. Expand (developing business outside Switzerland, or outside core business and related areas in Switzerland).</td>
<td>Independence: ComCom is not subject to any Federal Council or Department directives. However, ComCom is not really independent, as its operational arm (its so-called secretariat) works within the Federal Office of Telecommunications (OFCOM).</td>
</tr>
<tr>
<td>Universal service obligation*:</td>
<td>Swisscom is obliged to provide telephony, fax, data transfer, broadband Internet,³ access to emergency numbers, public phones, and special services for handicapped. All services must be delivered at a good quality and at affordable prices.</td>
<td>Further regulators: Federal Competition Commission.⁴</td>
</tr>
</tbody>
</table>

Notes: * Since market liberalization, Swisscom has remained in charge of USO provision, even though there has been a bidding process and competitors could have applied. In fact, Swisscom was always the only applicant for the concession. Broadband internet does not have to be provided if there is a comparable product on the market; ² The Office prepares the decisions of the Swiss government (the Federal Council), the Swiss Federal Department for the Environment, Transport, Energy and Communication (DETEC) and ComCom; ³ Currently, there is only one State representative; ⁴ ComCom, as the competition authority specific to the sector, consults the Competition Commission on matters related to market dominance or general aspects of competition. The Competition Commission seeks ComCom’s and OFCOM’s opinion on issues specific to telecommunications.
Sources: ComCom 2014a; 2014b; 2014c; DETEC 2014; OFCOM 2014; Swisscom 2014a; 2014b

As part of a transformation process that started in the 1980s, SOEs were further autonomized and, to some extent, corporatized. Competition was introduced, leading to the currently wide-spread market form of the “regulated mixed oligopoly” (Florio and Fecher 2011). Such liberalization had several origins. As Bognetti and Obermann (2012) reported, the corresponding reasons included growing public deficits, the desire for more efficiency in the public sector and the belief that the private sector was superior in terms of efficiency (e.g., Meggison, Nash and van Randenborgh 1998). Additionally, structural transformations that had occurred in some public services (such as urban development, environmental issues, and technology) had created the need for new organizational forms and means of cooperation between the private and public sectors. Last but not least, European authorities pursued political integration ambitions. Thus, a Europe-wide similar transformation of the public sector was promoted by international organizations, such as the World Bank, the IMF and the OECD.

During the early stages of liberalization, SOEs were generally still steered by way of ownership: the government set the strategic objectives and the framework conditions, while SOEs produced and provided the public goods and services as specified by the government. The SOE–State relationship was thus relatively simple. SOEs had to deal with governments as their owners; however, since they had grown out of the public administrations, they were already used to this. SOEs thus continued to be strategic instruments of States during this period. And, as we will argue, their strategic importance for States has, to date, not disappeared (see also OECD 2005). In
fact, SOEs today still remain active in 'strategic industries' (Clifton and Díaz-Fuentes 2010), comprising network industries, military-related sectors, and the financial and banking sectors. As network industries are particularly important for national development, and recently, increased attention is being placed on them (Clifton and Díaz-Fuentes 2010), these industries are the focus of this paper.

The results of liberalization have been described as mixed (Florio 2013; Bognetti and Obermann 2012; Clifton, Comín, and Díaz-Fuentes 2006). Discussions regarding the public welfare consequences of privatization and deregulation have not yet reached a consensus among experts. Empirical evidence has not arrived at a consensus on whether public or private enterprises are superior in terms of efficiency, and the debate on this topic has often been dominated by ideology, rather than scientific evidence (Bognetti and Obermann 2012, 2008; Boyne 2002). Furthermore, not all of the expected effects of liberalization materialized, and other, unexpected, effects have been observed. In retrospect, the approach to liberalization in the 1980s was probably too simplistic (Clifton, Lanthier, and Schroeter 2011).

