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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**on the application of the Postal Services Directive (Directive 97/67/EC as amended by  
Directive 2002/39/EC and 2008/6/EC)**

{SWD(2015) 207 final}

# REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

## On the application of the Postal Services Directive

(Directive 97/67/EC as amended by Directives 2002/39/EC and 2008/6/EC)

### 1. This Application Report sets out how the Postal Services Directive has been implemented and how the postal market is developing

In February 2008 the European Parliament and the Council adopted Directive 2008/6/EC (hereafter, "the Third Postal Services Directive")<sup>1</sup>, which introduced the legal basis for the accomplishment of the internal market for postal services by providing the last legislative step in the process of gradual market opening. It set a deadline for full market opening of 31 December 2010 for 16 Member States<sup>2</sup> and 31 December 2012 for the (then) remaining 11 Member States.<sup>3</sup> The Third Postal Services Directive also strengthened the tasks and competences of national regulatory authorities, changed the manner in which the universal postal service could be provided and financed, required access to certain elements of the postal infrastructure and extended consumer protection provisions, and required the Commission to provide assistance to Member States on its implementation, including on the calculation of any net cost of the universal service.

Furthermore, Article 23 of Directive 2008/6/EC requires the Commission to report on the application of the Directive to the European Parliament and Council every four years, providing appropriate information on developments in the sector. Although this provision states that a report will be submitted by December 2013, the report was postponed in order allow time to examine the early effects of full market opening in all Member States.

This Application Report summarises how the Postal Services Directive (Directive 97/67/EC as amended by Directives 2002/39 and 2008/6/EC) has been implemented across the European Union and the main developments that have taken place in the postal market since December 2008.<sup>4</sup> In line with Article 23 of Directive 2008/6/EC it provides information

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<sup>1</sup> Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services, OJ L52, 27 Feb 2008, p. 3

<sup>2</sup> Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Ireland, Italy, Netherlands, Portugal, Slovenia, Spain, Sweden, UK

<sup>3</sup> Cyprus, Czech Republic, Greece, Hungary, Latvia, Lithuania, Luxembourg, Malta, Poland, Romania and Slovakia. Although Croatia formally joined the EU on 1 July 2013, its postal market was fully liberalised from 1 January 2013.

<sup>4</sup> This is the Fifth Application Report of this kind since the adoption of the Directive 97/67/EC. The previous reports can be found here: [http://ec.europa.eu/growth/sectors/postal-services/legislation/index\\_en.htm](http://ec.europa.eu/growth/sectors/postal-services/legislation/index_en.htm).

concerning economic, social and employment patterns and technological aspects, as well as on quality of service. The Application Report is accompanied by a Staff Working Document which provides more detailed information and includes an Annex on the calculation of the net cost of the Universal Service Obligation.

Various sources have been used to draw up the Report and the Commission Staff Working Document, including studies on *Main Developments in the Postal Sector (2008-2010)*,<sup>5</sup> *Pricing behaviour of postal operators*,<sup>6</sup> *Main Developments in the Postal Sector (2010-2013)*,<sup>7</sup> a number of reports by the European Regulators Group for Postal Services (ERGP),<sup>8</sup> contributions in the context of the Postal Directive Committee (PDC) and the Postal User Forum,<sup>9</sup> Eurostat data up to 2012<sup>10</sup> and the Commission's own postal statistics for the period after 2012 following Eurostat's decision to stop the dedicated collection of statistical data for the postal sector, as well as Universal Postal Union figures.<sup>11</sup> Given the time lag involved in the collection and production of statistics, in many instances the most recent statistics available are for 2013 but where possible more recent information has been used to give an indication of the latest developments.

