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PART 1/4

COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT

Accompanying the document

Proposal for a Regulation of the European Parliament and of the Council on cross-border parcel delivery services

{COM(2016) 285 final}
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Table of Contents

1. Problem definition

1.1. Introduction / Background

Making the single market fit for the digital age is one of the ten key priorities for the Juncker Commission. It's estimated that EU consumers could save €11.7bn each year thanks to the lower prices and wider choice offered by online shopping[1]. Yet only 16% of consumers bought online from other EU countries in 2015, while 47% did so in their own country[2]. Well over three quarters (84%) of online sales in 2014 came from the country in which the company was located[3]. Improving online access to digital goods and services is therefore one of the three pillars of the Digital Single Market Strategy.[4]

Problems repeatedly identified with cross-border parcel delivery include high prices, low quality of service and lack of information. Actions to address them have already been proposed by the Commission both in the 2012 Green Paper[5] and in the 2013 Roadmap[6], but some barriers persist and continue to be highlighted in many studies, including those carried out after the adoption of the Roadmap, in particular in the context of the Digital Single Market Strategy.[7]

The **Roadmap** set out actions to improve the quality, availability and affordability of cross-border parcel delivery services, and the transparency of information about the services on offer. It defined an eighteen month period for the assessment of industry-led initiatives, ending in June 2015 after which progress would be assessed[8]. Examples of industry-led action include National Postal Operators (NPOs) planned improvements to the quality of cross-border services including better tracing of shipments and increased interoperability. E-retailers' associations have developed European Trustmarks for online shopping[9] and committed to improve information about delivery to e-retailers[10]. The Commission is monitoring implementation by industry and an assessment of progress shows that while measures implemented have had a limited positive impact on the availability and quality of cross-border offers, complementary measures are needed in the areas of price transparency and enhanced regulatory oversight. The current Impact Assessment therefore focuses on the analysis of these two areas[11].

For the purpose of this Impact Assessment (IA) **parcels** are defined as items addressed in the final form in which they are to be carried by a parcel service provider and which are not items

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[1] Civic Consulting for the European Commission, *Consumer market study on the functioning of e-commerce and Internet marketing and selling techniques in the retail of goods*, 2011 – the consumer welfare gains from an integrated EU market for e-commerce in goods assuming 15% share of internet retailing was estimated at EUR 204.5 billion per year (EUR 70.4 billion from lower online prices and EUR 134.1 billion from increased choice)
[2] Data from Eurostat Community Survey on ICT usage in households and by individuals, 2015 (isoc_ec_ibuy)
[3] Flash Eurobarometer 413
[4] COM(2015) 192 final
[5] COM(2012) 698 final hereafter "the 2012 Green Paper"
[6] COM(2013) 886 final, hereafter "the 2013 Roadmap"
[7] See Annexes 1 and 2 for further details about the evidence base for this impact assessment.
[8] For further details on all the actions in the Roadmap and the Commission's assessment of progress to date see Annex 10.
[9] EMOTA, *European Trust Mark for online shopping launched today Commissioner Jourova welcomes initiative to provide confidence to European consumer*, 1 July 2015, http://www.emota.eu/#!publications/c1351
For information about the E-commerce Europe trustmark see http://www.ecommerce-europe.eu/trustmark
[10] E-commerce Europe, *Ecommerce Europe takes initiative for better parcel delivery*, 23/04/2015, http://www.ecommerce-europe.eu/press/2015/ecommerce-europe-takes-initiative-for-better-parcel-delivery
[11] For more information on the wider problems, please see Annex 7 on problem analysis and Annex 10 with assessed progress against the Roadmap's objectives.

of correspondence, including items weighing up to 31.5kg.[12] See the Glossary for further definitions used in this impact assessment.

1.2. The problem that requires action and its size

1.2.1. Economic context

The **European courier, express and parcel market** (CEP market) is estimated to be worth between EUR 37 and EUR 53.5 billion[13]. B2C represents around 60% of volumes but around 30% of revenues[14] and e-commerce has intensified the competition in the B2C delivery market[15]. The market has grown in recent years, with estimates ranging from a 3.2%[16] to 5.7%[17] increase in value and between 4.8%[18] and 6%[19] increase in volume. It remains very concentrated however, with five Member States[20] with developed e-commerce markets accounting for 75%[21] of the total EU CEP market. Western countries account for 86% of the total EU parcel market volumes, southern countries account for 11% and eastern countries have a 3% share[22].

There are a number of **different types of delivery operator** active in the CEP sector, such as NPOs, international express carriers/integrators, couriers with predominantly domestic presence, consolidators and parcel brokers. New business models are also emerging, for example drawing on the principles of the collaborative economy and crowdsourcing. Only a few operators have a Europe-wide (or even worldwide) network so many operators need to partner with others for cross-border transactions.

Domestic parcel markets account for approximately 70% of total revenues and approximately 90% of volume of the total parcel and express markets[23]. NPOs account for about 20% of their domestic CEP market[24], with domestic competition within Europe coming mainly from parcel carriers established in several Member States, such as Hermes, DHL, GLS, GeoPost and TNT, as well as other local parcel providers. European international competition is mainly between UPS, DHL, TNT, FedEx and Geopost, and of course NPOs.[25] Many of these carriers are express carriers, who traditionally focussed on the B2B market. Others are focused on the less time-definite (deferred) market segment. According to La Poste (2014) B2B continues to account for the major share (70%) in relation to B2C in terms of value. According to Copenhagen Economics (2013)[26] however, in terms of volumes the picture is

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[12] E-commerce parcels contain goods ordered online and delivered to the consumer with the exception of groceries (supermarkets have naturally their own delivery operations to handle the demand) and two man delivery (that involves heavy items that are naturally delivered through the freight and logistics sector). Click and Collect type of services may also opt out form the parcel statistics as parcels are normally delivered to the retailers distribution network for a direct pick up from the customer.
[13] Annex 5 on Market Overview
[14] Annex 5 on Market Overview. Copenhagen Economics (2012) and Effigy (2013).
[15] Okholm, H. B. et al., e-Commerce and delivery - A study of the state of play of EU parcel markets with particular emphasis on e-commerce, Copenhagen Economics for the European Commission, 2013
[16] Effigy (2013) – Annex 5 on Market overview
[17] La Poste Annual report (2014) – Annex Marker overview
[18] Effigy (2013) – Annex 5 on Market overview
[19] AT Kearney (2012) - – Annex 5 on Market overview
[20] UK, Germany, France, Italy and Spain
[21] Effigy (2013) - Annex Market Overview,
[22] WIK (2013) Main Developments in the Postal Sector (2010-2013) pg 387
[23] WIK (2013), pg 237
[24] WIK(2013),p 234-234 – Annex 5 Market Overview
[25] Boston Consulting Group (2012). See Annex 5 for further details.
[26] Copenhagen Economics (2013) , p. 103

reversed: B2B shipments are responsible for nearly 30% of the total shipments in Europe when B2C volumes are about 60% of the total. In general NPOs' market share in the whole CEP European market is estimated to be around 27%[27], increasing to 35% when considering the B2C segment alone. For a list of the main operators by country see Annex 5.

NPOs are however the parcel operator that small senders or senders in remote and peripheral areas use because competition focusses on larger customers.[28] In the UK, a well-developed e-commerce market, one survey found that 63% of small online UK retailers used the NPO (or its express subsidiary).[29] An estimated 35% of the total shipments handled by NPOs fall under the universal service area,[30] which represents about 5-8% of the e-commerce market[31].

Different types of operator tend to have different types of pricing structure, and there are also differences between letters (i.e. packets) and parcels. Most national postal operators publish their prices for single piece items on their websites. This IA refers to such prices as 'public list prices'. Discounts may also be available as both published percentages of these public list prices for customers with intermediate volumes and larger customers may be offered negotiated discounted prices that depend on the specific situation of the customer. Prices for operators other than NPOs are less likely to be published, and greater use is made of (individually) negotiated prices, in part due to other delivery operators and especially integrators having a larger market share in the B2B market, and being used far less by customers or SMEs wanting only to send single items occasionally.

The econometric study (based on list prices)[32] concluded that **NPOs** almost always use single zone pricing for letters, i.e. they charge the same rate to send a letter from the domestic market to any country in the EU, but that for parcels, on the other hand, international price discrimination (i.e. charging different prices for different countries) is much more common[33]. While some NPOs still use only single zone pricing, other NPOs charge different cross-border prices for (almost) every destination country (as is the case in Latvia, Lithuania and Romania)[34]. Evidence from the European Commission's data collection shows that price discrimination is applied more commonly for premium parcels than for standard international parcels.

For more details on the cross-border parcel delivery market, see Annex 5.

1.2.2. Legal context

There is no sector-specific EU legal instrument that explicitly governs the cross-border delivery of all parcels, but parcel delivery providers are affected by relevant laws concerning transport and logistics, data and consumer protection, competition, urban planning, market surveillance, VAT, working conditions, and, in case of external trade, by customs, security and international law, as well as the Postal Services Directive (for greater detail, see Annex 6). The inconsistencies of how some legal provisions apply to some operators, but not to

[27] Copenhagen Economics (2013), p.105. E-commerce and delivery, estimates are based on a questionnaire based survey as well as on desk research, for more info see p.97 of the report
[28] FTI (2011) Intra-Community cross-border parcel delivery
[29] http://www.royalmailgroup.com/small-online-retailers-look-beyond-europe-boost-exports-2016
[30] Copenhagen Economics (2013)
[31] Copenhagen Economics (2013), p. 1
[32] Econometric Study on cross border prices, University of St. Louis (2015)
[33] Domestic price discrimination for parcels is more an exception, we could observe from the data collection on parcel prices that domestic price discrimination occurred for Spain, Portugal, Greece.
[34] Example of zoning strategies for a 2 kg International Standard Parcel item shows that 10 countries apply 1 single EU tariff, 7 apply two EU tariffs, and another 7 three EU tariff. Latvia applied 14 different tariffs for shipments in the EU. Romania and Lithuania apply full price discrimination.

others who offer similar services, has been noted by the European Regulator's Group for Postal Services (ERGP)[35] and the Express Industry Association[36].

The focus of the **Postal Service Directive (PSD)[37]** was *de facto* letter mail, which until at least 2007 was responsible for over half the postal and express sector's revenues[38] and until 2013 the delivery of over 70% of letters could be the subject of a monopoly by the universal service provider in a number of Member States. However parcels, unlike letters were never part of the postal monopoly previously held by NPOs and, as parcel delivery has become increasingly important for e-commerce, it has become apparent that the *absence* of an effective regulatory framework for parcel markets is once cause of the problems identified in this Impact Assessment.

E-commerce driven B2C parcel deliveries are a relatively recent phenomenon. It was not an aim of the PSD to address parcel delivery over and above a very basic guarantee (i.e. a basic universal service obligation) so that all citizens should be able to send and receive parcels. These were essentially "C2C" (consumer-to-consumer) parcels, handed over in a postal office. In addition to these C2C-focussed parcel services, some NPOs also provided business to business (B2B) parcel services, often through subsidiaries and competing with private parcel carriers and courier services. The PSD sought not to distort this competition through comprehensive regulation of the parcel sector, but did extend the scope of some regulatory activity beyond the universal service, for example by extending the scope of the collection of statistical data and the requirement to have complaints handling mechanisms to all postal service providers[39]. There are however differences in how Member States have defined “postal service providers” leading to inconsistencies in the statistical data that is collected (Article 22a) and the level of oversight national regulatory authorities for postal services (NRAs) have of the parcel market.

The boundaries between different types of operator and product are becoming increasingly blurred. Smaller, lighter e-commerce items (often called packets) may be treated operationally as letters, rather than parcels: according to UPU statistics, an estimated 80% of mail items generated by e-commerce today weigh under 2 kilogrammes and are in general processed in the letter-post mail stream.[40] Operators who traditionally focussed on the B2B markets (in particular express operators) are developing their B2C services, some of which compete with those within the scope of the universal service obligation (USO) (for postal services).

The core regulatory principles in the PSD (Article 12) of affordability, cost-orientation, transparency and non-discrimination are only applicable to parcels (and letters) that fall within the scope of the USO and NRAs should ensure that tariffs for USO services are line with these principles. NRAs however focus more on domestic markets than they do on cross-border ones, including when ensuring the affordability and cost-orientation of services within the USO[41], and for cross-border services cost-orientation of terminal dues is only required to be “encouraged”.

[35] ERGP (15) 28 and (14) 26
[36] EEA consultation response
[37] Directive 97/67/EC as modified by Directive 2002/39/EC and most recently by Directive 2008/6/EC - OJ L 15, 21.1.1998, p. 14–25; OJ L 176, 5.7.2002, p. 21–25, OJ L 52, 27.2.2008, p. 3–20.
[38] WIK (2013)
[39] ERGP/BEREC (2015) See drivers 2.1 and 3, section 1.5 and Annex 11 for further details.
[40] http://www.upu.int/en/activities/letter-post-development/about-letter-post-development.html
[41] WIK (2013)

The PSD requires each Member State to have an independent NRA who is entrusted with the regulatory functions falling within the scope of the PSD [42] and who have a particular responsibility to ensure compliance with the PSD's obligations. They may also be entrusted with overseeing competition rules in the postal sector. To facilitate cooperation between NRAs at the European level, the European Regulators Group for Postal Services (ERGP) was established in 2010.[43] The ERGP facilitates consultation, coordination and cooperation between the NRAs and serves as a body for reflection and discussion and advises the Commission. The ERGP does not have a mandate to enforce the PSD for cross-border services.

The precise scope of the USO also differs between Member States. The level of service of USO parcels, for example whether track and trace are included, and the quantity i.e. whether bulk or only single piece parcels are within its scope, legitimately varies between Member States. There is therefore no consistent definition of “a USO parcel” Rather there are a range of characteristics that indicate a parcel is a USO parcel, for example a slower service (i.e. not an express parcel with a fast, specified delivery date) and one that may have no or limited additional features such as track and trace, although registered parcels form part of the USO (Article 5, PSD).

Differences in how the PSD has been implemented give rise to differences in the legal mandate of NRAs and to a fragmentation of regulatory oversight of the parcel delivery market.

1.1.1. The problem: high cross-border delivery (and return) prices for SMEs and individuals are a barrier to cross-border e-commerce

1.1.1.1. Scope

There are many reasons for the slow development of cross-border e-commerce addressed by the Digital Single Market Strategy, for example the complexity of consumer protection and contract laws, different VAT regimes and denial of access to customers based in other Member States. Many of the problems linked to parcel delivery services, for example insufficient information about the services available and the lower quality of cross-border services are derived from the lack of interoperability between delivery operators, in particular NPOs, are already being addressed by projects linked to the 2013 Roadmap (see Annex 10).

Consequently, this initiative is a **flanking complementary measure** as the problem of high delivery prices persists since there are still many instances of cross-border prices that are prohibitively high. **The focus of this impact assessment is therefore on greater price transparency and enhanced regulatory oversight,** as well as the promotion of competition, since these have been identified as ways of addressing the problem of high cross-border delivery (and return) prices for small volume senders, which are in most cases, but not exclusively SMEs and individuals. The four most important groups of drivers are:

a. Underlying economic factors of the sector
b. Lack of market and price transparency
c. Ineffective, inconsistent or non-existent regulatory oversight
d. High profit margins added to delivery costs by e-retailers

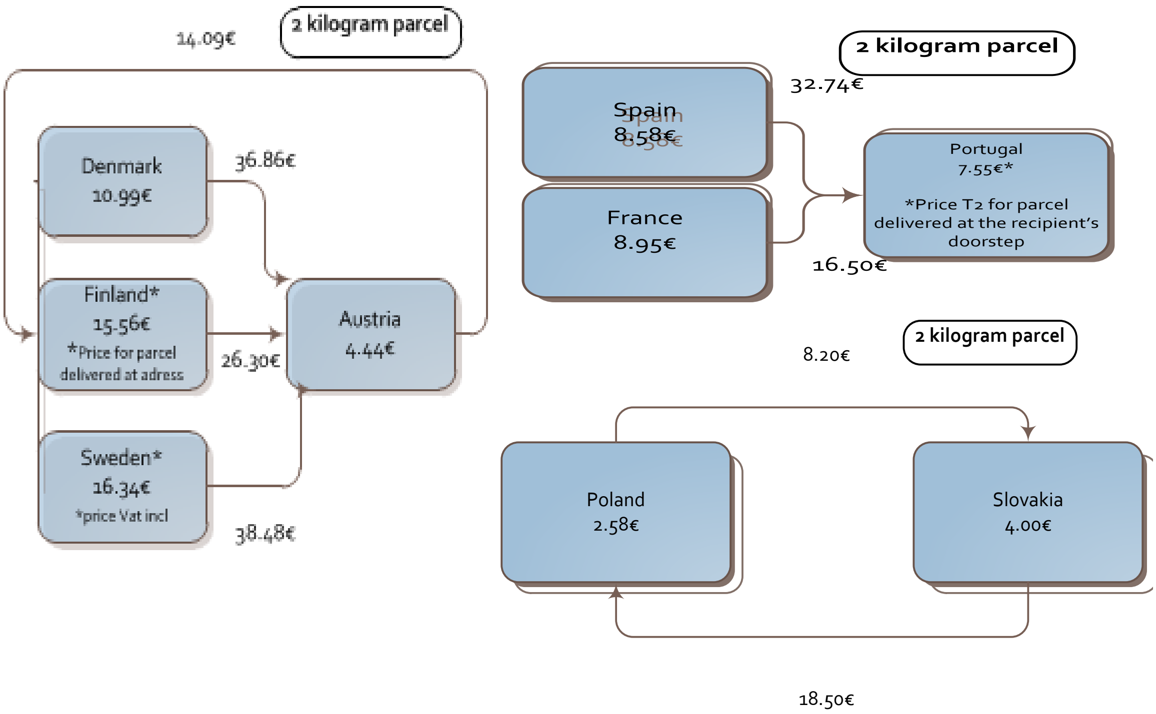
[42] PSD Article 2 (18)
[43] See http://ec.europa.eu/growth/sectors/postal-services/ergp/index_en.htm

To assess the full impact of this initiative it is important however to bear in mind that it remains part of a wider package of measures to improve cross-border parcel delivery and e-commerce more widely (see section 1.4 and the baseline scenario).