However, the transformation of the public sector affected both the organizational structure and the economic role of public enterprises. Even these enterprises that remained publicly owned became increasingly seen and respected as autonomous entities in their respective national, regional, or even global economies. Consequently, the role of the State with regards to its public enterprises was also being redefined. Indeed, the State came to be seen as a simple owner of (public) enterprises providing public services, rather than the actual provider of public services. Depending on the form of capitalism, States take more or less active roles in the provision of the public service (Collì, Mariotti, and Piscitello 2014). For example, in the cases of Germany, Switzerland, and Austria, several authors have claimed that the State is now the “guarantor,” rather than the “producer,” of public goods and services (Obermann 2007; Schedler, Gulde, and Suter 2007). Consequently, SOEs acquired greater managerial freedom to react flexibly to consumer and market demands. However, overall, the conceptual framework of so-called new public management (Hood 1991) remained, meaning that SOEs had a certain autonomy from their owner to react to markets, yet it was still the owner (and not the regulator) that called the shots. This was to change substantially during the next phase.

### 3. The emergence of sector-specific regulators

It is *per se* not simple to introduce market mechanisms into the network industries because of their dependency on cost-intensive infrastructures which have to be shared by all operators. Liberalizing sectors that are charged with USOs bears an additional challenge: the provision of the public services needs to be ensured, also after liberalization. However, the market players are not necessarily motivated to provide public services. New entrants focus on attractive market segments, a phenomenon known as 'cherry-picking' (OECD 2001). Examples include competitors that operate highly frequented bus lines or deliver parcels in densely populated areas at lower prices than public service providers can. As a consequence, SOEs lose market shares in their most attractive segments. The former monopolists start to behave in profit-driven ways, which are somewhat in contradiction with their initial public services mission(s). For example, the strategy of Swisscom (2014a) to “maximise, extend and expand” does not include the provision of public services anymore. The focus is clearly entrepreneurial.

In the countries that we study, sector-specific regulators were introduced to remedy market failures resulting from liberalization. The regulator, on behalf of the State, should provide an institutional framework in such a way that both public and private enterprises have incentives to compete in the market and that competition is fair (OECD 2005). For this purpose, the sector-specific regulators share information with the competition authorities, as our cases show (e.g., in the case of DB, the anti-trust authority, EBA and Bundesnetzagentur share relevant information; in the case of Swisscom, ComCom consults the Competition Commission on matters related to market dominance or general aspects of competition; in the case of La Poste, ARCEP informs France’s competition authority, the Conseil de la Concurrence, of any abuses of a dominant position and practices that hamper free competition, which come to its attention in the postal area).

In a second step, the regulators were also charged with supervising the provision of public services, called universal services in the European Union.

In most of the countries of continental Europe and in most of the sectors of the network industries, the historical operator still provides the public services. This is particularly the case for the fully and majoritarily State-owned enterprises chosen for this article (DB, La Poste, and Swisscom). As the example of Swisscom shows, the public service concession is not very desirable. Since the State, in its role as owner of SOEs and guarantor of public services, must guarantee high-quality public-service provision, it obliges the SOEs to produce goods or provide services for which there may be little economic basis. Examples include public transport providers that have to operate lines with a small number of passengers, or postal operators that are obliged to deliver mail to remote areas on a daily basis (for example, La Poste).

As a consequence, the sector-specific regulators in the countries studied are, in addition to the governments, responsible for controlling at least parts of the SOEs. The result is asymmetric regulation of the SOEs which are
regulated at least twice, in terms of competition regulation and in terms of public service regulation, while their private competitors are "only" subject to general and sector-specific competition regulation. Additionally, SOEs are, by definition, under the influence of the State as owner.

As decision-making is shared by an increasing number of actors, there are multiple State interventions into SOEs, as illustrated by Figure 2. In other words, SOEs operate under a more complex relationship with the State, compared to their private counterparts (Bernier 2011), and thus often feel “oversteered”. In turn, such oversteering makes it difficult for SOEs to react flexibly to the dynamic market environment.

**Figure 2. The institutional framework of SOEs in Europe. Source: authors.**

Within the State that steers SOEs, interests are likely to diverge (Bernier 2011; Florio and Fecher 2011; Schedler et al. 2007; OECD 2005). Indeed, the State has various roles towards SOEs: It can simultaneously be owner, investor, guarantor of public services, policy maker, regulator, court, and customer of SOEs (e.g., Schedler et al. 2007). Given this multitude of roles, we argue that it very difficult for the State to have a consistent position vis-à-vis its enterprises. Hence, the State cannot answer strategic questions concerning SOEs, such as 'how much public service is needed?', 'should SOEs be given more managerial freedom?', or 'should public services be subsidized?' with one voice. From its different roles, the State will answer such questions with 'yes', 'no', or 'maybe'. For instance, the State as owner and investor of SOEs is likely to ask for high dividends, whereas the State as regulator needs to ensure that dominant market positions are not abused, and the State as guarantor of public services must guarantee public service provision. Hence, States would like SOEs to succeed also internationally, at the same time, they are worried about the provision of public services. Another example that we can observe in the described cases is the development of regulators. They are relatively independent of politics (see ARCEP, Bundesnetzagentur, and ComCom). Depending on their power, they have a tendency to expand their remit, extending beyond market creation and sustenance to technical, and even to political, matters (for instance ARCEP which is consulted on draft laws and negotiations of France with Europe). Their position, again, will include only one of many State perspectives.