## **2. Affordable and reliable postal and parcel services are still crucial for the single market**

Postal services continue to play a vital role across the European Union, although the nature of that role is changing as new technologies are driving both e-substitution and an increasing volume of online purchases. The ability to send letters and parcels to arrive within a specified time at a definite price to all parts of the European Union remains a fundamental contributor to social, economic and territorial cohesion and the development of the single market. The huge potential of e-commerce means that affordable and reliable parcel delivery services are more important than ever to help realise the potential of the Digital Single Market.<sup>12</sup>

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<sup>5</sup> Copenhagen Economics, *Main Developments in the Postal Sector (2008-2010)*, Copenhagen, Denmark, 2010

<sup>6</sup> Copenhagen Economics, *Pricing behaviour of postal operators*, Copenhagen, Denmark, 2012

<sup>7</sup> WIK-Consult, *Main Developments in the Postal Sector (2010-2013)*, Bad Honnef, Germany 2012

<sup>8</sup> For further information about the ERGP, including their reports see [http://ec.europa.eu/growth/sectors/postal-services/ergp/index\\_en.htm](http://ec.europa.eu/growth/sectors/postal-services/ergp/index_en.htm)

<sup>9</sup> This dialogue group was created by Michel Barnier, the former Commissioner for the Internal Market and Services, in 2011. It brings together postal services users (end consumers, SMEs, businesses and e-retailers), postal operators and trade unions to analyse the effects of postal liberalisation and seek constructive ways to deliver better postal services to customers. The Forum, which takes place in Brussels at yearly basis, is intended as a means of obtaining direct feedback from customers on the effects of the European postal reform, requirements for sustainability in the postal sector and on the direct link to e-commerce.

<sup>10</sup> [http://ec.europa.eu/eurostat/statistics-explained/index.php/Postal\\_service\\_statistics\\_-\\_universal\\_service\\_providers](http://ec.europa.eu/eurostat/statistics-explained/index.php/Postal_service_statistics_-_universal_service_providers)

<sup>11</sup> <http://www.upu.int/en/resources/postal-statistics/about-postal-statistics.html>

<sup>12</sup> See COM(2015) 192 final Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A Digital Single Market Strategy for Europe. [http://ec.europa.eu/priorities/digital-single-market/index\\_en.htm](http://ec.europa.eu/priorities/digital-single-market/index_en.htm)

### **3. Independent regulatory oversight has improved, though enhanced oversight of the parcel market is needed to keep pace with changes in that market**

National Regulatory Authorities continue to fulfil a crucial role underpinning and overseeing the application of and ensuring compliance with the Postal Services Directive in Member States. They are increasingly combined with Regulators for other communication services (e.g. electronic communication services, broadcasting). The European Regulators Group for Postal Services (ERGP), established in 2010, has improved consultation, coordination and cooperation among the National Regulatory Authorities at the European level.<sup>13</sup>

Historically National Regulatory Authorities have tended to focus on letters. Given the decline in letter volumes and growing number of parcels driven by e-commerce sales, stronger regulatory oversight of and more comprehensive data on the parcel market is needed to gain a full and accurate picture of the overall postal and parcel markets and to develop the full potential of the Digital Single Market.

### **4. An affordable and reliable universal service is provided for letters**

Member States are required to provide for the collection and delivery of letters and parcels on at least five working days each week, with a specified quality at all points in their territory.<sup>14</sup> The number of Member States where this frequency requirement is exceeded (i.e. with delivery on six days) is declining.<sup>15</sup> Overall there is a trend towards the reduction of the types of item which fall under the universal service obligation, although many Member States include items other than single piece<sup>16</sup> letters in the scope of the universal service obligation, for example bulk letters or parcels, advertising mail, or newspapers. All Member States, with the exception of Germany, have formally designated the incumbent national postal operator as the "universal service provider". In Germany, the historical national postal operator acts as the universal service provider.

The vast majority of domestic letters are delivered the next working day (providing they are sent using a next day service, rather than a deliberately slower and cheaper alternative) and intra-EU mail delivery continues to exceed the quality standards specified in the Directive.<sup>17</sup>

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<sup>13</sup> See Commission Decision of 10 August 2010 2010/C 217/07

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:217:0007:0009:EN:PDF>

<sup>14</sup> The overall framework is set out in Article 3 of Directive 97/67/EC. This requires one clearance and one delivery not less than five working days each week; the clearance, sorting and transport of postal items up to two kilograms and postal packages up to 10 kilograms; and services for registered and insured items.

<sup>15</sup> WIK-Consult, *Main Developments in the Postal Sector (2010-2013)* and ERGP (14 (23) Report on the Benchmarking of the Universal Service Tariffs updated

<sup>16</sup> Single piece refers to individual items or aggregated items of sufficiently low volume that they do not qualify for bulk discounts so the price and service offered is the same as for individual items.