1.1.1.2. Evidence

Average list retail cross-border prices from NPOs are two to six times higher than the comparable prices for domestic delivery[44]. Recent research for the European Commission shows that list prices for cross-border delivery from NPOs are on average 3.5 times higher than their domestic equivalent for letters and about 5 times higher for parcels.[45]

Figure 1: Examples of Domestic and Cross-border Prices for a 2 kg standard parcel[46]



Source: Econometric Study on cross border prices, University of St. Louis (2015), Price data May-July 2015.

While some additional costs do arise from specific cross-border factors such as extra handling and transport costs, some cross-border prices charged by NPOs appear unreasonably high in relation to the domestic prices, even when other factors such as the negotiating power of different operators and consumers' willingness to pay are taken into account. [47] For example, FTI analysis showed that the difference between (public) cross-border prices and a theoretical fair benchmark price level that could relate to the actual costs of the cross-border delivery are on average 40% higher for packets, 55% higher for parcels and 61% higher for express products within the six largest CEP markets and 47% for packets, 65% for parcels

[44] WIK (2010), Study on the External dimension of the EU postal acquis; FTI (2011); Copenhagen Economics (2013); Postal statistics 2012/2013 - Domestic and cross-border list prices shown are prices for 2Kg standard delivery services, so that we compare like with like.
[45] University Saint-Louis (2015) Econometric study on cross-border prices
[46] Further examples are in Annex 5 and here: http://ec.europa.eu/DocsRoom/documents/14741/attachments/1/translations/en/renditions/native
[47] Copenhagen Economics (2013) p. 110; 112. For other operators this analysis has not been made.

and 61% for express within the rest of Europe.[48] Integrators charge prices that are comparatively higher than the prices for ordinary (i.e. non express) parcel delivery services as they offer additional services such as time-definite delivery and cross-border track and trace, enabled by their integrated networks.

High delivery prices prevent e-retailers from selling more online, especially smaller SMEs who lack the volumes needed to negotiate significantly cheaper prices with delivery operators. On average 37% of retailers selling online cite the higher costs of cross border delivery to be an important obstacle to the development of cross border sales[49]. **Smaller firms and those who export less are more affected than larger firm**s. Further analysis[50] of these results shows whereas 13% of large firms declare that delivery concerns are considered to be an obstacle when selling cross border, in the small and medium-sized segment these proportions reach a rate of 42% and 39% respectively. The proportion of firms that are not growing and declare delivery is very important is higher by 10 percentage points (pp) than the proportion of firms that show a positive sales trend. Firms that are exporting low volumes tend to declare more systematically that delivery concerns are very important than firms that are exporting larger volumes from online sales.[51]

High prices also prevent **consumers** from buying more online from other Member States. As well as complaints of high prices, several studies have found that high delivery prices are the main reason for abandoning a shopping cart.[52] Both consumers and e-retailers located in **remote and peripheral areas** are at a particular disadvantage as they may rely on e-commerce to access a wider range of goods. Some retailers and delivery operators levy surcharges on delivery to remote areas for example DHL charge EUR 20.00 (or EUR 0.30/kg if higher) for remote area delivery or collection in Finland.[53] UPS charges 30% more to send from Amsterdam to Den Burg (Island Texel) than from Rotterdam to Amsterdam[54]. While the NPO (as the universal service provider) is required to deliver throughout each Member State, if there is no real competitive pressure there is little incentive to reduce prices. To the extent that such areas depend on the USO, it is even more important that operators providing this service charge do not charge prohibitive prices.[55]

1.1.2. Driver 1 – Underlying economic factors of the sector

1.1.2.1. Driver 1.1 – Low volumes of SMEs decreases their negotiating power and increase delivery costs for delivery operators

The cross-border parcel delivery market is a **two-tier market**[56], with large senders benefitting from lower delivery prices - especially in countries where volumes are high - and

[48] FTI (2011). The six largest markets are Germany, UK, France, the Netherlands, Spain and Italy.
[49]EU28 Flash Eurobarometer 396: Retailers' Attitudes Towards Cross Border Trade and Consumer Protection, http://ec.europa.eu/COMMFrontOffice/PublicOpinion/index.cfm/Survey/getSurveyDetail/instruments/FLASH/surveyKy/2032
[50] Duch-Brown, N. and Cardona, M. (2016), Delivery costs and cross-border e-commerce in the EU Digital Single Market, JRC/IPTS Digital Economy Working Paper. https://ec.europa.eu/jrc/sites/default/files/JRC101030.pdf
[51] Duch-Brown, N. and Cardona, M. (2016)
[52] UPS, Pulse of the Online Shopper, responses to Commission's 2015 public consultation
[53] DHL applies "Remote Area" surcharges for international and domestic shipments to remote areas. Prices accessed 1/12/15 http://www.dhl.fi/en/express/shipping/shipping_advice/shipping_to_remote.html
[54] For UPS extended and remote area surcharges see link below (accessed 1/12/15) https://www.ups.com/content/be/en/shipping/cost/zones/area_surcharge.html?srch_pos=2&srch_phr=surcharge.
[55] Especially since the costs implications of the simulations above become more moderate if the operator has the opportunity to combine the costs of parcel delivery with letter mail delivery –as in the cases of NPO (example of co-production)
[56] FTI (2011), pg 6

low volume infrequent senders (i.e. SMEs and consumers) facing higher prices and few (if any) alternatives to the NPOs, especially in peripheral countries and outside urban areas.[57] This limits SMEs' competiveness in cross-border e-commerce. That SMEs and low volume senders are likely to be more price sensitive, with less negotiating power and are therefore more vulnerable can also be observed in a recent decision of the French Autorité de la concurrence that fined 20 delivery companies, including Chronopost/Exapaq (now known as DPD France (La Poste Group)), DHL Express France, FedEx Express France and GLS France for coordinating on annual prices increases and fined 15 companies on a common method for passing on the costs of a 'diesel surcharge'. SMEs suffered most from these practices as, unlike the operators' largest clients, they lacked negotiating power that would have enabled them to reject, or at least renegotiate, the price increases.[58]

Low volumes generate a higher cost per unit and these small senders lack the negotiating power of large retailers (whose high volumes and predictable shipment profile can contribute to reducing delivery operators' fixed costs). Furthermore, when consumers are responsible for returning unwanted purchases themselves (i.e. exercising their right to withdraw from the contract), they often pay the list price for the delivery of an individual item, which are higher than the discounted prices larger e-retailers receive.

Infrequent low volume senders, especially those located in remote/peripheral areas, often rely on NPOs[59](which are required by the universal service obligation to collect and deliver throughout their territories), and such sellers pay the NPOs' public list prices (or public discounts based on these prices). The possibilities of switching to alternative delivery operators are limited for many low volume customers and those in remote and peripheral areas. There might be other delivery operators present in the national delivery markets (typically more than three in most Member States[60]), nevertheless they mostly target higher volume customer segments, by providing delivery services tailored for bigger volumes, while applying comparatively high prices for single piece shipments and surcharges in remote areas. While platforms allow smaller retailers to reach a wider audience (and potentially benefit from cheaper delivery rates), at the same time they can act as a disincentive for SMEs to seek out other delivery services and for delivery operators to target smaller e-retailers. Platforms are also themselves commercial enterprises who require remuneration for the services they provide.

Furthermore, a certain degree of customer inertia is observed that further reduces SMEs' power to negotiate: SMEs and final customers may be reluctant to use delivery options other than the NPO due to switching costs (high search costs) and lack of trust and of information about the quality of the delivery service provided by alternative providers[61].

[57] WIK (2014) Initiatives to support the growth of e-commerce via better functioning parcel delivery systems, Consumer Focus Scotland (2012) Effective parcel delivery in the online era, What consumers in Scotland need

[58] Decision 15-5-19 of 15 December 2015, http://www.autoritedelaconcurrence.fr/user/avisdec.php?numero=15-D-19

[59] FTI(2011), p156. A 2015 study by Citizens Advice Scotland found that 10% of retailers excluded some part of the Scottish Islands and that businesses in rural areas and smaller businesses were more likely to rely on the universal services provider. Surcharges for Highlands consumers had risen by 17.6% (10% adjusting for inflation) and by 15.8% (or 8.3% in real terms) for islands consumers since 2012. http://www.cas.org.uk/system/files/publications/the_postcode_penalty_-_the_distance_travelled.pdf

[60]Copenhagen Economics (2013), p. 23,118

[61] FTI (2011), p106; Copenhagen Economics (2013), pg180

1.1.2.2. Driver 1.2 – Parcel delivery is a network industry with high fixed costs

As in any other network industry, business models of nationwide and cross-border delivery operators are based on **high fixed costs** and **large economies of scale and scope** which limit the possibilities for geographically large market entry. **[62]** Fixed costs are higher for: parcels (compared to packets) due to network optimisations and final mile delivery; for express services[63] (compared to deferred) due to higher investments in transport modes, hubs, automation and more efficient processed focused on speed; and for B2C (compared to B2B), due to more costly final delivery/failed deliveries[64] [65]. In addition, NPOs' parcel networks, based on an established ground **domestic network** and covering the whole territory (including rural and remote areas), are usually optimised for domestic flows and not for cross-border flows, given that 85% of the total flows are domestic[66]. To the extent that e-commerce items are sent as 'letters' or 'packets', NPOs are able to benefit from the infrastructure that was developed while letter delivery was still part of the postal monopoly.

Deliveries in **rural, remote and peripheral areas** also entail higher fixed costs, typically linked to lower population density and sometimes more difficult geographic access.[67] Cost simulations[68] show that the B2C cross border parcel delivery cost might induce EUR 1.6-3.6 costs per parcel in an urban to urban scenario up to EUR 5.4-10 in an extreme rural to rural scenario. Almost one third (27%) of all B2C shipments in the EU are in rural areas, reaching almost fifty percent in certain groups of countries[69]. Users in these areas may be served only by the NPO (as the universal service provider (USP)), or if there are other operators that deliver surcharges are likely to be applied.

Existing competition is concentrated in certain segments[70]. Generally, the cross-border CEP market, which represents about 30% of the revenues and 9% of the volumes of the total CEP market,[71] is a highly concentrated segment, although the level of concentration varies across customer segments[72]. The University of Antwerp has characterised the European parcel market as a **tight oligopoly at a European scale[73]**, acknowledging however that more competition can be identified locally. Competition is concentrated where revenues are higher,

[62] Localised market entry, for example local courier services is easier. Fixed costs are incurred through vehicles, sorting facilities, tracking systems, post offices/shops and employees

[63] The express segment accounts for about 14% of the total EU CEP market and usually refers to B2B shipments (Copenhagen Economics (2013), p.101). Express is usually stronger in countries with poor quality of service standards, in remote areas, as well as in areas with high share of volumes originating from non-EU countries. (AT Kearney(2012) - Annex Market overview)

[64] On average 17.3% of home deliveries fail at the first attempt because the recipients are not at home increasing delivery costs. (Copenhagen Economics (2013), p.207); Blackbay estimates that the cost of failed first delivery attempts in the UK amounts to 1 billion Euro (corresponding to an average failed delivery attempt of 12.4%) (Blackbay (2012), p.13)

[65] Cost simulations in the B2C cross border delivery performed by the University of Antwerp (2015) show that for every 100 units of transportation costs, attended home delivery is responsible for 75 units of costs.

[66] Copenhagen Economics (2013), p. 193. This optimisation to domestic flows may explain why in most cases, delivery to another city across the border may not take place along the shortest route, but may require a longer time (e.g. transport to national hub, followed by transport to foreign hub and only then transport to the final destination) and additional costs.

[67] Citizens Advice Scotland (2012) and (2015).

[68] University of Antwerp (2015): Cross Border Parcel Logistics, simulation in selected trading routes

[69] Copenhagen Economics (2013), p.360

[70] Almost 90 percent of cross-border volumes are delivered by NPOs or multinational integrators; Copenhagen Economics (2013), pg 27-28.

[71] Effigy (2013)

[72] WIK (2013), pg 241

[73] Concentration level more than 75%

such as (traditionally) the B2B segments, areas of higher population density and, more recently, high volume B2C segments (e.g. competition at the regional level[74]).

The significant investments[75] needed to develop one's own cross-border network may deter some operators, **limiting market entry**, particularly in the low volume segment and in peripheral and remote areas. Thus, high prices may also reflect **weak competitive pressure** in specific segments of the cross-border delivery market resulting from limited market entry[76]. This underlines the importance of third party access to existing networks and infrastructures in order to facilitate competition (see driver 2.2 and options 3c and 4c).

1.1.3. Driver 2 – Lack of market and price transparency

1.1.3.1. Driver 2.1 – Low awareness of market operators and services

The cross-border market is a diverse and complex one, with different operators offering many differing services and prices depending on weight, size or format as well as destination, value added features, number of items, etc. This heterogeneity makes delivery services hard to compare across operators (where alternative are available), both in terms of quality and price, especially when not all prices are published.

Both e-retailers and e-shoppers therefore have trouble finding the most suitable delivery service due to difficulties in accessing comparable information about delivery (incurring high search costs) and base their decisions on **imperfect information**, resulting in sub-optimal choices, also in finding best international business partners, especially for cross-border delivery.[77] There is no single point of information concerning delivery services throughout the EU that allows users to compare delivery services from various operators. The lack of knowledge and information also limits the ability of e-retailers and consumers to switch between operators and to find better offers, creating market inefficiencies and limiting competitive pressure in the market. For example one in five e-retailers say they are aware of only one delivery operator, though the average number of alternatives is three to four operators[78]. E-retailers therefore declare that there is need for more information in order to increase transparency, which will decrease costs and lead to quality improvements[79].

Regulators without knowledge of the operators that are active in a particular segment of the market and statistical information (and in absence of concrete complaints to the relevant competition authority and/or postal regulator)[80] are **unable to properly monitor** the parcel markets and **identify potential market failures or regulatory or competition concerns**. This is in part due to differences in how the PSD has been implemented and an increasingly complex B2C market, which has led to a situation where “the remit of many NRAs does not currently expand to all substitutable products and services in the parcels sector” [81] and "many NRAs do not have full oversight over a wider spectrum of e-commerce cross border parcels

[74] University of Antwerp (2015) p. 11
[75] C(2013) 431 Commission decision of 30.01.2013, case no COMP/M.6570 – UPS/TNT Express, p40
[76] The higher the number of competitors in the country of destination in a specific segment, the higher the possibility for the operator in the country of origin to obtain discounts from tendering out deliveries, which can be reflected in the final delivery price. FTI (2011)
[77] Copenhagen Economics (2013), pg 185
[78] Copenhagen Economics (2013), pg 186
[79] E-commerce Europe, Analysis of the survey "Barriers to Growth", June 2015, p. 15
[80] See Copenhagen Economics, (2010) for a list of (postal) NRAs that have competition powers.
[81] ERGP (15)28 ERGP 2015 report to the European Commission on Legal regimes applicable to European domestic or cross-border e-commerce parcels delivery.

which may be provided by operators that are not postal service providers in certain jurisdictions"[82].

1.1.3.2. Driver 2.2 Inter operator wholesale pricing agreements are not transparent[83]

When the initiating delivery operator has no commercial presence in the country of destination, it will need to partner with a delivery operator in the destination country. Typically, the delivery operator in the country of origin will pay a fee to the destination operator for receiving the item and delivering it to the recipient. The fee is an **inter-operator wholesale price** which is the result of a contractual agreement (bilateral or multilateral) between two or more delivery operators (e.g. REIMS[84] for intra-EU letter mail) or of international agreements (e.g. Universal Postal Union[85] (UPU) agreements[86]). The mechanism for establishing the fees charged by one operator to another is not transparent, as the terms and conditions are not public, and, with the exception of the UPU, these fees are not publicly available. Only NPOs can be members of the UPU.

The Commission required the REIMS II agreement to include the provision that non-discriminatory access to REIMS terms and conditions would be provided to third parties.[87] Third party operators claim however that access to REIMS conditions is virtually impossible for operators other than NPOs.[88] Lack of access to different types of by third party operators creates distortions in the cross-border market as not all operators can benefit from the system.

The scale of volumes exchanged between delivery operators affects the bargaining power of operators[89,90]. Thus, some operators, especially from large (export) markets with large volume flows may have more bargaining power than operators in small volume countries, creating imbalances in negotiations between operators. Studies suggest that this is the case for letters as higher average fixed costs (proxied by online import shares) in the destination country seem to decrease termination rates for the sending operator resulting in lower cross-border prices[91,92]. It should be noted though, that letters weighing up to 2kg (so-called packets) are widely used for smaller e-commerce transactions. [93] Studies also point out that **labour costs in the destination country cannot explain differences** in NPOs cross-border prices, suggesting that either termination rates are not reflecting the true costs of last mile

[82] BEREC/ERGP (2015) Price transparency and regulatory oversight of cross-border parcels delivery, taking into account possible regulatory insights from the electronic communications sector. Joint BEREC/ERGP opinion p16

[83] This driver mainly concerns NPOs who need to interconnect their network with the network of other NPOs in the destination country and therefore pay a fee for the delivery in the final destination. This fee is the termination rate/inter operator tariffs /wholesale tariffs.

[84] The Remuneration of Mandatory Deliveries of Cross-Border Mails is a voluntary multilateral agreement between postal operators setting out rules for calculation of terminal dues, i.e. the remuneration that postal operators pay each other for the delivery of incoming cross-border mail (applicable to mail items, such as letters and packets up to 2 kg)

[85] The United Nations' specialised agency for the postal sector

[86] Annex 5, chapter 10

[87] See http://ec.europa.eu/competition/publications/cpn/2004_1_25.pdf, *Official Journal L 275 , 26/10/1999 P. 0017 – 0031*, Official Journal of the European Union, C 94, 23 April 2003, Case COMP/C/38.170 and WIK-Consult, *Main Developments in the Postal Sector (2010-2013)*, p 94 and 95 for further background.

[88] FFPI consultation response

[89] This is also discussed in Copenhagen Economics (2013), p.107

[90] FTI (2011), p.11, 206, 217

[91] Université Saint-Louis,(2015)

[92] FTI (2011), p.10-11

[93] According to UPU statistics, an estimated 80% of mail items generated by e-commerce today weigh under 2 kilogrammes and are processed in the letter-post mail stream.

delivery, or that the potential gains from lower delivery costs are not passed on to the final price charged to the final user[94].