### 4. SOEs’ ambiguous position vis-à-vis the State

As SOEs are owned by the State and regulated by sector-specific and public service regulators as well as competition authorities, they have to find ways to deal with these different forms of State intervention in parallel with their market strategies. In this section, we describe the SOEs’ ambiguous positions and their non-market strategies towards the State, which notably aim for increased independence from the State (see Zif 1984), while simultaneously seeking (some) protection (see Kowalski et al. 2013). The SOEs’ non-market strategies
complement the SOEs’ market strategies, but do not necessarily correspond to the objectives that States have for SOEs.

Our cases illustrate the ambiguity in the position of SOEs vis-à-vis the respective State: The case of Deutsche Post DHL illustrates how the company was restructured while it was still State-owned, notably in order to prepare for its international development by offloading risks to the German State. The case of Swisscom displays a similar pattern: Swisscom provides the public service for free, most probably in order to keep a close relationship with the State, which in turn protects it from too much competition by means of relatively weak regulation. At the same time, its corporate strategy focuses on international expansion and diversification into adjacent industries.

We observe that on the one hand, SOEs are interested in benefiting from the protection and support of their respective State. They may seek to receive subsidies, minimize their financial risks, and work within a favorable legal framework (Kowalski et al. 2013). This can be achieved by maintaining close and trustful relations with the State and its different relevant entities. In close relationships, SOEs are able to reach mutual agreements with the State without launching the public discussion. Hence, “quiet”, i.e., non-politicized relations are desirable for SOEs.

On the other hand, SOEs seek to maintain, and, if possible, increase their managerial freedom. Larger managerial freedom facilitates quick reactions to environmental changes. Hence, “freer” SOEs are more flexible to respond to market opportunities. SOEs can try to escape the regulatory control of the State by means of:

1. Diversification: SOEs can develop new lines of business or acquire subsidiaries to enter new markets. Evidence shows that SOEs mostly diversify into unregulated, adjacent sectors (such as Swisscom’s diversification into digital television).

2. Internationalization: As several authors (e.g., Kowalski et al. 2013; Clifton, Comín, and Díaz-Fuentes 2011; Bonardi 2004) reported, many enterprises working in the network industries have expanded internationally in recent years (such as Deutsche Post DHL; DB; GDF Suez; Orange; Air France KLM; Telefonica). Indeed, SOEs continue to internationalize, as the increasing number of State-owned transnational companies shows (UNCTAD 2013). However, foreign markets might also be regulated.

It has been shown that the internationalization of former European monopolists happened unevenly: while some firms internationalized strongly, others ventured abroad much slower (Clifton, Comín, and Díaz-Fuentes 2011). The paths of internationalization depend on the context the former monopolists operate in. Clifton, Comín, and Díaz-Fuentes (2011) found factors such as long-term ownership, access to capital, management style and exposure to liberalization to be decisive. Colli, Mariotti, and Piscitello (2014) claim that internationalization of former monopolists depends on the interaction of SOEs with their respective governments. In our understanding, the interaction is part of the SOE-State relationship. Colli et al. argue that the interaction depends on the country’s form of capitalism which is deeply rooted in the country’s history and culture. Whereas co-ordinated market economies (CMEs) and certain state-influenced market economies (SMEs) are more conductive to the creation of world-class multinational corporations, liberal market economies (LMEs) and certain SMEs are more reserved. The findings of Colli et al. (2014) also show that the effects depend on so called ‘successful enhancement’ of the State which can arguably be affected by the relations between SOEs and the State.

3. Negotiation and lobbying: As Bonardi, Hillman, and Keim (2005, 397) reported, “firms are most likely to engage in political activity when the government significantly affects their business”. SOEs highly depend on the public legal framework which is defined by the policy-maker and interpreted by the government, the public administration, and the regulators. Consequently, they strongly engage in lobbying, negotiating, and other non-market activities (e.g., Okhmatovskiy 2010; Bonardi 2008). For instance, SOEs can attempt to reduce their non-lucrative universal service obligations by means of negotiating with the regulator, or, preferably, directly with the policy-makers. SOEs that want to break new grounds (i.e., internationalize or diversify) also need the support of the State, as they depend on a legal framework that allows them to enter new markets. As Colli, Mariotti, and Piscitello (2014, 488) reported, “governments can play an important role in fostering international competition among firms, both by supporting domestic actors that are entering foreign markets and by protecting these actors against foreign competitors in the domestic market through regulation and industrial policy.”

In short, the better the relationship between an SOE and the State authorities, the more favorable a resulting institutional framework. It is therefore of the utmost importance for any SOE to establish and maintain good relations with the State.

In any case, SOEs will seek to instrumentalize the State for their own strategic interests in response to “oversteering”. However, the position of SOEs towards the State is often only superficially coherent. Within an SOE, there are different divisions which provide different products and services. For example, in the case of La
Poste, the banking division has different interests than the mail division. They operate under different specific laws and regulations which they individually try to influence. It is obvious that priorities differ. Top managers of SOEs are challenged to integrate various internal interests in order to be able to represent a coherent position vis-à-vis the State.

This section has shown that the relationship of SOEs with the State is strategic and highly ambiguous: SOEs simultaneously seek autonomy and State protection. Similar to the State's ambiguous position towards SOEs, SOEs have a 'yes, no, maybe' position concerning their closeness to the State. Whereas in certain matters, SOEs wish to be close (‘yes’) to the State (e.g., DB that owns the rail infrastructure in Germany), in other matters they would prefer to be completely independent (‘no’) (e.g., La Poste that could cancel costly mail delivery in remote mountain villages if it weren’t for the public service). We argue that this ambiguity determines the relationship between SOEs and the State.

5. The State’s responses to the SOEs’ ambiguous behavior

In this section, we now describe the State’s reactions to the ambiguous behavior of SOEs. We do this by distinguishing four such reactions in the following sub-sections.

5.1. Control of politically strategic, sensitive or critical sectors

The very reasons for which States created SOEs (such as security of supply, continuity of service, national development, public service, etc.) have not disappeared. In fact, many of these issues have become more relevant again in recent years because of environmental issues, new forms of terrorism, security of supply, financing and many other problems. Indeed, States are increasingly confronted with serious challenges, especially in the areas of energy, transport, communication, and the environment, for which they not only need policy responses but also direct operational action. A breakdown of a critical infrastructure has the potential to cause very serious problems for a complete economy or even an entire society (Boin and McConnell 2007). And SOEs are precisely active in these politically sensitive areas (e.g., CIRIEC 2012), particularly in the network industries where they operate critical infrastructures. Hence, they are the ones that are able to provide operational help for the implementation of governmental policies. However, they might not be motivated to do so, especially if they have come to (successfully) operate in a liberalized environment. Thus, the State often has to actively interfere in the SOEs’ business in order to convince them to provide operational help for policy objectives. Railway companies, for instance, currently gain strategic importance as solutions to environmental problems. For example, DB is becoming an important player for moving cargo from the road to the railways in Europe in conformity with the political agenda.

In addition, in a globalized economy, States now increasingly compete against each other. Enterprises, citizens, NGOs, etc., choose their location by considering taxes and other tariffs, but also security, and the availability and quality of resources and services. States must therefore pay particular attention to their infrastructures, which, again, are generally provided by their SOEs.

Christiansen (2011, 3) reported that SOEs are “increasingly concentrated in a few ‘strategic’ sectors of great importance to the competitiveness of the rest of the business sector.” In line with this argument, we argue that the State’s interest, at least in continental Europe, consists of controlling strategically and politically important sectors, including critical infrastructures. Such control can be achieved either through ownership of SOEs, or through increased regulation of the respective markets. In strategically important sectors, States seem to prefer to exercise their control through a combination of ownership and regulation. However, such “double control” is not necessarily efficient, since the multiple roles of the State are likely to be conflicting, as described above.