1.1.3.3. Driver 3 – Ineffective, inconsistent or inexistent regulatory oversight creates obstacles to the single market

The **regulatory diversification and fragmentation** in the sector translates into additional administrative burdens, compliance costs and inefficiencies for delivery operators who operate cross-border and creates barriers to the single market[95] [96]. Divergent national legal frameworks and the differences in how the PSD has been implemented at a national level, stemming in part from the lack of clear definitions, [97] **hinder effective regulatory oversight of the cross-border market**. There is also an impact on consumers and retailers as different delivery operators are subject to different complaints handling regimes[98] and delivery prices reflect additional costs stemming from regulatory fragmentation.

A joint BEREC/ ERGP report recently concluded that "NRAs need the appropriate regulatory powers to intervene and … such powers do not seem to be present in all Member States, mainly due to the differences in interpretation of what is or not a postal services".[99] Many NRAs therefore have a **limited mandate to monitor the cross-border** parcel market.

The ERGP has observed differences between NRAs in the level of monitoring and type of data collected on the parcel market and noted that **comprehensive information** to understand the functioning of the parcel market and possible competition problems in it could be useful[100]. At present information is often restricted to parcel markets that fall under the universal service obligation[101] and a substantive number of NRAs lack **adequate information** on the wider parcel market, especially for operators using alternative business models, making it more difficult to assess the extent of and address effectively any market failures. This includes countries like Germany, France, the UK and Sweden, whereas several regulators in Eastern and Southern Europe have more far-reaching data gathering powers. Data on the parcel and express segment of the postal market beyond services that form part of universal service is far less comprehensive and reliable for delivery operators other than the NPO[102,103].

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[94] University of Saint Louis (2015), ERGP (14) 26

[95] EEA Express carriers fully committed to efficient parcel delivery for the Digital Single Market, 6 May 2015

[96] EEA's observations on the fragmentation of the Postal market, April 2015, http://www.euroexpress.org/uploads/ELibrary/Working%20paper%20on%20Postal%20issues_final.pdf

[97] ERGP (2015), "ERGP internal report on the courier, express and parcels segments statistics"

[98] Consumer Council for Northern Ireland noted in their consultation response that "only a small proportion pof cross-border postal delivery is subject to the various obligations under the universal service obligations of each Member State. It is therefore vital that consumers are protected through other means, be they driven by competition and innovation, industry standards or light touch regulation. "

[99] Joint BEREC/ ERGP Opinion, Price transparency and regulatory oversight of cross-border parcels delivery taking into account possible regulatory insights from the electronic communications sector, (ERGP (15) 32)

[100] ERGP (14) (26) ERGP Opinion on a better understanding of European cross-border e-commerce parcels delivery market(s) and the functioning of competition., ERGP (13) 37 ERGP Opinion on cross-border parcel delivery

[101] ERGP (14) (26) ERGP Opinion on a better understanding of European cross-border e-commerce parcels delivery market(s) and the functioning of competition., ERGP (13) 37 ERGP Opinion on cross-border parcel delivery and ERGP (2015), "ERGP internal report on the courier, express and parcels segments statistics"

[102] ERGP report (2014) "European cross-border e-commerce parcels delivery 2014 ERGP opinion to the European Commission On a better understanding of European cross-border e- commerce parcels delivery markets and the functioning of competition on these markets"

[103]Source: European Commission Postal Statistics Database/ Postal statistics survey 2014; ERGP (2015), "ERGP internal report on the courier, express and parcels segments statistics"

While Article 12 of the PSD sets out the principles[104] that are applicable to the universal service (and should apply to cross-border products within the scope of the universal service[105]) Article 13 of the PSD sets out the general specific **principles for intra-Community cross-border mail**, which is a part of the universal service. It requires Member States to *encourage*, rather than *oblige*, universal service providers to apply the principles of cost orientation, remuneration related to quality of service, transparency and non-discrimination in agreements on inter-operator wholesale prices for cross-border postal services transactions. As Article 13 only requires *encouragement* to apply certain principles, it cannot be properly enforced and action cannot be taken against Member States whose universal service providers appear by and large not to apply the principles of Article 13. This may therefore be one of the possible reasons for high prices for cross-border parcel delivery that are part of universal services: the ERGP has also found that "cross-border prices for European parcels delivery may be higher than what would be justified by cost differences related to domestic prices"[106].

Other research confirms this, suggesting that some of the agreements used by designated universal service providers in the EU are not in line with the spirit of Article 13 of the PSD: one study concluded that no Member State could affirm with credibility that it was fully implementing Article 13, particularly if one understood the Article as requiring, rather than merely encouraging the application of certain principles[107]. Evidence also shows NRAs monitor their USP's [108] **application of these principles** far less closely for cross-border prices than they do for domestic ones, especially letters.[109] Regulators in six Member States do not collect data on the parcel market or collect data concerning a limited part of the market only. In addition, five NRAs have limited power to collect data on some of the parcel delivery segments or have no legal basis to collect the data.

Furthermore, NRAs need adequate enforcement powers, including being able to ensure third-party access to NPOs' cross-border networks. Allowing smaller operators to use NPOs' cross-border networks and benefit from their economies of scale would encourage market entry and competition and also reduce the fixed costs NPOs incur.

1.1.4. Driver 4 – High profit margins added to delivery costs by e-retailers

Delivery prices charged to consumers by retailers do not always reflect the prices delivery operators charge to retailers because some **retailers mark up the delivery prices** that are charged by delivery operators. The price the consumer pays for 'delivery' (as stated on the retailer's website) may therefore be significantly higher than the price the retailers pay, but the consumer thinks it is the delivery element that is expensive. Several retailers acknowledged in their responses to the public consultation that they charge consumers more for delivery than they pay themselves[110]. Furthermore, the prices that consumers pay for delivery may not fall if delivery operators lower their prices as consumers are dependent on

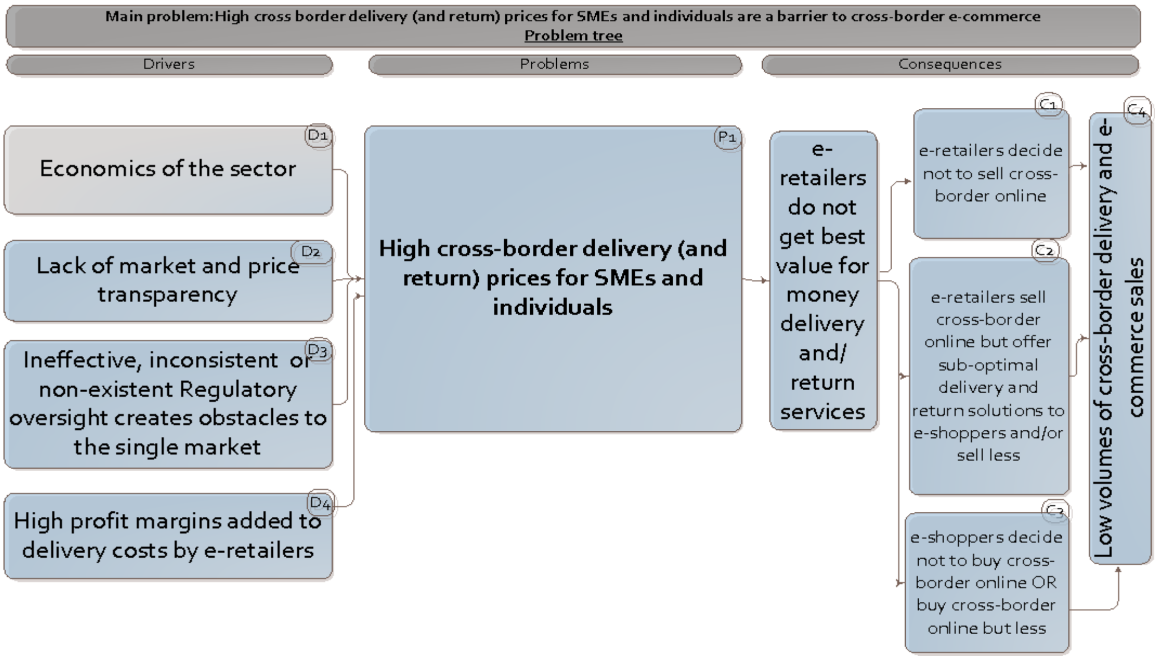
[104] Affordability, cost-orientation, non-discrimination and transparency of prices
[105] See Article 3(7) of the Postal Services Directive.
[106] ERGP (14)26 European Regulators Group for Postal Services Opinion on a better understanding of European e-commerce parcel delivery 2014
[107] WIK, WIK-Consult, *Main Developments in the Postal Sector (2010-2013),* WIK, External dimension of the postal acquis (2010), Copenhagen Economics, The economics of terminal dues, (2014)
[108] Universal service providers
[109] WIK-Consult, *Main Developments in the Postal Sector (2010-2013),* p93
[110] Retailer question 19b

e-retailer making a corresponding reduction in their delivery charges.[111] Research for the Consumer Council (Northern Ireland) noted that only half of online retailers offer the same delivery service across the UK, and when free delivery is not available to Northern Ireland destinations, consumers pay up to £10 for delivery (to Northern Ireland). "Free delivery" offers do on the other hand, lower the price customers pay for delivery and large retailers who are charged lower prices for delivery may choose to pass on these savings to their customers.

1.1.5. **Problem tree**

The following figure summarizes the main drivers and problem described above.

Figure 2: Problem tree



Annex 7 contains a more detailed description of all the drivers.

1.2. Who is affected, in what ways and to what extent?

The problems identified above impact particularly individual consumers and smaller e-retailers, who traditionally send lower volumes, but also Member States at both national and EU level.

Individual consumers

Consumers repeatedly state that the high cost of deliveries and returns are a barrier to buying more online from retailers outside their own Member State. One survey of online consumers found that high delivery costs (27%), high return shipping costs (24%) and long delivery times (23%) were the top three consumer concerns about purchasing products online cross-

[111] PostEuop's response to the 2015 public consultation on cross-border delivery made this point. Citizens Advice and Citizens Advice Scotland acknowledged that mark ups exit, though stated they are not a rationale for price caps as mark-ups are present throughout the supply chain.

border[112]. These concerns were repeated in the Commission's 2015 public consultation[113] where individual consumers reported the main reason to have abandoned online purchase was the high delivery price, followed by too slow delivery. Many surveys have also found that high delivery prices are the main reason for an abandoned shopping cart[114] and that a reduction in delivery prices would encourage consumers to shop more online.[115]

Furthermore, consumers in **periphery** countries seem to have **higher level of concerns regarding delivery** than consumers located in more central European countries[116]. Respondents from Greece (38%), Poland (36%) and Malta (36%) express the highest level of concerns when it comes to high delivery costs. High return shipping costs are most frequently mentioned by respondents from Ireland (32%), Poland (31%), Greece, and Spain (29%). High delivery prices reduces the willingness of consumers to buy online, as do trust issues, especially for tangible goods due to the expected difficulties in getting reimbursed when unwanted products are returned.[117]

Retailers

For many companies customer requests for international sales are the catalyst for beginning to export. In a recent study, in four out of the seven markets surveyed, SMEs said the most important driver for starting to export was customer requests (34% of companies reported that requests from new customers were the source of the first export sale).[118] Therefore, to help smaller e-retailers respond to occasional customer request from other Member States, an acceptable price to ship an individual item cross-border is important.

Delivery prices are therefore a barrier that is holding back companies from exporting goods purchased online[119]. The lower the volumes of online related exports of European companies the more they are likely to be concerned about delivery costs. The lesser the number of countries an online retailer is exporting into the higher his delivery concerns. For retailers, the high price of cross-border delivery is also consistently shown to be one of the top barriers to cross-border e-commerce. For example a 2015 survey found price is the most prevalent barrier for 51% of manufacturing and retail (including wholesale) companies selling online cross-border[120]. Other factors most likely to be mentioned as problems by companies selling online are expensive returns (42%), or the high cost of resolving complaints and disputes cross-border (41%). Features not related to delivery reported in the same survey included

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[112] European Commission, Consumer survey identifying the main cross-border obstacles to the DSM and where they matter most, September 2015, http://ec.europa.eu/consumers/consumer_evidence/market_studies/obstacles_dsm/index_en.htm; In addition, the survey of online consumers showed that amongst those who experienced problems, the most common problem with tangible goods and offline services purchased online outside one's own country was long delivery time (14% inside the EU and 24% outside the EU).

[113] Public consultation on cross-border parcel delivery which run from 6 May to 5 August 2015.

[114] Copenhagen Economics (2013) found that delivery problems were a key reason for not buying online and were responsible for 68% of abandoned shopping carts. The main cause of abandonment was delivery charges that shoppers felt to be two high, UPS' Pulse of the Online Shopper 2015

[115] Special Eurobarometer 398 Internal Market Report; the most popular improvements which would encourage shoppers to buy abroad were cheaper delivery prices (19%), track and trace (11%) an easier returns process (11%); European Commission's 2015 public consultation

[116] *Provision of two online consumer surveys as support and evidence base to a Commission study: Identifying the main cross-border obstacles to the Digital Single Market and where they matter most Final report* , GFK Belgium, September 2015, p. 191 http://ec.europa.eu/consumers/consumer_evidence/market_studies/obstacles_dsm/docs/21.09_dsm_final_report.pdf

[117] Idem, p 198 (Results based on a regression analysis to explore which factors strongly impact respondents' decision to purchase tangible goods, offline services and digital content cross-border)

[118] UPS (2015) 2015 European SME Exporting Insights Study

[119] Duch-Brown, N. and Cardona, M. (2016)

[120] European Commission, Flash Eurobarometer 413, 2015

uncertainty about the rules that needed to be followed (37% already selling/63% trying or considering selling); the cost or complexity of foreign taxation (38%/54%); and a lack of language skills (39%/ 48%). In another survey 37% of retailers who sell online mentioned the higher costs of cross-border delivery compared to domestic delivery as an important obstacle for the development of their online sales to other EU countries, increasing to over 50% in four Member States[121]. Dissatisfaction with delivery prices was also confirmed in the public consultation of the Commission: over one third of retailers indicated they were dissatisfied with delivery prices to other EU countries.[122] For a quarter of the retailers that replied to the public consultation, cross-border delivery costs represent 25% or more of their e-commerce turnover, this figure was 13% for the domestic delivery cost. Furthermore, large discrepancies can be observed between countries in the public cross-border and domestic prices that sending NPOs[123] and other delivery operators[124] charge. In some markets the cross-border prices seem to be unreasonably high, even when the additional cross-border costs are taken into consideration, and clearly act as an obstacle for local e-retailers considering sending an individual shipment to another EU-country. See section 1.1.1.2 and Annex 5 for examples of price discrepancies.

The Commission aims to support an inclusive Digital Single Market with digital services that are available across the EU. Nevertheless, consumers and retailers in rural, remote and peripheral areas are likely to be less well served by delivery operators than their urban counterparts. More than one quarter (27.6%) of the EU28's population live in regions classified as being predominantly rural.[125] The University of St. Louis[126] highlights that when it comes to cross-border prices, country size and volumes matter: larger and well connected mail markets charge lower cross-border prices to each other, in contrast to countries on the periphery. Domestic population density also plays a role for letter mail, notably more densely populated Member States tend to have smaller differences between domestic and cross-border prices. Higher shares of import volumes in the destination country for letters tend to result in relatively lower cross prices for the sending country. Finally countries that do not share a common border tend to charge higher prices to each other compared neighbouring countries, and this difference is not explained by the relative transportation cost (proxied by distance).

High prices are compounded by a lack of information about the operators who are active in the different national markets. For these reasons, many retailers might decide not to sell cross-border online, or they might decide to limit their cross-border online sales to a group of countries.

Delivery operators

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[121] Flash Eurobarometer 396, Retailers' attitudes towards cross-border trade and consumer protection, September 2015, p 13. The four Member States where the cost of delivery was found to be particularly important as an obstacle were Romania, Spain, Portugal and Slovakia. More than 50% of retailers who sell online in Spain, Portugal and Romania also mentioned higher transport costs due to geographic distance as an important obstacle to developing online sales in other EU countries.

[122] European Commission 2015 public consultation on cross-border parcel delivery

[123] University St Louis (2015), Copenhagen Economics (2013)

[124] Copenhagen Economics (2013) found that NPO prices for a 2kg cross-border (ordinary) parcel are lower than prices charged by non-NPOs. EC analysis shows that DPD's prices have a similar relationship to domestic delivery prices as do NPOs.

[125] Eurostat regional yearbooks 2015

[126] University of St. Louis (2015)

High prices limit demand, which may increase average fixed costs for NPOs who are required by the USO to serve a nationwide network. Some other delivery operators complain that lack of access to NPOs' terminal rates and networks restricts the development of competition and increases prices.

Delivery operators, especially those with lower brand recognition, are also affected by lack of market and price transparency in the sense that users (in particular individual consumer and smaller e-retailers) may not be aware of their services or of their existence in the market.

Member States and overall society

Due to **limited regulatory mandates** and blurred areas in terms of regulatory framework, NRAs are faced with difficulties in terms of market monitoring and regulation of the parcel market.[127] Given the increasing importance of e-commerce related parcels for all delivery operators (and especially for NPOs as letter volumes decline, by 4.85% between 2012 and 2013[128]) and the need to ensure a single market in cross border parcel delivery, an improved market monitoring would enable (i) developments in the market to be monitored and (ii) assessments of whether the regulatory principles (affordability, cost orientation, non-discrimination, and transparency) are being implemented for USO or similar parcels.

Consumer welfare gains are expected from increased online choice and lower prices. It has been estimated that consumers could save €11.7 billion per year thanks to lower prices and wider choice offered by online shopping.[129] Moreover, the completion of a Digital Single Market could generate up to €340bn worth of additional growth over ten years and create hundreds of thousands of new jobs over the course of this Commission[130].