5.2. Intervention by regulation rather than ownership

State ownership of enterprises may be justified when there is a strategic interest. As Bernier (2011, 412) stated, “State involvement in the economy through the use of public enterprises should be regularly evaluated in light of the evolution of economic policy. This would imply that some public enterprises would be sold and new ones created in changing conglomerates”. Millward (2011, 393) reinforced this statement, saying that “existing SOEs might lose their rationale” as political alliances, technology or economic conditions change over time. We agree with this view, emphasizing the point that the criticality of infrastructures might vary over time due to the changing environment. Hefetz and Warner (2004) underscored the dynamism of State ownership. They reported that almost 75 percent of the States contract services out, and back in. Contracting back in often occurs in response to dissatisfaction with contracting out. The efficiency of this two-way process is questionable. Contracting out seems to bring about most satisfactory solutions when external service providers are closely monitored by professional public managers. Reasoning one step further, we argue that regulators can function as ‘professional public managers’ that watch over the provision of public services regardless of ownership.
Indeed, regulation is another suitable, and increasingly used, instrument to control enterprises – both public and private. The more important a sector politically, the more regulation we observe, regardless of ownership. Even though we have not presented an electricity case, the electricity sector may be referred to as a good example here. Indeed, regulation is a powerful means for the State to control any activity in politically sensitive markets without taking on the risk of ownership.

Considering the dynamics and the risks of ownership, as well as the complex institutional environment of SOEs, we hence propose that regulation, and not the direct use of the rights of the public owner, should be, in the age of liberalization, the dominant way of influencing SOEs. As discussed above, the role conflicts of the State hinder it from taking a consistent position vis-à-vis SOEs. If regulation were to be clearly more dominant than ownership, at least some role conflicts between the State as owner and as regulator would disappear. In the (temporary) absence of State-owned enterprises in a sector, universal services could be provided by private enterprises. The fulfillment of the USO could, if necessary, be subsidized regardless of the provider.

5.3. Minimizing risks
As part of the 'yes, no, maybe' relationship, both partners are pursuing their own interests. This can be shown particularly well in the handling of risk: Both States and SOEs are interested in minimizing their risks, or rather, offloading them to the other party. The interests of both sides are, however, likely to differ. The State’s main objective is to benefit from the SOEs’ strategic market positions; SOEs are instruments of the State, with which it can intervene into markets and even into the whole national economy so as to pursue public-policy objectives more directly.

Like the behavior of SOEs towards the State, the behavior of the State towards SOEs is often ambiguous, as it is not in favor of bearing financial and entrepreneurial risks. Still, it is interested in the possibility of market intervention through SOEs. For example, postal operators in all three countries considered here are big employers, and the respective States pay particular attention to their financial situations. Another example is Swisscom, which, being majoritarily State-owned, still serves as a cash-cow for the government.

As we have observed during the recent financial crisis, the strategy of States to offload risks to enterprises is not always successful. During the crisis, several enterprises that were considered “too big to fail” were nationalized or re-nationalized. In the long run, States cannot offload their complete risk to enterprises.

5.4. Fear of too much independence
As markets are being created, public policy via ownership is generally accompanied by sector-specific, independent regulation. This, in turn, allows SOEs to become a bit more independent from their respective owner. Similarly, regulators are also becoming more independent. Because public-policy objectives are currently increasing in importance (for example, transfers from road to rail in the case of DB), but also because the government is afraid of giving their SOEs, as well as regulators, too much independence, it can be observed that governments try to take back some control over their SOEs.

We claim that some of the interferences of the State into their SOEs may be explained by the fear that SOEs will grow too independent and become uncontrollable. This may be particularly true for SOEs that (increasingly) operate internationally. While these SOEs use their international presence as an argument for independence from the State, they continue to lobby the same State in order to benefit from its support when expanding internationally – another example for the 'yes, no, maybe' attitude of SOEs regarding the close relationship with the State. This may lead to the fact that politicians feel “abused” by their own SOEs. As a result, there are political initiatives that aim for stricter control of SOEs, either by ownership or by regulation, or both.

Concluding this section of the State's responses to the ambiguous SOE behavior, it can be stated that States pursue their own interests in the relationship with SOEs. Several authors (e.g., Colli, Mariotti, and Piscitello 2014; Clifton, Díaz-Fuentes, and Revuelta 2010) have shown that the position of States vis-à-vis their enterprises are highly context-dependent. For instance, the process to internationalization of former national monopolists are "best understood by taking into account multiple layers of institutional differences: internationalization forces, country, sector and firm characteristics" (Clifton, Díaz-Fuentes, and Revuelta 2010: 1004) and the success of internationalization depends on a "complex set of institutional features concerning both States and dominant firms" (Colli, Mariotti, and Piscitello 2014: 488). Hence, the response of States to SOEs' lobbying will be context-specific.

In our perception, however, context is not the only factor that determines the relationship between SOEs and States. Irrespective of context, we find that States, just as SOEs, are not capable of adopting a coherent position vis-à-vis their enterprises. The multitude of roles existing within the State makes it very challenging to find consensus. For instance, with respect to the diversification desires of an SOEs, a State in its role as competition regulator might think 'yes' because it expects more competition in a specific sector, while the same State in its role as investor might think 'maybe' because it is concerned about its dividend, and the same State in its role as public service regulator might think 'no' because it is worried about the high quality public service provision when the entrepreneurial focus of the SOE changes.
6. Conclusion

With the autonomization of SOEs from the State, and the introduction of sector-specific regulators, the originally stable relationship between States and SOEs was transformed. Reactions and counter-reactions followed. After three decades of evolution, it appears that the relationship between SOEs and States is inherently ambiguous.

On the one hand, SOEs aim to be autonomous; on the other hand, they seek State protection and support, as we observed in the French, German, and Swiss cases. In order to escape regulatory control, SOEs go international, diversify, or negotiate with the State. However, in order to receive support, they seek to maintain close relationships with the State.

The States' behavior is comparably ambiguous: States want to keep control of strategically important sectors, but are not prepared to bear high risks. Role conflicts within the State as owner and regulator, and even between the different regulators, make the State’s position even more complex. In other words, we observe an increasingly dynamic relationship between the State and its public enterprises. While at a certain point in time the State may have policy objectives for its SOE, at another point these objectives may be (comparatively) less important. Similarly, SOEs may also alter their strategies over time. Their need for State protection may vary in line with their evolving corporate strategies. In short, no stability seems to be in sight regarding the relationship between SOEs and States.

Existing theories do not fully explain the complex interplay of the State and SOEs. This paper provided some insights into real-world cases that could form a basis for theory development. Further research, especially in additional countries and sectors, is needed in order to develop a detailed “theory of public enterprises” which, among other things, addresses the SOE-State relationship. A more complete picture of this relationship in various contexts would allow extrapolation into future development.

Notes

a. According to Schedler, Gulde and Suter (2007, 17), SOEs have a defined legal entity with formal independence from the public administration and fulfill a clearly defined public mission, and the State is the holder of the majority, or a significant minority, of the shares. We consider 50-49% as a significant minority.

b. A number of State bodies are in contact with SOEs (OECD 2005): executive powers (such as governments), policy-makers, courts, regulators, and the central administration (Schedler, Gulde and Suter 2007). Since these relationships are not exercised by one single person or authority, each SOE is confronted with multiple interfaces with the State (Bernier 2011). For SOEs, the “State” is therefore simultaneously the owner, the policy-maker and the regulator. Additionally, the State has different levels: national, regional and municipal (e.g., Benz and Eberlein 1999). In this paper, the term “State” refers to the entirety of these roles and levels.

c. Even though there are three big telecommunication companies in Switzerland, only Swisscom, the incumbent, applied for the universal service concession during the last bidding process in 2007, somewhat as a result of pressure from its owner.

d. As France has many remote areas, and La Poste has to ensure both standard prices and daily delivery, certain deliveries are not cost efficient. They must be cross-subsidized by the revenues from parcel and letter delivery in densely populated cities.

e. As the company’s website says, in 1995, Deutsche Post started “on a course of development that [took] it from a loss-making, State-run government agency to a profitable global player and ultimately the world’s number one logistics company” (2014a). Deutsche Post DHL has been accused of having abused its closeness to the State. Legal proceedings are ongoing.

f. For example, Swisscom has diversified into providing digital television, and 15 percent of the Swiss population already use the service. Swisscom continues to diversify: its latest innovation is its entry into the energy market with the start-up company “Swisscom Energy Solutions” (Swisscom 2014a).

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