1.3. How would the problem evolve, all things being equal?

The Commission encourages self-regulation and solutions of problems provided by the market. Existing policy initiatives would continue under the baseline scenario, in particular to improve the quality of and information about cross-border delivery services, resulting from the 2013 Roadmap[131] and 2012 Green Paper on cross-border parcel delivery[132]. In light of these policy objectives, NPOs committed to improving the **quality** of cross-border delivery services, for example improved track and trace, through a programme named "interconnect". While the timings for the introduction of these services have not all been confirmed, in the medium term they should improve cross-border labelling, returns, track and trace and options for delivery location. A complaints handling procedure has already been introduced under this programme.[133] To improve the availability of information, the Commission is supporting an information platform about delivery services through COSME funding and EMOTA and E-commerce Europe have introduced trustmarks for e-retailers which include delivery criteria. Such developments are likely to address some of the **information deficits** regarding

[127] See Driver 3 for further details.
[128] On average letter volumes for the EU28 declines by 4.85% between 2012 and 2013. COM(2015) 568 final
[129] Civic Consulting for the European Commission, *Consumer market study on the functioning of e-commerce and Internet marketing and selling techniques in the retail of goods*, 2011 – the consumer welfare gains from an integrated EU market for e-commerce in goods assuming 15% share of internet retailing was estimated at EUR 204.5 billion per year (EUR 70.4 billion from lower online prices and EUR 134.1 billion from increased choice)
[130] European Commission, 'Why we need a digital single market' factsheet http://ec.europa.eu/priorities/digital-single-market/docs/dsm-factsheet_en.pdf
[131] COM (2013) 886
[132] COM (2012) 698
[133] See Annex 10 for further information on the Roadmap and an assessment of progress against its objectives.

delivery services and options, though only to the extent that a choice of retailers and delivery operators are available, as well as quality issues which are outside the scope of this IA.

The third aim of the 2013 Roadmap, namely the affordability of cross-border services throughout the EU (and in particular for individual consumers and SMEs), **has not been specifically addressed by self-regulatory action or market developments to date**, despite the Roadmap setting an 18 month deadline for action which ended in June 2015. The initiatives that are being implemented are unlikely to have a significant impact on the affordability of cross-border delivery services for low volume senders. There has been no indication that improved interoperability is expected to lead to a reduction in the difference in price between cross-border and domestic services.

While even in the absence of additional policy initiatives e-commerce is expected to grow, market-led developments focus on the most commercially attractive parts of the (delivery) market, where the return on investment is likely to be highest. One study estimates internet retailing will continue to grow in Europe reaching EUR 700bn by 2019 (an increase of 85% from 2014). Germany and the UK (followed by France and the other large e-commerce economies) will contribute to this growth. B2C deliveries are expected account for over one third of the overall delivery market in 2019 and market exit and concentration is anticipated, in an effort to rationalise operations and improve load capacity.[134]

In addition to the current postal and parcel operators (including the express industry), other economic operators are likely to enter this market, or to expand business practices that are already being tested today that reduce their costs. For example large online platforms have been trying to bridge the gap between e-retailers and their customers themselves (e.g. by installing parcel locker stations in densely populated areas, by offering consolidation services for small platform members, by establishing co-operations with the collaborative economy for last-mile delivery, by investing in new technologies such as drones, etc.). Parcel brokerage services are emerging but mainly in mature, high volume countries (that allow them a viable business model). These developments should increase **choice** for retailers and customers as well as the **competitive pressure** on traditional delivery operators, given the high price sensitivity of online consumers.

Competition would however develop mainly for large volume flows – i.e. for larger e-retailers (who create economies of scale due to high volumes in the first in the first and last mile), and for densely populated areas (which create economies of scale due to high volumes on the last mile). It is much more questionable, by contrast, to what extent small e-retailers that occasionally ship to customers abroad as well as sellers and buyers located in more peripheral regions of individual Member States and of the EU, would be able to benefit from these market-driven developments.

Evidence from a study[135] shows that in larger and highly connected markets cross-border prices are comparably lower, relative to comparable domestic prices. The study also found evidence that cross-border parcel prices tend to be higher for peripheral countries sending to other peripheral countries in the EU (with the exception of neighbouring countries in the periphery of the EU which apply large discounts to each other). Furthermore the study found that cross-border prices are relatively higher (than domestic prices) for standard parcels, than for premium parcels as competition is more intense in the latter segment.

[134] Apex Insight, (2014)
[135] University Saint-Louis (2015)

The complexity and fragmentation of the regulatory framework would be likely to continue without further action, creating barriers to the single market and cross-border e-commerce. Although the 2013 Roadmap already invited Member States to extend the mandate and tasks of regulators to (cross-border) parcel deliveries, no widespread changes have since been observed as a result of the Roadmap. The existing level of regulatory oversight of cross-border delivery would therefore most likely remain, with postal regulators across Europe continuing to focus almost exclusively on domestic letter services, as provided by the incumbent postal operators. In this light, it seems highly uncertain that relying on self-regulatory actions could solve the problems of affordability, enhanced regulatory oversight and network access, to the extent that this is at all possible through enforcement of the PSD given the lack of progress since the publication of the Roadmap in 2013. Better enforcement of the PSD as it stands would also not achieve the objective of affordability as the principles set out in Article 13 such as cost-orientation must only be encouraged (not required) and given that the relevant provisions of PSD apply only to small portion of low-volume originated "universal service" parcels.

1.4. Conclusions of the evaluations of the existing policy

Annex 11 presents the results of a retrospective evaluation of the existing regulatory framework, i.e. the PSD. Overall, while the Directive's core policy objectives have been attained with respect to letters, on the **parcel markets**, the direct effects of the PSD have been fairly **limited**. First, differences and /or ambiguity in definitions lead to problems with regulatory oversight and the enforcement of relevant provisions. As a result, the PSD has been implemented in a variety of different ways with varying regulatory practices as a consequence. While this is consistent with subsidiarity and the principles of a framework directive, it leads to fragmentation and hinders the development of the single market both in terms of e-commerce and the provision of delivery services[136].

Second, there are gaps in the Postal Services Directive that stem from its original focus on letters. Only 5-8% of e-commerce shipments fall within the scope of the USO[137], and there are differences between countries in what are classified as USO parcels, for example some (but not all) Member States include bulk parcels and some parcels that are tracked are within the scope of the USO. A large majority of parcel services have evolved in a competitive environment – which was characterized by the emergence of new customer needs (of a B2C nature), arising from the steady growth of (cross-border) e-commerce. The ERGP has noted that "European domestic or cross-border e-commerce parcels delivery is very likely wider than the definition of postal services provided by the Directive”. NRAs responsibilities may only cover part of parcel delivery services and again the scope of their powers vary (for example express parcels may or may not be in the remit of NRAs and in some cases NRAs only or principally have competencies for universal services parcels).[138]

Third, the PSD gives a wide margin of discretion to Member States. As set out under Driver 3, many NRAs focus on the domestic letter market. Even if their mandate goes beyond universal service parcels, other operators may challenge NRAs' enforcement of the Directive (and national law), for example regarding the provision of information (Article 22a), or by claiming that certain parcel delivery services are not postal services.[139] The ERGP's 2015

[136] ERGP (15) 28
[137] Copenhagen Economics (2013)
[138] ERGP (15) 28 ERGP 2015 report to the European Commission on legal regimes applicable to European domestic or cross-border e-commerce parcels delivery
[139] Ofcom note in their 2015 Monitoring Report that DHL are challenging their collection of parcel market data.

report found evidence that in some cases there are different legal provisions that could apply, or be claimed to apply, to a single operator for the same issues and that could arguably be incompatible with one another.[140] The provisions applicable specifically to the cost-orientation of cross-border universal services (i.e. Article 13 of the PSD), require that Member States encourage the cost-orientation of cross-border terminal rates within the universal service obligation, rather than obliging it as a matter of principle (as this is the case for domestic universal service prices)[141]. To the extent that Article 12 applies, it may conflict with arrangements between NPOs on terminal dues for cross-border services which do not respect the (non-mandatory) principles contained in Article 13. In any event, Article 12 extends only to the USO, leaving some services commonly used for cross-border e-commerce outside its scope. NRAs also lack the information about the costs of cross-border delivery, including the wholesale prices charged between operators that would enable them to properly assess whether cross-border services are affordable.

Combined these features mean that changes to the EU legislative framework are needed as improved implementation and enforcement of the PSD would be unlikely to result in the desired improvements in regulatory oversight and affordable prices for individuals and SMEs. A joint BEREC/ ERGP opinion found that "NRAs need the appropriate regulatory powers to intervene and that such powers do not seem to be present in all Member States mainly due to the differences in interpretation of what is or is not a postal service under the Postal Directive. [142] Furthermore NRAs often have no authority to delineate product markets based on competition law principles.[143]

2. EU right to act

According to the principle of subsidiarity, as set out in Article 5 TEU, action at EU level may only be taken if the envisaged aims cannot be achieved sufficiently by Member States alone and can therefore, by reason of the scale or effects of the proposed actions, be better achieved by the EU. The preceding analysis has set out problems with high cross-border delivery prices for SME retailers and individual consumers, especially those in periphery and remote areas and therefore the need for improved price transparency and regulatory oversight in cross-border delivery markets. The Commission noted the need for additional information on parcel markets in the 2013 Roadmap, but despite the self-regulatory initiative there is still a lack of statistical information on the parcel market across the EU and many cross-border parcel prices remain high.

Cross-border delivery services are by definition offered outside the national market. Given that National Regulatory Authorities have their mandates focussed on their national markets, with limited (if any) power over the cross-border market, and no dedicated mechanisms for the oversight of transactions involving multiple operators, a key issue is the cross-border nature of the delivery where no single NRA is able to solve the problem on its own. Therefore, problems of cross-border regulatory oversight stemming mainly from regulatory fragmentation across the EU and from insufficient powers NRAs can by definition not be tackled at a national level, nor can cross-border terminal rates. Given the internal market dimension of the problems illustrated above, the relevant objectives (strengthening of regulatory oversight, transparency) cannot be sufficiently achieved by Member States alone.

[140] ERGP (15) 28
[141] See to that end second indent of Article 12 PSD.
[142] ERGP/BEREC (2015)
[143] ERGP/BEREC (2015)

The most striking example of this is the fact that in some Member States regulatory oversight is severely limited to certain parts of the postal sector while in others the whole sector (letters and parcels beyond the USO) is subject to oversight; these problems are further aggravated in the cross-border dimension. Therefore, inaction or action by Member States alone is likely to result in more fragmentation due to different approaches or interpretations of the current regulatory framework unequal levels of consumer (individuals and retailers) protection across the EU. National responses risk being ineffective as no Member State alone can act on cross-border areas, such as is the case of delivery across the EU and cooperation between NRAs concerning the application of pricing principles to cross-border delivery services, both letters and parcels, is simply inexistent. Without EU action, the identified problems will continue to lead to consumer detriment. Therefore, any further actions in the field of cross-border delivery can be best achieved by a common effort. Accordingly, EU action appears appropriate in light of the principle of subsidiarity.

3. Objectives

3.1. General policy objectives

This initiative is a part of the first pillar of the Digital Single Market strategy aiming to promote e-commerce and deliver better online access for consumers and businesses across Europe. It also complements existing initiatives to improve the quality and accessibility of cross-border parcel delivery. The general policy objectives of this initiative are:

- To promote growth and jobs.
- To enhance consumer welfare.
- To enhance social and territorial cohesion.

On **growth and jobs**: Better and more affordable cross-border delivery services have been identified as a barrier to the further growth of cross-border e-commerce. Increasing e-commerce would create growth and jobs in two areas: Retailers could sell (grow, employ) more, especially smaller retailers that are targeted by this initiative. The resulting growth in cross-border shipments would mean more business (growth and jobs) for delivery operators.

On **consumer welfare**: The main advantages for consumers of e-commerce are more choice, lower prices and more convenience. This initiative aims to ensure the cross-border delivery market work effectively so that all businesses and citizens have access to high quality delivery services, reducing prices for smaller retailers and individual consumers in particular. The latter aspect should also allow more small retailers to offer their goods cross-border at more competitive prices, which would further enhance the choice available to consumers.

On **social and territorial cohesion**: E-commerce is particularly beneficial in areas where alternative shopping opportunities are scarce (e.g. in rural or peripheral regions). Both sellers and buyers located in such regions currently often face higher prices (due to lower volumes or surcharges for remote and rural areas) and a lack of choice of delivery operators. The objective of having an "inclusive" DSM is linked to the need for adequate and affordable services of general economic interest, including accessible parcel delivery services, across the entire EU territory to ensure social inclusion.

3.2. Specific policy objectives

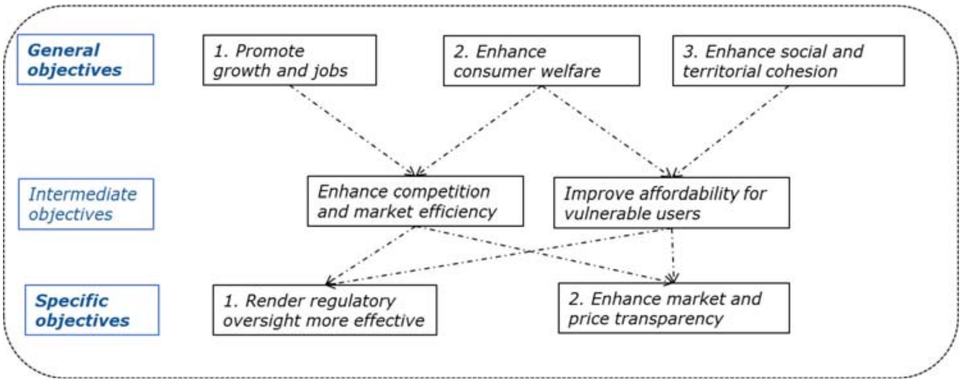
The problem chapter identified four groups of drivers that collectively lead to the main problem, i.e. high prices for cross-border delivery and returns.

The aims of this initiative to make sure that (a) markets work as efficiently as possible by making regulatory oversight of cross-border parcel markets more effective and encouraging competition; and (b) ensuring that all business and citizens (retailers and consumers) benefit from better and more affordable delivery services even if they are "vulnerable" (in terms of size or location) by improving price transparency to create downward pressure on prohibitively high prices . The intermediate objectives therefore are:

- To promote competition and market efficiency
- To improve the affordability (i.e. lower price) of parcel delivery, especially for vulnerable users

The following chart illustrates the links between the various objectives identified above.

Figure 3: Objectives of the Initiative



3.3. Consistency with other EU policies and with the Charter for fundamental rights

The objectives are fully in line with the Digital Single Market (DSM) Strategy for Europe[144] which identified the need for affordable high-quality cross-border delivery as an important contribution to improve the "access for consumers and businesses to online goods and services across Europe". Promoting growth and jobs is in line with the Europe 2020 strategy, and is an objective of the DSM Strategy. Finally the PSD, under which letter and parcel services within the scope of the universal service are treated as Services of General Economic Interest (SGEIs), stresses the importance of the postal sector for economic, social and territorial cohesion. The proposals are also in line with the objectives of EU consumer policy and recent legislation facilitating consumers' engagement in cross-border e-commerce such as the Consumer Rights Directive, the Alternative Dispute Resolution Directive and the Regulation on Online Dispute Resolution Directives (see section 6.13).

[144] COM(2015) 192 final

The proposed initiative and its objectives is also consistent with EU SME policy as set by the Small Business Act (SBA), in particular principle VII on helping SMEs to benefit more from the opportunities offered by the Single Market. Due to their lack of bargaining power, SMEs are the most affected as they face high delivery prices for low volume cross-border shipments. This limits SMEs' competiveness in cross-border e-commerce given that their growth opportunities are dependent on a seamless EU delivery market. In this context, the proposed parcel initiative would contribute to existing commitments under the Small Business Act.

It is also in line with the EU Charter of Fundamental of Rights, in particular Article 36[145] , which provides that the Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in accordance with the Treaties, in order to promote the social and territorial cohesion of the Union. Improving the availability and affordability of cross-border delivery services will be beneficial especially for e-retailers and consumers located in rural or peripheral areas. Moreover, any improvements in the cross-border delivery market might also have further positive spill-overs on the domestic delivery market for vulnerable users.

4. Policy options

Several options can be considered to address the problem identified and achieve the set objectives. The full description of the options is presented in Annex 8 on the policy options. While the fundamental economics underlying this sector remain a fact, the content options below show different ways in which the resulting problems could at least be alleviated. Most of the options could be applied as a package (e.g. "consolidation of volumes" and "enhancing the transparency of public list prices"), rather than being mutually exclusive.

4.1. Option 1: Baseline scenario/ No action

No further action is taken at EU level. Member States, NRAs, delivery operators and other stakeholders would still be likely to continue existing projects linked to the 2013 Roadmap, including the Interconnect programme to improve the interoperability and quality of cross-border delivery services, the development of trustmarks, standards and the information platform supported by COSME. Markets would be the main driver of change and new entrants and most of the potential developments driven by the industry would continue to focus on the commercially attractive parts of the delivery market, leaving aside the least profitable segments of the market (small e-retailers as well as sellers and buyers located in more peripheral regions). It is unlikely that Member States would take actions to enhance regulatory oversight, given that existing instruments, namely the 2013 Roadmap, have not led to improvements in the competence of NRAs to collect relevant market data or have at their disposal regulatory tools which would allow them to ensure the affordability of cross-border parcel services. (See section 1.3 and 1.4 for additional information.)

4.2. Option 2: Consolidate volumes of small e-retailers

This would ensure that small and irregular volumes generated by SME e-retailers could be consolidated by a centralised platform, for example developed by the industry or trans-national organisations. By consolidating small volumes into bigger ones, and taking advantage of economies of scale, such a platform would be able to provide volume discounts

[145] http://ec.europa.eu/justice/fundamental-rights/files/2014_annual_charter_report_en.pdf

and therefore lower prices for smaller senders than the ones they would face on the basis of their individual volumes alone. However, after the judgement in C-340/13, under the PSD volume discounts may be recognised only at the senders' level (not the consolidator using the intermediary or proxy discounts), thereby making this option less relevant or even irrelevant at times.[146]

In certain EU markets (such as the well-developed UK e-commerce market), such intermediation services are already offered by consolidators or parcel brokers[147] and some e-commerce platforms have been starting to offer consolidation services to the SME sellers on their platforms (but, again, only in a limited number of Member States so far and focussed on the largest markets[148]). In the wider EU markets, however, such services are underdeveloped, and they may also be unknown to many SME e-retailers. Larger e-commerce platforms (notably Amazon) act as a competitor to other delivery operators.

An information platform is being supported through funding from the COSME Programme (EC), as awarded in early 2016. It is expected that at least in the medium term, a consolidation option for participating SMEs, including for cross-border shipments could be provided by the platform as well as information.

The current impact assessment will therefore not **propose further initiatives to be taken in the field of consolidation** as these are expected to be addressed by the information platform supported by COSME funding and market forces.

4.3. Option 3: Enhance the transparency of prices

Option 3a – Highlighting the difference between domestic and cross-border prices: publication of prices by the European Commission

The European Commission would publish a selection of NPOs' prices on a dedicated section on the Commission's EUROPA website covering all Member States to facilitate comparisons of domestic and cross-border prices[149]. Prices would be collected from NPOs by NRAs once a year, who would forward the data to the European Commission. NRAs would also be required to assess the affordability and cost-orientation of these prices and publish their assessments (non-confidential versions), as well as sharing them with the Commission and national competition authorities. Prices would be published for 15 domestic and cross-border delivery services per NPO, including a selection of weights (500g, 1kg and 2kg for letters, 1kg, 2kg and 5kg for parcels)[150] and levels of quality (standard, registered and track and trace). Products selected could fall within the universal service obligation in at least some Member States, or may be interchangeable with universal service products.[151] Express services would not be included. Prices would be required from NPOs only as the operator most likely to be used by individual consumers and small e-retailers and they are already required to provide parcel services with affordable, transparent and cost-oriented prices under

[146] In its judgment of 11 February 2015 (C-340/13) the CJEU stated that a model based on quantity discounts per sender is allowed under Article 12, fifth indent of the Directive and that bulk mailers and consolidators are not in comparable situations as regards the objectives pursued by the system of quantity discounts per sender.

[147] E.g. Companies such as ParcelBroker, GFS .

[148] http://www.lsa-conso.fr/ebay-lance-sa-plate-forme-d-expedition-de-colis-a-prix-negocie,219591

[149] Note that this option does not seek to provide information to e-retailers about the fully range of cross-border delivery services available as this will be the purpose of information platform supported by COSME.

[150] 5kg would be the maximum weight as most e-commerce shipments are under 5kg. "Letters" thicker than 2cm would be included as well as parcels and "letters" are used for smaller e-commerce shipments and can fit through a letter box.

[151] Registered services are required by the universal service obligation but not all Member States offer standard or track and trace services. There would be no requirement to introduce new services as prices would only be required for services actually on offer.

the universal service obligation (though do so only for domestic services)[152]. Other operators would however be able to request voluntarily request the inclusion of their prices, provided that services were comparable (e.g. delivery throughout the destination country to the home or premises of the addressee).

Option 3b - Enhancing the transparency of individually negotiated prices between all delivery operators and larger e-retailers ("account" customers).

All delivery operators would be required to communicate individually negotiated prices agreed with their account customers (usually commercially confidential information) to the NRA once a year. All delivery operators would be covered as for many negotiated prices cover a higher percentage of their volumes than published prices. The prices would not be published (for commercial and competition reasons) but instead NRAs would be required to judge on whether cross-border parcel delivery services are reasonably priced for the market as a whole.

Option 3c - Enhancing the transparency of inter-operator wholesale prices ("terminal dues" and similar charges).

NPOs would be required to communicate once a year to NRAs the inter-operator wholesale prices (also referred to as terminal rates (i.e. the payments from the originating universal service provider to the destination universal service provider for the costs of transport, sorting and distribution of cross-border items in the destination Member State) they charge. NRAs would to be able to request this information for other NPOs from other NRAs, subject to the general rules on protection of data and confidentiality. Only NPOs would be covered as these are the only operators who have such multilateral agreements and, for the reasons set out above, are the only type of operator whose prices would be assessed for affordability. As these wholesale prices are sometimes the results of commercial negotiations between NPOs, this information would be treated as commercially confidential information and not published, but NRAs would be required to take wholesale prices into consideration, because they are one of the determinants of the cost of cross-border delivery, in order to assess the affordability cross-border prices.

Option 3d - Enhancing the transparency of delivery prices charged by e-retailers

E-retailers would be required to disclose on their websites the prices that e-retailers themselves pay to (all) delivery operators as well as the delivery price they charge to the final consumers. This would apply individually to each product and delivery location so differences in the delivery mark up (or down) would be clear, although there could be exemptions for smaller e-retailers in order to minimise administrative burdens on the smallest firms.

4.4. Option 4: Enhance regulatory powers and market knowledge of postal national regulatory authorities

This group of sub options would provide more regulatory powers for NRAs. [153]

Option 4a - Powers to collect statistical data from all parcel delivery operators.

[152] Some of the services with value added features might fall outside the scope of the universal service obligation though be provided by the NPO.

[153] See section 1.2.1 of the Impact Assessment for a summary of the legal context and Annex 6 on the Regulatory Framework for further details.

This option would give NRAs a clear mandate to collect data for statistical purposes to monitor developments in domestic and cross-border parcel markets. All parcel delivery providers would be required to submit the following information once, and subsequently inform the operator of changes: the name of the provider, its legal status and form, registration number, VAT number, whether the provider is registered in a trade or similar register, the geographical address of the establishment and a contact person; the nature of the services offered by the provider;and conditions of sale including a description of the complaints procedure. On a yearly basis all delivery operators would be required submit the following data to the NRA: annual turnover in parcel delivery services broken down in national parcels, incoming and outgoing cross-border parcels; number of persons employed (including total number of persons who work for the service provider on matters related to parcel delivery); and the number of domestic, incoming and outgoing parcels. Statistics would be published by the European Commission.

Option 4b - "Ex-ante powers" for national regulators in a cross-border context: notification of price changes

This option would require all delivery operators to notify NRAs one month in advance of changing their published cross-border prices. NRAs would not be required to examine the prices, and if no response from the NRA was received within one month the operator would be able to introduce the price change. The NRA would be able to take issue with the prices on the basis of information about costs, volumes, revenues etc.

Option 4c - Powers to enforce market access, where appropriate, to NPO's cross-border multilateral wholesale remuneration agreements and cross-border services

This option would reinforce non-discrimination by requiring NPOs to meet all reasonable requests for access to multilateral agreements on terminal rates, such as terminal-dues type agreements, by third party parcel delivery service providers. Access to cross-border services should include network elements and associated facilities, relevant services, and information systems necessary for the provision of cross border parcel delivery services, and in particular services linked to the nterconnect programme. To ensure non-discriminatory access, NRAs would be give the powers to require NPOs to publish a reference offer (and impose changes to it) because NPOs would be able to charge for access to their cross-border services. NPOs receiving an access request and providers requesting access would be required to negotiate in good faith**.** Only NPOs would be included as through the USO they have the obligation to provide postal services throughout their territory (and hence have large networks associated with national coverage).

4.5. Option 5: Regulate cross-border parcel prices

This would directly introduce the regulation of cross-border parcel prices within the EU, as the regulations on international roaming have progressively limited the maximum tariff that can be charged for intra EU voice, SMS and data services, and from 15 June 2017 roaming charges will cease to exist[154]. Price caps would be introduced for cross-border parcel delivery which could be a simple mechanisms (e.g. solely based on distance) or a more advanced models that would take into account the actual cost of cross-border delivery (for example reflecting additional transport costs and domestic price levels).

[154] Regulations 2015/2120, 531/2012 544/2009 and 717/2007

There are however substantial differences between the postal and telecoms markets. Most mobile phone contracts are chosen based on domestic use, while cross-border parcel services are likely to be purchased without reference to the domestic offer. Cost differences for postal services are much greater than for telecoms due to the impact of geography, population density, labour, delivery and transport. Furthermore the potential items that would have to be scoped are far more complex than the products subject to the roaming regulation. Historically the market for international roaming services was less competitive than the postal one with weaker consumer pressure.[155]

Direct price regulation risks distorting competition in a complex market environment particularly given the current lack of knowledge of the cross-border parcel market.[156] Restricting direct price regulation to universal service products might also create distortions given the differences in the scope and features of USO products between Member States, and the growth of B2C services provided by other operators (though not always throughout a country or throughout the EU). Finally it would be disproportionate and contrary to better regulation principles to conclude that direct price regulation is the optimal solution to the failure of self-regulation to eliminate prohibitive cross-border delivery prices.

For these reasons, the current impact assessment will **discard the option of further initiatives to be taken in the field of price regulation.**

4.6. Alternative policy instruments

For the implementation of the retained options identified above, the following policy instruments will be explored further. (See also section 6.2 for the preferred instrument).

a) **Improve the implementation of the current framework** (i.e. the PSD). This would include providing clear guidance on how certain Articles of the PSD should be used to strengthen regulatory oversight for cross-border parcel deliveries (e.g. Article 22a for data collection, Articles 12 and 13 for clarifying the principles of affordability, transparency and cost-orientation for cross-border delivery of universal services, and Article 11a regarding access to the postal infrastructure).
b) **Issue a Recommendation to Member States** to strengthen regulatory oversight, based on the current regulatory framework (or beyond, where the PSD so allows).
c) **Legally binding instruments**, in order to clarify certain definitions, ensure affordability and strengthen the powers and tasks of national regulatory authorities. The main sub-options are:
   - A revision of the Postal Services Directive.
   - A self-standing Directive.
   - A self-standing Regulation.

5. Analysis of impacts

5.1. Option 1: Baseline scenario/ No policy action

Without further action at the EU level e-commerce would still be expected to grow although most, if not all, market developments would focus on the most profitable segments of the market, i.e. where volumes are higher. This would leave behind smaller customers and those

[155] BEREC/ERGP (2015) p13

[156] The Citizens Advice/Citizens Advice Scotland response to the public consultation stated that price caps were not appropriate and could prove discriminatory and distort the development of competition. BEUC advocated more price transparency and a monitoring scheme. Neither E-commerce Europe nor EMOTA advocated price regulation.

in remote and peripheral areas who are less attractive for other parcel operators, despite the overall expected growth in e-commerce. Given the economics of scale involved in cross-border (and nationwide) parcel networks, it is unlikely that sufficient competition would emerge to the extent necessary to make prices more affordable, at least in the short to medium term and in the absence of access requirements (such as option 4c). High prices for cross-border shipments reduce e-retailers desire to sell aboard, and this low level of demand also makes market entry less appealing. Even in the well-developed UK market, surcharges and higher costs (as well as other delivery problems) are more common in remote and rural areas, where consumers are also more likely to be reliant on e-commerce.[157] Amazon's one hour "Prime Now" and same day delivery services are available in selected cities only.[158]

Member States would be unlikely to improve regulatory oversight of their parcel markets so market knowledge and regulatory requirements would vary between Member States leading to fragmentation of the single market and complexity for cross-border operators.

Initiatives following the Commission's 2013 Roadmap[159] would be likely to continue. While the quality of cross-border services is expected to increase, in particular through standardisation work and the Interconnect programme, improvements in interoperability introduced so far have not yet led to price reductions and operators would be unlikely to pass on cost reductions to customers in the absence of competitive (or other) pressure. COSME funding for the information platform would also continue, which would improve SMEs' access to information about the delivery options available to them and hence facilitate more informed choices and a better offer for their customers. If the platform develops a consolidation capability, SMEs could also benefit from lower prices, as would their customers (assuming the savings were passed on). Trustmarks developed by the e-commerce industry are also expected to continue, boosting consumers' confidence when shopping online in other Member States.

The baseline scenario (no intervention) was supported by the majority of delivery operators in their responses to the public consultation. Many stated that the delivery market was already competitive and there was no need for additional regulation that could stifle innovation and risk undermining the universal service.

On the contrary, Member States who responded to the consultation often noted the problem of a lack of clarity in the applicable legal regimes and the need for regulators to have better data on the market. As do many surveys, responses from consumers and e-retailers showed that many retailers and consumers find that the cost of cross-border delivery is still an obstacle to buying more online from other Member States, indicating a need for additional action (see Annexes 1 and 2 for further details).

5.2. Option 3a: Highlighting the difference between domestic and cross-border prices: publication of prices by the European Commission

Publishing a selection of domestic and cross-border prices charged by different postal operators would clearly show which operators had less affordable prices, relative to others. Combined with an NRAs' assessments of affordability, based mainly on cost factors, there would be a 'naming and shaming effect' which would create pressure on NPOs with unreasonably high cross-border prices to make prices more affordable for the products within scope. Sending the report on affordability to consumer bodies and national competition

[157] Consumer Futures (2013) *Signed, sealed…delivered? Research into parcel delivery issues in remote locations*
[158] https://www.amazon.co.uk/b?ie=UTF8&node=5782509031
[159] COM(2013) 886 final

authorities (if not the NRA) would highlight the findings to those charged with representing consumer needs and ensuring competition, and encourage further pressure to reduce (unaffordable) prices. Furthermore transparency of prices will raise awareness among users and operators whereby users will more actively look for lower priced parcel services. An increase in competitive pressure would be likely to lead to price reductions to protect market share.

A dedicated section on the Commission's EUROPA website hosted by the Commission would have the benefit of a centralised website showing the price differences across the EU, making them more prominent and transparent. Moreover collecting prices directly from NPOs (via NRAs) would help ensure prices were comparable, uncontested and therefore make the website more credible. Given that USO and similar prices are already public, no adverse anti-competitive impacts are expected, but the search costs involved in obtaining the prices would be significantly reduced.

This option would mostly affect **NPOs** where cross-border prices for ordinary parcels are significantly higher than domestic ones and which cannot be justified by additional costs. The impact on such NPOs' profitability would however be minimal given that USO or similar[160] international packets (letters) and parcels are a small part of an NPO's volumes as many e-retailers are likely to be account customers who already pay lower prices through negotiated tariffs outside the scope of the USO. Likewise, any impact on wages or working conditions, prices for other postal products and services and requests for additional funding for the universal service are expected to be marginal and therefore a need for additional public subsidies is not expected. NPOs might however benefit from higher delivery volumes if demand increases as prices decrease, and from any publicity of affordable prices. No impact is expected in those NPOs where cross-border delivery prices are already relatively low and on NPOs' express services or other subsidiaries, whose prices would not be included in the scope of the measure. For these reasons a negative impact on the competitive position of NPOs is not expected.

Other delivery operators and new operators might enter the market if they believed they could offer cross-border services more cheaply than the NPOs' prices. They would also voluntarily be able to have their prices included on the website, providing they were comparable.

Individual consumers and e-retailers would benefit mainly through price reductions brought about by ‘naming and shaming’ especially where current cross-border delivery prices are currently prohibitively high. They could also be encouraged to seek out other operators who might offer more competitive prices as one centralised website would highlight these differences more clearly than the availability of prices on individual NPOs’ websites These impacts would be more prevalent where neighbouring countries offer cheaper delivery services (for example an e-retailer could create a warehouse in another country or take parcels directly to the operator there to benefit from lower prices), although a link to the COMSE website could also help individual consumers and retailers to seek out the most suitable offer (from any participating delivery provider).

E-commerce associations participating in the public consultation confirmed support for more transparency on prices. **Consumer organisations** also supported measures to improve

[160] The transparency would apply to the prices for 'individual 'or single piece items, i.e. the prices paid by individuals and SMEs who do not have the volumes to qualify for discounts. To the extent that some public discounts are also based on the list prices, there could also be a small impact on these prices (assuming no change in the relative discount percentage).USO accounts for only 5-8% of parcel volumes.

price transparency and to address the high problem of cross-border delivery[161]. Most **delivery operators,** on the other hand, did not see any need for additional regulation, including increased price transparency.

Sharing information about prices between **NRAs** would help NRAs make assessments of the affordability of cross-border prices. Under the proposal, NRAs would have guidance about the factors to take into account when assessing affordability, including the domestic tariffs for equivalent services, multilateral wholesale prices (terminal rates) and any application of a uniform tariff.

The **administrative burden** is estimated to be 4 000€ annually for all EU NPOs in total and 44 000€ annually for all EU NRAs in total. This option is **retained.**

5.3. Option 3b - Enhancing the transparency of individually negotiated prices between delivery operators and larger e-retailers ("account" customers).

This option would allow regulators to undertake a better assessment of the: (i) actual discounts given to large e-retailers compared to small ones and non-account customers (public list prices), (ii) profit margins in each of the segments and (iii) proportion of e-retailers that benefit from these individually negotiated prices. Above all NRAs would have information that would allow them to benchmark and assess the affordability and cost-orientation of all prices (e.g. the links between volumes and discounts and other cost determinants) and ensure non-discrimination between different users.

This option would however be disproportionate as the costs of delivery operators' related to the provision of information and of the NRAs' assessment of the large number of individually negotiated contracts would be high, if the number of operators to which this option applied was not limited to a small number of operators. More importantly the high cost would not be justified by potential benefits (i.e. lower prices) as this market segment (i.e. commercially negotiated discounts) has not been identified as being particularly problematic in terms of affordability. **Delivery operators** did not generally support the extension of regulatory oversight in their responses to the consultation and **e-retailers,** while usually supportive of the proposed measures, have specified that negotiated prices should remain confidential.[162]

If this option was limited to the ten largest **delivery operators** in each Member State, plus the **NPO**, the **administrative burden** is estimated to be around 50 000€ annually for all EU NRAs in total and 179 000€ for all the delivery operators combined. The admin burden would be higher if more delivery operators were within scope.

This **option is discarded** because it might not have an impact on the prices paid by individuals and small retailers, it was not supported by stakeholders and the costs could be high.

5.4. Option 3c - Enhancing the transparency of inter-operator multilateral wholesale prices ("terminal dues" and similar charges).

This option would give **NRAs** knowledge of inter-operator multilateral wholesale prices and enable NRAs to assess whether USO or similar cross-border prices are affordable, based partly on the cost of delivery (option 3a) and whether other delivery operators are charged in

[161] For example BEUC and Consumer Council for Northern Ireland.

[162] EMOTA stated in their consultation response that while they were in favour of measures to improve price transparency and regulatory oversight, providing that "the volumes and services negotiated between sellers and postal operators should remain confidential and the two parties should be able to negotiate individual contracts."

a non-discriminatory way (if combined with option 4c). The availability of such information is also a prerequisite for NRAs to judge the merits of any complaint by (alternative) operators about lack of access to terminal dues. Knowledge of NPO's terminal rates would also enable NRAs to assess whether terminal dues are in line with the principles set out in Article 13 of the Postal Services Directive, namely fixed in relation to costs; related to the quality of service and transparent and non-discriminatory.

The option would also exercise a deterrent effect on **NPOs** who might otherwise be tempted to charge higher wholesale prices that would discriminate between operators. In addition, NPOs with low bargaining power could benefit if this option resulted in a decrease of the wholesale price charged by NPOs with higher bargaining power. Other delivery operators, including SMEs, would benefit from a reduction in rates combined with access to NPOs' networks (4c). This option would therefore contribute to greater market efficiency, further developments of competition and affordability of prices.

Retailers and consumers would also benefit from such a reduction in prices and increase in competition, providing that cost savings are passed on by delivery operators.

In the public consultation smaller NPOs, although greater regulatory oversight was not generally their preferred policy option, stated that if there were to be greater oversight they gave more support for regulatory oversight related to cost –orientation and transparency of inter-operator wholesale prices than larger NPOs who have subsidiaries and/or greater negotiating power. The disclosure and accessibility of wholesale prices option was supported by many alternative delivery operators[163].

The **administrative burden costs** for **NRA**s is estimated at a maximum 31 000€ annually in total. The administrative burden on NPOs would be 8 000€ annually in total. This option should be **retained.**

5.5. Option 3d - Enhancing the transparency of delivery prices charged by e-retailers

This option would enhance transparency of the delivery prices charged by e-retailers so that individual consumers could clearly see if e-retailers charge more or less than they pay delivery operators.

On one hand this would show **consumers** when retailers are charging more for delivery than they pay themselves and therefore lead to downward pressure on delivery prices charged by retailers who are unable to justify their mark-up. There is however a risk that the prices of products themselves could be increased to offset any reduction in delivery charges and/or free delivery offers would be withdrawn. On the other hand, revealing the actual cost of delivery could deter both retailers from selling cross-border and some **consumers** from purchasing online if they believed that the mark-ups were too high. It would also be highly intrusive for e-retailers for whom delivery costs are one input among many others.

Some **NPOs** support increased transparency of retailers' delivery prices as the prices paid by consumers ultimately depend on e-retailers, not delivery operators.[164] Some NPOs note that the prices they charge e-retailers are lower than the delivery price e-retailers charge consumers.

[163] For example the Free and Fair Post Initiative (FFPI) in its response to the public consultation on cross-border delivery stated that distortions arose from the inability to access cross-border rates resulting from agreements between NPOs was problematic and the opening up of such agreements to other operators would motivate all operators to reduce costs.
[164] See for example Post Europ's response to the public consultation.

E-retailers would face a significant administrative burden, including sharing confidential information from all individually negotiated prices. Even limiting the policy to the largest 10% of e-retailers would result in estimated costs of over EUR 2 million in total per year.

Overall this option would be disproportionate as the costs would outweigh the benefits. It would also be intrusive for retailers. For these reasons **this option should be discarded**.

5.6. Option 4a - Enhancing regulatory powers of postal regulators: Powers to collect statistical data from all parcel delivery operators

This option would clarify NRAs' responsibilities and powers to collect data covering the parcel market and would define the data that should be collected. This would enhance regulators' market knowledge and make regulatory oversight more effective. The definition of the parcel market would also be clarified in the legal instrument to enable the collection of data on a consistent basis.

NRAs would benefit from clarity about the delivery operators to which their powers would apply. NRAs would use the information received for several purposes such as (i) analysis, statistics and reporting; (ii) monitoring (e.g. market developments); (iii) identification of regulatory concerns; and (iv) monitoring and reinforcement of the regulatory principles (e.g. enforce market access and cost orientation). This would enable NRAs to monitor structural changes in the market.

There is widespread support for greater clarity in NRA powers relating to the delivery market.[165] Some **NPOs** responding to the public consultation supported the idea that, if any regulatory oversight, this should focus on all operators in the market (most preferred regulatory option). While there was no support for additional oversight from alternative operators, express operators have noted that the differences in NRAs powers to collect data and the different data they collect can impose administrative burdens. These burdens and fragmentation should be reduced by standardised data collection of a consistent minimal set of market information.

In order to limit administrative burden on **SMEs** which operate in the delivery market, those with less than 50 employees would be exempted from this requirement. This would reduce the administrative burden on regulators as well as small delivery operators. There would be a minimal impact on the overall effectiveness of the option as the integrators and the three largest NPO groups have a market share of over two thirds of the European parcel market.[166] With this exemption, the **administrative burden** for **NRAs** is estimated at a maximum of 80 000€ annually as some NRAs already collect this information and so would face only limited additional costs. **All delivery operators** would have a yearly additional administrative burden of 4 000€ annually for all NPOs in total and 170 000€ in total for other delivery operators combined. This option should be **retained**.

Option 4b – Enhancing regulatory powers of postal regulators: "Ex-ante powers" for national regulators, notification of price increases

NRAs would be able to challenge price changes by all operators, which could bring about a reduction in published prices offered by any operator judged to be unreasonably high.

[165] ERGP/BEREC (2015), consultation.
[166] Apex Insight (2015)

On the other hand there would be greater regulatory uncertainty for **all delivery operators,** potentially deterring investment and innovation. Delivery operators might also chose to use more negotiated prices (and fewer published ones) which would sidestep the notification requirement yet incur additional costs (through the need to negotiate prices). This might also increase search costs for retailers.

In its 2014 opinion for the Commission", the ERGP noted that it is "not aware of any factor that would make ex-ante regulation of the markets to which European cross-border e-commerce parcels delivery belongs uniformly necessary at this stage".[167] Therefore if **NRAs** were given additional ex-ante powers (rather than an obligation) they would be unlikely to use them, given they see no need for the increased regulatory (and administrative) burden. Support from **delivery operators** would also be extremely unlikely, although **consumers** and **retailers** should welcome any corresponding reduction in prices.

The administrative burden is estimated to be 4 000€ annually in total for NPOs (as they are already subject to ex-ante regulation and 149 000€ in total per year for all other delivery operators. Additional costs for **NRAs** are estimated at around 250 000€ annually. The option is not proportionate and could distort the market so this **option should be discarded.**

5.7. Option 4c - Enhancing regulatory powers of postal regulators: Powers to enforce non-discriminatory access to NPOs' cross-border wholesale prices and cross-border network agreements

This option would **enhance competition** in the cross-border delivery market by facilitating market entry and limiting potential adverse effects of market power and network size. It would therefore allow delivery operators to offer lower cross-border prices [168]. Only access to NPO's cross-border network agreements would be required as through the USO they have nationwide networks, in part linked to their former status of national postal monopolies. Although **NPOs** could face more competition, they could benefit from increased volumes and revenue charging other operators for the use of their networks which could lower average fixed costs. It could also help safeguard employment.

Alternative delivery operators and particularly, small private operators would benefit from improved market and network access. Lower market entry barriers should stimulate the emergence of new business models and innovation and these delivery operators would be able to be more cost efficient (by using existing infrastructure) and potentially pass on cost savings to the final users (individual consumers and e-retailers). Access to wholesale cross-border pricing agreements should lower costs, especially if coupled with powers for NRAs to enforce access.[169] Encouraging competition should reduce so this option would benefit **individual consumers and e-retailers** as they would have a wider range of cheaper delivery options.

NPOs would see a limited increase in **administrative burden** costs of an estimated 4 000€ annually for all NPOs in total. NRAs would face an additional cost of 66 000€ annually to investigate complaints. The option is **retained** along with 3c.

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[167] ERGP (2014) Opinion to the European Commission on a better understanding of European cross-border e- commerce parcels delivery markets and the functioning of competition on these markets ERGP opinion http://ec.europa.eu/internal_market/ergp/docs/documentation/2014/ergp-14-26-opinion-parcels-delivery-fin_en.pdf (page 32)

[168] The Free and Fair Post Initiative noted in its response the potential 'access' measures have to reduce costs. They also requested that the Interconnect agreement should not represent an opportunity for NPOs to extend any existing monopoly power.

[169] The REIMS V agreement already requires access but alternative operators claim that it is not available in practice.

5.8.Administrative Burden Calculation

The following table provides a summary of the estimated administrative burden and compliance costs (€ per year, rounded, for delivery operators with under 50 employees). The calculated administrative burdens include the estimated cost of staff time devoted to complete the activities required and draw on the European Commission's experience of the production of postal statistics. The labour costs involved are quantified (monetary estimates) on the basis of the EU "Standard Cost Model"[170]. The calculation is done with the help of the "EU database on Administrative Burdens", which sets a standardised wage rate per hour depending on the staff category concerned. For options 3 and 4 the calculations are based on the assumption of 28 NPOs and NRAs and, where applicable, a number of other cross-border EU operators meeting a relevant threshold condition. A summary table of all administration burden costs per option and per main stakeholder affected is presented at the end of this section. For further details please see Annex 9[171].

Once the actual tasks of options have been agreed, the amounts of the estimated administrative burden and compliance costs will depend on the number of hours deemed necessary for the tasks, as well as on the costs per hour. As mentioned above, the working time estimations are based on the European Commission's best available knowledge about the potential workload. As concerns cost per hour, the relevant Standard Cost Model allows for staff to be specified according to nine levels of qualification. This has a direct effect on labour costs, and therefore on the administrative burden calculations. We have characterised staff at either "clerk" level, for more routine data collection and reporting, or at "professional" level, for tasks that involve analysis and guidance at operator or NRA level. The Standard Cost Model used sets the standardized hourly wage level for "clerks" at 18.20 EUR, and for "professionals" at 32.10 EUR.

There is however some uncertainty about which category of staff is relevant, as well as about the workload needed. To the extent that the actual costs deviate from the Standard Cost Model calculations, the uncertainty would likely emanate from workload assumptions, rather than from staff categorization. In particular, the professional analysis needed at NRA level could in individual cases deviate from the schematic costs indicated here, where our calculations must be based on estimated averages.

According to the estimates, options 3a and 3c would create the least administrative burden, while options 3d and 4b would create the most administrative burden. For NRAs the least burdensome options would be 3a, 3c and 3d, while for NPOs would be option 3a, 3d and 4b. Options 3b and 4a and 4b would be the most burdensome for other delivery operators. A more detailed description of the administrative burden per option can be found in Annex 9.

Table 1: Summary of administration burden costs

	Estimated cost NPOs (€)	**Estimated workload NPOs**	**Estimated cost NRAs (€)**	**Estimated workload NRAs**	**Estimated cost other operators (€)**	**Frequency**	**Sum (€)**
Option 3a	4 000 (around 150 per operator)	1 man-day (at clerk level)	44 000 (around 1 600 per NRA)	2 man-days (at clerk level) + 5 man-days of analysis (at professional	-	Annually	48 000

[170] http://ec.europa.eu/smart-regulation/refit/admin_burden/scm_en.htm
[171] Assessment of administrative burden of different policy options

				level).			
Option 3b	16 000 (around 600 per operator)	4 man-days (at clerk level)	50 000 (around 1 8000 per NRA)	7 man-days (at clerk level) + 3 man-days of analysis (at professional level).	163 000 (around 600 per operator)	Annually	230 000
Option 3c	8 000 (around 300 per operator)	2 man-days (at clerk level)	31 000 (around 1 100 per NRA)	4 man-days (at clerk level) + 2 man-days of analysis (at professional level).		Annually	39 000
Option 3d					E-retailers: Over 2 million (around 70 per e-retailer)	Annually	Over 2 million
Option 4a	4 000 (around 150 per operator)	1 man-day (at clerk level)	80 000 (around 2900 per NRA)	3 man-weeks (around 2 weeks at clerk level and around 1 week at professional level)	170 000 (estimated work-load: 8 hours at clerk level) (around 150 per operator)	Annually	280 000
Option4b	4 000 (around 140 per operator)	1 man-days (at clerk level)	252 000 (around 9000 per NRA)	7 man-weeks (at professional level)	149 000 (estimated workload: 7 hours (at clerk level) (around 140 per operator)	Ad hoc	405 000
Option 4c	4 000 (around 140 per operator)	1 man-day (at clerk level)	66 000 (around 2400 per NRA)	2 man-weeks at professional and clerk level.	-	Ad hoc	70 000

5.9. Social, economic and environmental impacts

None of the options has a specific social and environmental impact as the impacts are similar for all options. In general, all the options have the following social and environmental effects:

Social and economic impacts: on the one hand, increased e-commerce demand for goods and cross-border delivery due to improved affordability of cross-border delivery prices would have a positive impact on economic growth and jobs, as more customers will be willing to buy cross-border goods online and more e-retailers will be willing to sell cross-border online or able to sell more. Increased demand for delivery services should also create more jobs for delivery operators. More choice for consumers and lower prices, which would particularly benefit those in remote or peripheral areas, would lead to an increase in consumer welfare.

Environmental impacts: increased e-commerce demand for goods will increase the amount of cross-border deliveries. Negative impacts could arise, for example pollution from air or road transport, and congestion. However, if a downward pressure on prices and larger volumes leads to optimisation of delivery operators' logistics processes (e.g. final mile solutions, fleet choice, more efficient long haul transport, sustainably city logistics[172]) the environmental cost per parcel could be reduced and negative impacts minimised. See also section 6.11.

6. Comparison of options and summary of overall impact

6.1. Comparison in terms of effectiveness, efficiency and coherence

The policy options presented are not mutually exclusive and would be more effective combined as a package, complementing the other initiatives to address problems with cross-border delivery and e-commerce that are outside the scope of this impact assessment. The tables below provide an overview of the analysis in section 4, which sets out for each policy option the expected impact per stakeholder group, whether the option would contribute to the objectives and whether it would be proportionate.

Table 2: Effectiveness and efficiency of the policy options on objectives

	Effectiveness in achieving the objectives below		**Efficiency (cost effectiveness) in achieving listed objectives**	**Proportionality) in achieving listed objectives**
Objectives⇒ **Policy options⇓**	**Render regulatory oversight more effective**	**Enhance market and price transparency**		
1. Baseline scenario / No action	0	0	0	0
3. To enhance the transparency of prices				
3.a – NPO Public list prices	✓✓✓	✓✓✓	✓✓	✓✓✓
3.b -Individually negotiated prices	✓✓	✓✓	×××	×××
3.c - Inter-NPO wholesale prices	✓✓✓	✓✓	×	✓✓
3.d - Delivery prices paid by e-retailers.	✓	✓✓✓	×××	×××
4 - To enhance the regulatory powers of NRAs				
4.a - To collect statistical data from all delivery operators	✓✓✓	✓✓✓	✓	✓✓✓
4.b - "Ex-ante powers" for all delivery operators	✓✓	✓✓	×	×××
4.c –To enforce access to NPOs' cross-border pricing agreements and networks	✓✓✓	≈	✓✓	✓✓

Impact on effectiveness and efficiency compared to the situation today,
✓✓✓(Strong and positive– ✓✓ (Moderate and positive) – ✓ (Weak and positive) - ×××(Strong and negative) – ××(Moderate and negative) – × (Weak and negative) – ≈ marginal or neutral - ? uncertain; n.a. not applicable. 0 no impact.

[172] Annex market overview p. 91,92,93

Option 1 (baseline scenario) assumes actions by stakeholders in the cross-border markets, as a follow-up of the 2013 Roadmap[173], would continue. No substantial changes have been observed since the Roadmap's adoption[174] in the areas of regulatory oversight or affordability of cross-border parcel delivery (see section 4.1 and Annex 10) and is it unlikely the status quo would change in the absence of further EU-level action. Option 1 would therefore be ineffective in the two main objectives of rendering regulatory oversight more effective and enhancing market and price transparency (particularly for SMEs and individuals) so the options has been rated as "0" meaning no impact. See section 1.3 and 1.4 for further details.

Options 3a, b c, and **d** would all have a positive impact on regulatory oversight, with 3a and 3c having the strongest impact as they would give regulators information about the affordability of products directly relevant to the aims of the proposal: 3b is less effective as regulators would have additional data on the bulk parcel market which is likely to be competitive and 3d would not directly affect regulatory oversight. Options 3a and 3d would have the strongest positive impact on price transparency through making prices (and in the case of 3d, costs) available to the public. 3b and 3d would have only a moderate impact as those prices would be disclosed to NRAs only. 3b and 3d would impose significant administrative burdens, and therefore have a strong negative effect. 3c would have a weak negative impact if implemented in isolation, given the associated administrative burden. 3a would impose small burdens (a moderate positive impact) and in terms of proportionality would have a strong positive impact on objectives, while imposing small administrative burdens. 3c would impose higher administrative burdens and prices would not be public so the impact would be moderately positive. Options 3b and option 3d would significantly increase administrative costs and not address the key issue (i.e. the high price charges to small senders) so would have a strong, negative impact in the proportionality assessment.

Option 4a and 4c would both strongly positively impact regulatory oversight as they wold give regulators new powers. 4b would be less effective as the powers would extend to parts of the market which are likely to be competitive. 4a would give regulators market data and therefore improve strongly improve transparency, 4b would have a more moderate impact and 4c would have an uncertain impact as it would not directly affect transparency. 4a would impose burdens on all operators, so although the impact would be strong, the overall cost efficiency would be weak - although exempting the smallest operators would give the option a strong positive contribution. 4b would impose weak negative burdens, and the need for such measures has not been demonstrated it would have a strong disproportionate impact. 4c would achieve a moderate positive balance between the administrative burdens and achievement of the objectives.

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Table 3: Effects of the policy options for stakeholders

Stakeholders⇒ **Policy options⇓**	**Consumers**	**Retailers (SMEs)**	**NPOs**	**Other delivery operators**	**NRAs**
1. Baseline scenario / No action	0	0	0	0	0
3. To enhance the transparency of prices					
3.a – NPO Public list prices	✓✓✓	✓✓✓	×	≈	✓
3.b -Individually negotiated prices	≈	✓	×××	××	×××

[173] COM (2013) 886 final
[174] COM (2013) 886 final

3.c - Inter-NPO wholesale prices	✓	✓	✗	≈	✓
3.d - Delivery prices paid by e-retailers.	✓✓	✗✗✗	✓✓	✓✓	✗
4 - To enhance the regulatory powers of NRAs					
4.a - To collect statistical data from all parcel delivery operators	≈	✓	✗	✗	✓✓✓
4.b - "Ex-ante powers" covering all parcel delivery operators	✓✓	✓✓	✗✗✗	✗✗✗	✗
4.c – To enforce access to NPOs' cross-border pricing agreements and networks	✓✓	✓✓✓	≈	✓	≈

Impact on effectiveness and efficiency compared to the situation today,
✓✓✓(Strong and positive – ✓✓ (Moderate and positive) – ✓ (Weak and positive contribution) - ✗✗✗(Strong and negative) – ✗✗(Moderate and negative) – ✗ (Weak and negative contribution – ≈ marginal or neutral - ? uncertain; n.a. not applicable. 0 no impact

Most options would have a strong positive effect on **consumers and retailers (particularly SMEs)** as they should lead to more transparent and affordable prices. 3a in particular would highlight where parcel delivery services were not affordable and therefore encourage consumers and retailers to seek out a better deal. This would be most effective if combined with the greater threat of market entry that option 4c would create. Consumers and small e-retailers, plus those in remote and peripheral areas would benefit more from 3a as at present they are more likely to pay high prices and/or depend on the NPO through the USO, instead of individually negotiating prices (3b). All options would potentially lead to more cross-border e-commerce and therefore more cross-border delivery. Option 3d would have a strong negative impact on e-retailers as it would force them to disclose the price they pay to parcel operators as well as the price they charge to consumers (although it could have a moderate positive impact on consumers) and 3b could have a negative impact on (larger) e-retailers as commercially negotiated agreements with delivery operators would be disclosed to NRAs. 3c would have a weak positive impact on both groups as the impact would be indirect.

NPOs would be the most affected delivery operators as some options are only addressed to them (3a, 3c and 4c), although offering lower prices could improve their competitive positions. Options 3b would be the most burdensome (strong negative impact) as it would require NPOs to provide information on confidential information on all individually prices, although options 3a, 3c and 4a also would entail some additional administrative costs (weak negative impacts). Option 4c could have a small positive effect to NPOs if it would translate into higher volumes and the possibility of optimising certain routes due to more delivery operators accessing NPOs' networks, but this would be dependent on the demand from other operators so overall the impact would be uncertain.

Other delivery operators would face additional administrative costs from options 3b (moderate negative impact) and 4b in particular, which due to administrative burdens and regulatory uncertainty would have a strong negative impact. 4a would entail additional costs, though the impact is only judged to be weakly negative as it would bring benefits though the standardisation of information requests. Delivery operators who lack network size would benefit from option 4c if they wish to have access to networks and infrastructures of the NPOs so it would have a weak positive impact. This option could benefit start-ups in particular.

Option 3d would have a moderately positive impact on **all delivery operators** as it would show their prices to e-retailers, and any additional mark-up charged by e-retailers.

NRAs would be positively affected by all options to the extent that these would allow them to gain more market knowledge and more regulatory powers, although there would be administrative costs involved which is why overall 3b, 3d and 4b would be likely to have negative impacts. The option which would affect NRAs more positively would be 4a, as it would clarify their legal powers and the parcel delivery providers to which they apply. Option 4c would have an uncertain impact as the extent to which NRAs would be required to intervene in the propose reference offers is unknown. Options 3c would have a weak positive effect for NRAs.

6.2. Choice of legal instrument

As set out in section 4.7, there are several legal and non-legal instruments that could theoretically be used.

Improving the enforcement of the current legal framework would not have an impact on affordability as Member States are only required to encourage cost-orientation for cross-border services within the USO (and which differ between Member States) but as it has been shown (section 1.4), Member States have not implemented and enforced this requirement of PSD and NRAs lack the underlying data to make assessments of the true cost of cross-border services. Regulatory oversight would not change as the PSD permits substantial variation in the information that is provided to NRAs and the Commission by different parcel delivery operators, as well as allowing for relatively wide freedom for Member States to define sector specific regulatory tasks depending on their national circumstances.

Improving the implementation of the current legal framework through guidance would be unlikely to have an impact as there has been no significant improvement in affordability and regulatory oversight since the Roadmap was published in 2013 (see the assessment of a recommendation below). Additional guidance would be unlikely to have an impact on these areas and guidance could also lead to additional fragmentation through different implementation at the national level. Furthermore, changing how the Directive is implemented would require some Member States to amend their laws which would take time and create additional legislative and administrative burdens, as well as leading to further variation at the national level, and not overcome the permissible differences in implementation that give rise to some of the shortcomings in the cross-border parcel market.

Improved enforcement of **competition law** would also be unlikely to address structural issues in the market, such as the lack of supply for small senders, and given its ex-post approach, would not be able to protect consumers and e-retailers from unreasonably high prices from the outset. The ERGP has found no evidence of any competition problem in the sector[175] nor is Commission aware of any specific competition concern in this area in the Member States (with the exception of recent decision of the Autorité de la Concurrence).[176]

A Recommendation to Member States would also be unlikely to have an impact given the Roadmap (which was a Recommendation in all but name) did not improve regulatory oversight and price transparency and affordability. To choose a nonbinding instrument for the core issues of regulatory oversight and transparency does not seem appropriate. First, it would not guarantee adequate and coherent implementation[177]. Second, Member States may

[175] ERGP (14) 26
[176] Decision 15-5-19 of 15 December 2015,
[177] ERGP internal report on the courier, express and parcel segments statistics, ERGP, September 2015

express the same reluctance to act as shown until now, or be prevented from taking action by the existence of contravening national provisions and a lack of domestic political will to amend and/or abolish them. Third, a general non-binding instrument would also leave a very broad discretion to Member States, NRAs and market operators as to whether and how to intervene, if at all. Considering the limited results of previous self-regulatory initiatives and non-binding approaches in relation to the issues identified as crucial[178], the outcome of a non-binding approach seems likely to be very limited or non-existent.

The Postal Services Directive does not address the issues at stake to an adequate degree (see Annex 11). While a revision of the PSD could extend the scope of the universal services to cover cross-border parcels more comprehensively, a revision of the PSD would require analysis far beyond the parcel sector. As the number of letters declines, any revision of the PSD would require monitoring and analysis of the changes in the market and the needs of users including a prospective analysis of the impact of the substantive changes on the sustainability of the universal service. Amending the PSD would also take time as a consensus would need to be reached about the future of EU letter and parcel services and the revised Directive would need to then be implemented in Member States, creating additional administrative burdens. In its 2015 Report on the Application of the Postal Services Directive the Commission concluded there was no need at this stage to change the Directive.

A self-standing Directive could focus on the parcel market and would allow for more flexibility in implementation at national level. This would however risk not addressing sufficiently the problems resulting from fragmentation and divergent application of national laws as Member States would have a degree of discretion over implementation.

A Regulation, as a directly binding legal instrument would guarantee that the policy options are swiftly and consistently introduced in all 28 Member States in a way that can be enforced and further regulatory fragmentation avoided. Targeted and specific harmonised measures would also ensure a high degree of legal security to the advantage of all operators on the market and the regulation could build on and support, insofar as cross border parcel delivery services are concerned, the rules provided for by Directive 97/67/EC[179]. **A Regulation can be considered to be the most appropriate method for achieving the desired result**, in particular in fields with complex technical features as the ones present here, and would minimise the administrative burden linked to transposition for Member States, while preventing any further regulatory fragmentation that could result from other legal instruments.

A targeted and specific Regulation on cross-border parcel services that complements the existing framework in particular as regards regulatory oversight and transparency of parcel services is thus the preferred instrument. This is the more true as the issues at stake need be addressed without delay because of the fast evolution in the Digital Single Market. In order to achieve tangible results in a narrow timeframe only a specific Regulation that should be adopted rapidly and that does not require national implementing measures and a transposition period seems to constitute an appropriate and efficient instrument.

Costs faced by delivery operators (one-off, administrative burden and recurring implementation/compliance costs) would be similar to those incurred under a recommendation or self-regulation, if properly applied.

[178]There has been little evidence of progress on price transparency and affordability and increased regulatory oversight since the publication of the Roadmap in 2013 (COM(2013) 886 final)

6.3. Preferred option / Justification for no preferred option

The initiative aims to improve implementation and enforcement of the existing legislative framework, and will fill regulatory gaps arising from the fact that the Postal Service Directive was not conceived with e-commerce cross-border B2C parcel deliveries in mind.

As a starting point, the national regulatory authorities will be strengthened through:

- A **clear legal mandate to carry out regulatory oversight** of the cross-border parcel markets, and to properly enforce the provisions of the new parcel regulation, in particular a requirement to assess the affordability of a set of cross-border parcel services.
- A **clear definition of the scope of the markets concerned** (in terms of the parcel services covered) and of the parcel delivery operators providing such services.
- The **provision of basic information by all delivery operators** (above a certain threshold), and **additional information by national postal operators** to facilitate the enforcement of regulatory principles such as affordability, cost orientation or non-discrimination (in the area of access to networks and infrastructures).
- Clear **competences in terms of enforcing access to cross-border NPO remuneration agreements and services** as appropriate**,** therefore encouraging competition.

This will allow the national regulatory authorities:

- To **properly monitor the evolution and functioning** of the cross-border parcel markets, gather appropriate statistics, observe evolving market trends (e.g. market shares of existing and new operators), and observe the behaviour of operators (in terms of pricing, access, and other factors affecting competition).
- To **assess and**, where necessary, to **enforce the compliance by national postal operators with the regulatory principles** of affordability, cost orientation and non-discrimination as laid down in the Postal Service Directive and in the new parcel Regulation.

Market and price transparency will be enhanced at several junctures:

- Through more complete statistical information about the entire cross-border parcel markets, national regulatory authorities and the European Commission will have much greater **knowledge of the state-of-play and evolution of competition** in those fast-changing markets (which will also inform the review envisaged two years after the adoption of the Regulation).
- All market participants will benefit from (non-sensitive parts of) this knowledge through the annual publication by the European Commission of **parcel statistics and market trends**.
- The wider public (including retailers and consumers) will be informed of the **development of public list prices** through the publication of these prices on a website, which is expected to affect the pricing policy of those operators that currently charge prices well above the industry average, but may also directly inform (SME) retailers when deciding on the location of their warehouse(s).

As a result of increased transparency and regulatory oversight, the initiative is expected to:

- **Make the cross-border parcel markets more efficient**, by reducing the current information deficits for NRAs and market participants (who would be enabled to make more efficient choices), and enforcing currently non-enforcable sector-specific regulatory principles (e.g. affordability; cost orientation; non-discrimination).

- **Improve the availability and affordability of cross-border parcel services** in particular for "vulnerable users" which, due to the low volumes that they generate (as SMEs or individual consumers, in particular those located in the periphery), are not currently targeted by delivery operators who focus on more profitable market segments.

All of this will **complement** – and will be complemented by – all **the other, market-based initiatives that have been triggered by the 2013 Parcel Roadmap**, such as the Interconnect Programme of the National Postal Operators, the retailers' information platform co-funded under the COSME Programme, work in the field of standardisation, etc.

Figure 4: Scope and main effects of preferred policy options:

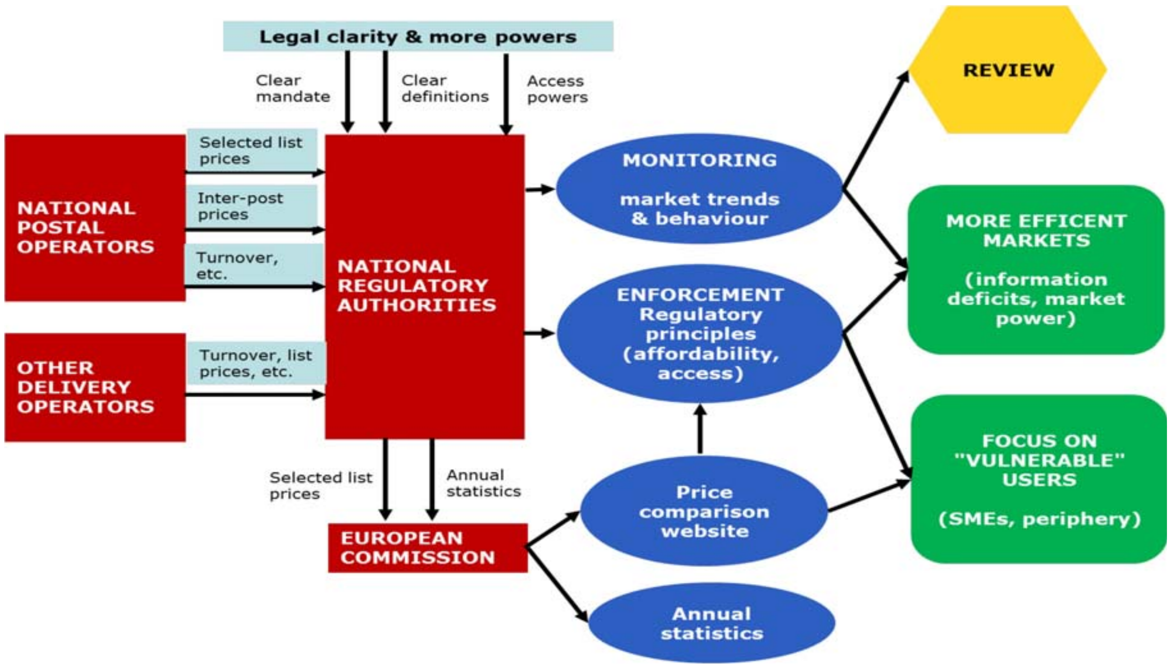

Table 4: Preferred package of policy options

Policy options	To whom it will apply
➢ To enhance transparency of:	
▪ public list prices (option 3a)	NPOs - USO and similar products
▪ NPO's wholesale prices (option 3c)	NPOs
➢ To enhance the regulatory powers of postal regulators	
▪ Powers to collect statistical data from all operators (option 4a)	All delivery operators
▪ Powers to enforce market access, where appropriate, to cross-border networks and price agreements. (option 4c)	NPOs

6.4. Subsidiarity and proportionality of the preferred option

The options proposed by this initiative for are **proportionate** as they are limited and primarily target the segments of the market (i.e. public list prices) where there is evidence that competition does not appear to be exercising a downward pressure on prices in some markets and self-regulation has had no impact. Delivery operators with fewer than 50 employees will be exempted to minimise administrative burdens on the smallest firms, and for those who are within the scope of the measure, a regulation will bring additional legal certainty and harmonisation across the EU. Effectiveness and efficiency are described in section 3.1.

The options respect **subsidiarity** as not only has self-regulation not led to changes in regulatory oversight, price transparency and affordability, but cross-border delivery by its very nature, involves delivery services in more than one Member State. Furthermore, to the extent that NRAs will need information about the terminal rates that 'their' NPO charges from other EU NRAs, action at Member State level alone is not adequate and action at the EU level avoids regulatory fragmentation[180].

6.5. Cumulative impacts and synergies

Taken together, the preferred package of policy options will improve price transparency and strengthen national regulatory authorities so that they can carry out effective supervision of the cross-border parcel delivery market and enforce relevant regulations. Non-legislative measures set out in the 2013 Roadmap have not resulted in the affordability of the cross-border parcel delivery services or statistical information that covers all parcel delivery providers and the current legal framework (the Postal Services Directive) has been implemented in various ways using different definitions. This prevents the compilation of comparable statistical data at EU level and the effective monitoring of cross-border parcel markets by national regulatory authorities. New legislative measures are therefore necessary.

The dedicated section on the Commission's EUROPA website showing NPOs' domestic and cross-border prices (option 3a), will improve price transparency by bringing together, for the first time on a comparable basis, the domestic and cross-border prices for all NPOs in the EU. NRAs will be legally required to assess the affordability of these prices and be given the powers needed to obtain the data necessary to assess prices in of cross-border delivery services (i.e. option 3c concerning terminal rates). The assessments will be published[181]. Taken together, the measures will highlight NPOs whose cross-border prices appear to be unreasonably high and are judged to unaffordable by NRAs, therefore putting pressure on these NPOs to reduce unreasonably high prices. New companies may also be encouraged to enter the cross-border delivery market or to expand existing operations, which will increase the amount of competition and put downward pressure on prices, especially unreasonably high ones (where operators can make higher –than reasonable- profits). Market entry will also be made easier by requirements for third party access to be granted to cross-border networks and multilateral agreements on terminal rates. Combined the measures will create competitive, regulatory and public pressure for lower prices, making cross-border delivery cheaper for small senders.

The preferred package of policy options will benefit smaller senders more, as they have neither the financial means nor the time to buy or gather this kind of information, and it will enable them to leverage this public market knowledge to obtain better conditions and prices. Furthermore, price transparency will enable regulators, NPOs and users for the first time to benchmark prices across the EU, and to detect seemingly unreasonably high cross-border list prices. If for a given country it appears that cross border (or domestic prices) are unreasonably high the relevant NRA, strengthened by additional powers such as transparency

[180] For example NRAs taking different approaches that impose larger burdens on operators who would need to comply with significantly different data requests in each country in which they operate.
[181] Confidentiality requirements will be taken into consideration

of terminal rates, will be in a better position to monitor and understand potential causes. NPOs will be more aware of pricing practices of other incumbents and will be more cautious on potential pitfalls of unreasonably high prices.

Softer measures such as scoreboards and press releases highlighting certain behaviour can be effective in bringing about change. The European Commission publishes several scoreboards each year (including the Single Market Scoreboard[182], the Digital Agenda Scoreboard[183], and the Innovation Scoreboard[184]). Each scoreboard is accompanied by country reports which assess each country's performance and potential improvements and press releases are used to communicate progress to the wider public. These scoreboards have often led to improvements. For example, evidence from the Single Market Scoreboard shows a notable reduction of the transposition deficits of Members States: since this Scoreboard's launch in 1997 transposition deficits in the EU declined to 0.7% from 6.3% in 1997. Anecdotal evidence shows that countries with performance issues receive media attention, leading to pressure on policy makers to improve the performance. When the European Commission published the results of the Econometric Study on Cross Border Prices[185] it was reported in many countries, including Spain, where the press focussed on Spain being the third most expensive country in the EU from which to send parcels abroad.[186]

As well as the requirement for regulators to assess the affordability and cost-orientation of a selection of cross-border prices, regulatory oversight will be enhanced through clearer powers to collect statistical data from all postal operators (4a) and NRAs will be able to enforce access to cross-border networks and price agreements (4c). A new legal basis is needed as some NRAs do not have the authority to collect data from all parcel delivery providers[187]. Several Member States, in their responses to the Commission's public consultation, stated that a clarification of definitions would be helpful and that it would be helpful if statistics on parcels covered all operators and not only the universal service provider or operators classified as "postal" companies.[188] Improved data collection on a harmonised basis would improve market monitoring by NRAs, enable the creation of statistics and reduce fragmentation[189]. Given the changing nature of the postal services, accurate and regular statistical data are critical so that NRAs can effectively measure developments.

The impact of requiring NPOs to offer third party access to multilateral remuneration agreements or cross-border networks will ultimately depend the extent to which new third party operators are encouraged to enter the market. Nevertheless, given that other operators have requested that such access provisions are codified, competition will increase (either by having operators entering the delivery markets or by expanding existing operations). This should encourage operators to be more efficient and contribute to downward pressure on prices. To the extent that other operators make use of NPOs' cross-border networks, NPOs'

[182] http://ec.europa.eu/internal_market/scoreboard/
[183] http://ec.europa.eu/digital-agenda/en/digital-agenda-scoreboard
[184] http://ec.europa.eu/growth/industry/innovation/facts-figures/scoreboards/index_en.htm
[185] University St Louis (2015)
[186] http://www.euractiv.es/noticias/Espana_es_el_tercer_pais_mas_caro_de_la_UE_para_enviar_un_paquete_al_extranjero-11119.html
[187] ERGP/BEREC (2015)
[188] Responses are available here http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8169
[189] ERGP/BEREC (2015)

fixed costs will be reduced, also helping to make cross-border prices less prohibitive. This could benefit remote and peripheral areas in particular[190].

The cumulative effects of the proposed Regulation will need to be seen together with actions stemming from existing policy initiatives, in particular improved interoperability between NPOs; the information platform supported by COSME funding; the standardisation work; and development of trustmarks. Taken together and combined with other developments linked to the Roadmap, these actions should improve the affordability, availability and accessibility of cross-border delivery services, and build on other Digital Single Market measures that aim to encourage e-retailers to sell more to other Member States and consumers to buy more from them.

6.6. Summary of impacts of preferred options on stakeholders

Individual consumers would benefit from increased price transparency and a lowering of barriers to market entry as combined there would be downwards pressure on unreasonably high prices. Lower delivery prices would encourage consumers to shop more online cross-border, which would give them a wider choice of goods at cheaper prices. According to a study conducted by the JRC[191], removing delivery concerns relating to price is highly likely to increase cross border e-commerce by 4.3 percentage points (pp). This alone should impact positively increase household consumption by 2 307 million Euros (0.03%) and the Real National Income by 2 372 million Euros (0.02%). Those effects are mainly driven by the estimated decline in the overall consumer prices by a factor of 0.03% and from the subsequent increase in the overall exports that is able to balance the negative effect in the output of the retail sector.

Consumers and e-retailers will benefit in Member States where prices are currently higher than for comparable countries. For example on the basis of the prices in Figure 1, the prices for sending a 2kg parcel to Austria from Denmark (€36.86) and Sweden (€38.48) would be likely to reduce more than prices in Finland (€26.30) - although the price of sending a parcel from Austria to any of these countries is only €14.09. Similarly the prices to send from Spain should decline more than France, and in Slovakia more than Poland.

Retailers (particularly SMEs) would sell more if cross-border delivery prices were lower as this would increase consumer demand and ultimately, contribute to creating jobs and growth for small and medium-sized enterprises, especially e-retailers. Overall, removing delivery cost concerns would increase the number of firms selling online across borders by 6.2 pp and the volume of online trade by 5 pp**.** Medium sized firms would be especially benefited by the removal of delivery cost concerns, as this would influence their decision to engage in selling cross border at a rate of 20pp.[192] The impact would be greater in peripheral Member States

[190] Third party access to multilateral remuneration agreement has been in the past subject to REIMS decision of the Commission. The Commission considered that the REIMS agreement constituted a restriction of competition falling within the scope of Article 81(1) (Article 53(1) of the EEA Treaty) because it collectively established a common level of terminal dues expressed as a percentage of the domestic tariff in the receiving country. At the same time the Commission found that the REIMS agreement fulfilled the four cumulative criteria required for exemption under Article 81(3) EC (Article 53(3) of the EEA Treaty), subject to certain conditions, one of these being ensuring third party access to the agreement itself.
See notably recital 62 and Annex to the Commission decision (available here http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52003XC0423%2801%29&from=EN)
[191] Duch-Brown, N. and Cardona, M. (2016)
[192] Duch-Brown, N. and Cardona, M. (2016)

where it is estimated that removing concerns about cross-border delivery costs would increase the number of firms selling online across the border in the periphery[193] by 11 pp. Companies located in the middle zone[194] would enlarge their sales by 7 pp provided that cross border delivery obstacles on costs would be removed. The University of Antwerp, after performing cost simulations on selected trading routes has identifying cost saving potentials stemming from network optimisation with the aim to moderate trade balances that range from 23 to 44%. [195] If more parcel delivery operators enter the market, e-retailers will benefit from a greater choice of their delivery provider, and the information platform supported by COSME funding will make it easier for retailers to find out about the parcel delivery options available.

Delivery operators: the main impact for parcel delivery operators would be the need to provide a small about of information to the NRAs (for those who do not already do so) though they would benefit from a standardised format. The smallest operators would be exempted. All delivery operators would be able to benefit from access to NPOs cross-border networks and multilateral agreements on terminal rates, including NPOs (see below), and other delivery operators would face lower barriers to market entry. (For more details about impacts on SME delivery operators please see section 6.7 on impacts on SMEs).

NPOs would be required to submit information to NRAs and their domestic and cross-border prices would be published on Commission' s EUROPA website. These prices are already public so their publication is not expected to encourage any anti-competitive behaviour (although making then prices comparable would have a positive impact on other stakeholders). NPOs would also be required to grant access to terminal rates and their networks as envisaged in existing multilateral agreements (to the extent this is not already covered by the requirements of the PSD and contractually agreed provisions, such as for example the REIMS agreement). Any additional administrative burden of the data requirements on NPOs would be small given that NPOs already supply data to NRAs, covering at a minimum the universal service area. Furthermore conveying parcels for other operators as a result of option 4c could reduce NPOs' average fixed costs, thereby improving the competitive position of NPOs, and have wider social benefits by helping to sustain networks and employment in rural and remote areas. As explained above, downward pressure on NPOs' prices is expected primarily in Member States where prices are higher than in other, comparable, Member States. Moreover, given NPOs' higher market share amongst individuals and small businesses, showing that their prices are affordable could in fact improve perceptions of their competitiveness with other operators, and lead to a higher demand for their services.

NRAs would benefit from clearer legal definitions and strengthened legal powers to monitor the parcel market and to request data from all parcel operators. The precise impact would however differ between Member States as some NRAs already collect data from parcel delivery providers other than the NRA. Some NRAs already monitor their parcel markets, especially in eastern and southern Member States, although the information obtained is unlikely to be comparable and in most cases insufficient for statistical purposes, not least as different definitions are used. In many Western Member States the parcel markets are simply not visible from a regulatory or statistical point of view, and these are the largest parcel markets in terms of size and turnover, and are responsible for higher volumes domestically

[193] Portugal, Ireland, Finland, Greece, UK, Estonia, Spain, Bulgaria, Sweden
[194] Netherlands, Belgium, Denmark, Italy, France, Lithuania, Romania, Latvia
[195] University of Antwerp (2015)

and also cross-border. NRAs already assess the affordability and cost orientation of a selection of (domestic) USO services, so they are familiar with the concepts and the possible methodologies that can be used to make such assessments will be able to draw on existing expertise. Methodologies might include considering the position of vulnerable consumers and SMEs, benchmarking and the number of hours that need to be worked to pay for a particular postal item. Cost-orientation is usually assessed using accounting documents supplied by NPOs.[196] NRAs might also face additional administrative work if they needed to evaluate NPOs' reference offers for access and impose changes.

Member States would face costs for introducing the policy options and for monitoring compliance, depending on the instrument chosen. Recital 47 of the Third Postal Services Directive requires that NRAs should be provided with all necessary resources for the performance of their tasks.

See section 4 for additional analysis of each of the policy options on the various stakeholder groups.

6.7. Summary of impacts on small and medium sized enterprises

The proposal would affect two types of SMEs: SMEs offering delivery services and SME retailers.

To minimise the burden on the smallest delivery operators, SMEs with **under 50 employees** would be completely exempted from the requirements imposed by the preferred package of policy options. This would exempt 98.6% the majority of SME delivery operators with a minimal impact on the policy as a small number of large operators are responsible for the majority of the volumes[197, 198]. An estimated 744 SME delivery operators would be required to provide information to the regulators.

The competitiveness of the SME retailers would improve as price transparency should make delivery services more affordable and give them a greater choice of delivery operators. Improving delivery services for SMEs would help them benefit from their growth potential that currently reach an annual rate of 18%[199.]

6.8. EU budget

This proposal has no implication for the budget of the EU or those of EU agencies.

6.9. Summary of social impacts of preferred options

The preferred policy options would directly enhance price transparency through easier access to price data which could help SME e-retailers and individuals to make more informed choices. Indirectly, lower delivery prices resulting from enhanced price transparency, could enhance users' access to parcel delivery services. Improved access to affordable cross-border parcel delivery services is important especially for vulnerable groups, i.e. small e-retailers and consumers located in rural and peripheral regions, as these services will enhance the e-

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[196] ERGP (14) 22 ERGP report on tariff regulation in a context of declining volumes

[197] 98.6% of the number of SMEs active in the delivery market as, according to Eurostat data of 2012, 53.935 enterprises in total employ 49 employees or less in EU28

[198] Eurostat, Services by employment size class (NACE Rev. 2, H-N, S95) [sbs_sc_1b_se_r2]

[199]Eurostat (isoc_bde15dec) and (isoc_ec_evaln2). According to Eurostat data, it is estimated that about 83 133 m € of turnover is generated in the total online and distance selling business by SMEs only, in 2012 in EU28. E-commerce Europe estimates that the online sector overall exceeds 368 700 m €.

retailers' and consumers' capacity to fully participate in the internal market and benefit from economic opportunities. This is in line with the DSM commitment to create a more inclusive digital society.

To the extent that the preferred policy options contribute to increased e-commerce, delivery and logistics related jobs are more likely to be created than to be reduced. Reductions in price by NPOs are expected to have a marginal impact on working conditions given the small percentage of parcels that are sent using public list prices. To the extent that lower prices and access by other operators increases demand for NPO's services, there would be a positive impact on employment, which is expected to secure jobs in rural and remote areas in particular.

6.10. Summary of administrative burden impacts of preferred options

The table below provides a view of the total administrative burden costs for individual preferred options. The methodology, assumptions and calculation of administrative burden are explained in annex 9. See also detailed table 1 in section 5.12.

Table 5: Overview of administrative burden costs of the preferred package

Options	Option 3a	Option 3c	Option 4a	Option 4c	**TOTAL of preferred package**
Sum (€ per year, rounded)	48 000	39 000	280 000	70 000	**437 000**

6.11. Summary of environmental impacts of preferred options

More cross-border deliveries could lead to increased road transport with possible negative impacts on the environment (e.g. air and noise pollution, vehicle emissions). However all major CEP operators in Europe are implementing environmental sustainability policies to reduce their carbon footprint, especially in road transport, where future progress in environmental sustainability will depend on long-term investments in smart technologies and cooperation. On the other hand, if more e-commerce contributes to fewer individual car journeys and fuller vans or lorries (who would be making the journey anyway), negative effects would be mitigated.

Regarding positive impacts, enhanced market efficiency may, due to increased price transparency, indirectly contribute to the consolidation of volumes. Logistics is a volume business and the optimisation of freight pooling, especially between SME e-retailers, will also improve the use of trucks' capacity and thereby reduce the environmental impact.

6.12. Summary of impacts on third countries

The envisaged package of this initiative would not lead to discrimination against delivery operators from third countries willing to offer services in the EU, as they would also need to comply with the same rules.

We expect the preferred package of options to put downward pressure on delivery prices. In that sense, the European delivery markets would therefore become more attractive and competitive, which in turn would decrease the final cost of sending parcels cross border within the EU.

6.13. Coherence with other proposals

The preferred package of options is overall coherent with the Digital Single Market strategy[200] and proposals announced by it, such as tackling unjustified geodiscrimination and other forms of discrimination based on residence or nationality[201] and further harmonised consumer contract rules for online and other distance sales of goods and the supply of digital content (which has been tabled by the Commission last 9 December 2015) and the review of the Regulation on Consumer Protection Cooperation. The Single Market Strategy[202] announced a European agenda for the collaborative economy.

Furthermore, the package is also coherent with the EU Small Business Act[203], which promotes SMEs' growth by improving the business environment and cutting red tape. The proposed measures could facilitate market access, both for SME retailers and delivery operators. The Fifth Report to the European Parliament and Council on the Application of the Postal Services Directive[204] noted the Commission's concerns about the cross-border parcel delivery market.

European consumers benefit, as from 13 June 2014, from the implementation of the Consumer Rights Directive (hereafter: CRD), which significantly enhances, among others, information and transparency in the area of online shopping. This concerns notably the elimination of hidden charges and price transparency for distance and off-premises contracts; better refund rights (e.g. where applicable reimbursement of delivery costs in case of a withdrawal) and clear information requirements concerning the costs of returning purchased items in case of a withdrawal. Furthermore, in February 2016 the Commission established an EU-wide online dispute resolution platform (ODR platform), which allows consumers and traders to solve their disputes without going to court, in a quick, inexpensive and simple way. One of the main objectives of the ODR platform is to encourage cross-border e-commerce.

7. Monitoring and evaluation

The set of indicators below aim to measure the extent to which this Intervention will succeed in meeting the objectives defined in Section 3 of this Impact Assessment.

In line with the DSM Strategy, this proposal could provide for an interim and final evaluation of this policy framework utilising, amongst others, the set of indicators specified below. This evaluation would be carried out by the European Commission and would take place two years after the proposed instrument enters into force in its interim stage, and every two years thereafter. The evaluation could assess the effectiveness of this specific instrument against its overall market and policy objectives, and include a summary of the monitoring of cross-border parcel prices. The parallel initiatives that are currently being developed by the industry (such as the interconnect programme from the NPOs or the information platform supported

[200]COM(2015) 192 final
[201] Under the public consultation on geo-blocking, 83.5% of the customers who replied considered that geodiscrimination is not justified when cross border delivery is easily accessible and the customer is prepared to pay additional shipping costs (https://ec.europa.eu/digital-agenda/en/news/public-consultation-geo-blocking-and-other-geographically-based-restrictions-when-shopping-and)
[202] COM (2015) 550 final
[203]The Small Business Act for Europe http://ec.europa.eu/growth/smes/business-friendly-environment/small-business-act/index_en.htm
[204] COM (2015) 207 final

by the COSME framework Programme) in alignment with the objectives set by the Roadmap on parcel delivery[205] would also be assessed in these evaluation.

7.1. Operational objectives and monitoring indicators for the preferred option

The operational objectives pursued by the preferred policy option, are:

- To improve the affordability of parcel delivery, especially for vulnerable users
- To promote competition and market efficiency, by empowering regulators to monitor cross-border parcels markets

We present a set of appropriate indicators **directly**, measuring the **outputs** of the initiative,

Related to Regulatory Oversight

1. **Number of countries** who communicate data on parcels **of high statistical value** for the annual postal statistical exercise of DG GROW [scope: EU28 + EEA/ EFTA countries, data on parcel services providers, parcel volumes, parcel turnover, employment and price].

Related to Access

2. **Number of request**s to access postal infrastructure (network or termination agreements) **rejected** by postal incumbents by country [scope: EU28 + EEA/ EFTA countries]

and indirectly, the intended **market outcomes** of the initiative**:**

Related to Affordability

3. **Price trends** on standard and premium cross border packet and parcel products [scope: EU28 + EEA/ EFTA countries]. **Price data and intelligence will be retrieved a) from the price comparison website and b) from cross border prices analyses** conducted by the NRAs, in the light of the Initiative.

> **3a.** Evolution of differences between domestic and cross border prices [scope: EU28 + EEA/ EFTA countries]. **Price data and methodology according to the methodology deployed by the University of St Louis "Econometric study on cross border prices"**

Related to the development of competition

4. **Number of operators** entering/ exiting the domestic and cross border CEP markets [scope: EU28 + EEA/ EFTA countries].

5. **Market concentration** in the domestic and cross border CEP market segment [scope: EU28 + EEA/ EFTA countries].

Related to developments of E-Commerce

6. Total domestic and intra EU **parcel flows and parcel volume trends** [scope: EU28 + EEA/ EFTA countries]

[205] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013DC0886&from=EN

6a. Total domestic and intra EU **parcel flows and parcel volume trends** [scope: peripheral countries[206]]

7. **Trends** on domestic and cross border **B2C Ecommerce** and ecommerce usage per country [scope: EU28 + EEA/ EFTA countries, all pairs of destinations]

8. Importance of **delivery related concerns** in consumer perception as to why not selling / buying cross border, satisfaction on value for money [scope: e-retailers and consumers, EU28 + EEA/ EFTA]

8a. Importance of **delivery related concerns** in consumer perception as to why not selling / buying cross border, satisfaction on value for money [scope: SME e-retailers and consumers in peripheral countries[207], EU28 + EEA/ EFTA]

A summary of the feasibility and proportionality of the proposed indicators is found in Annex 12.

[206] Definition of periphery from the Cross Border Pricing Study of the University of Saint Louis (Portugal, Latvia, Lithuania Croatia, Greece Bulgaria Romania, Malta, and Cyprus)
[207] Definition of periphery from the Cross Border Pricing Study of the University of Saint Louis (Portugal, Latvia, Lithuania Croatia, Greece Bulgaria Romania, Malta, and Cyprus)