<sup>17</sup> The date of posting to be taken into account is the same day as the item is posted providing the deposit is before the last collection time notified for that particular access point (i.e. post box or post office). In 2014 the

Most Member States have established a price cap to ensure that basic postal services are affordable. In many Member States prices for stamps have increased over recent years in general in line with inflation rates and in order to help compensate for the fall in the number of letters being sent.<sup>18</sup> Between 2012 and 2013 tariffs for a 20 gram letter increased on average by about 5.6%<sup>19</sup> however this had no significant impact on the affordability of this service for EU citizens, which still remains affordable, especially in comparison to household expenditure for other means of communication (e.g. mobile telecommunications).

All Member States ensure that all providers of postal services have a transparent, simple and inexpensive procedure for dealing with complaints from users, and most universal service providers have a system of compensation.

## **5. Accurate and comparable information about any net cost of the universal service is essential**

In the event that the provision of the universal service in a Member State results in a net cost that creates an unfair burden on the universal service provider, the Postal Services Directive sets out ways in which the so-called 'net cost' of the universal service obligation that represent an unfair financial burden for the designated universal service provider(s) can be compensated. However, in order to provide funding and ensure it is compatible with rules on State aid, the costs have to be calculated in a comparable fashion. The Annex to the Staff Working Document which accompanies this Report sets out different methods to calculate the net costs of the postal universal service obligation that have been found to be consistent with Annex I of the Postal Services Directive.

## **6. Competition has developed slowly for letter post and some operators have behaved in an anti-competitive way**

Despite full market opening across the EU by 2013, competition in the letter markets has been slow to develop in most Member States and universal service providers have retained majority markets shares in Member States. Of the fifteen Member States that fully opened their markets before 2011, eight had over 5% competition in the letters market (by volume) by 2013. In those Member States that opened their markets after 2011 competitors had achieved over 5% of the letters market by mid-2013 in five Member States.<sup>20</sup> Where competition in the

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average time for mail delivery in Europe was 2.4 days, with 90.6% delivered within the three days after posting and 97.8% within five days. Source: International Post Corporation (2014) International Mail Quality of Services Monitoring UNEX<sup>TM</sup> 2014 results .

<sup>18</sup> WIK-Consult, *Main Developments in the Postal Sector (2010-2013)*

<sup>19</sup> European Commission, Postal Statistics Database

<sup>20</sup> ERGP(13) 38 rev1 Report on End-to-End Competition and Access in European Postal Markets

letters market has developed, it is more widespread for end-to-end delivery provided by operators who created their own distribution network to deliver directly to recipients themselves. Access competition, where other operators hand over letters to the universal service provider for final delivery after pre-sorting has developed in Slovenia and the UK, as well as Germany. In several Member States, National Competition Authorities have condemned the provider of the universal service for anti-competitive behaviour in form of an abuse of a dominant position. Cases include illegal rebates to business customers, margin squeeze and predatory pricing. These practices can have the consequence of foreclosing competition. Market entry and development of competition may also be discouraged through some regulatory practices, such as the imposition of license conditions for new entrants which may go beyond the scope permitted by the Directive.

## **7. The number of letters being sent has declined as e-substitution has increased**

The number of letters sent using universal services providers in the EU has declined from an estimated 107.6 billion in 2008 to 85.5 billion in 2013.<sup>21</sup> On average between 2007 and 2010 the decline was 4.3% per year in terms of volume and 5.2% per year in revenue.<sup>22</sup> Between 2010 and 2011 the decline rate slowed to 3.3% and 1.4% respectively but rose to 4.85% between 2012 and 2013 (in terms of volume) for the EU28.<sup>23</sup> In general, direct mail (advertising) and publications have been less affected than letters, though Member States with more mature markets for letters have experienced the greatest decline, and this is expected to continue. For example in Denmark mail volumes have fallen by over 60% between 2000 and 2014, with a further decline of 15% in the first quarter of 2015.<sup>24</sup> In the Netherlands there was a 13% decline in the first quarter of 2015, and volumes are predicted to fall between 32% and 49% between 2010 and 2020.<sup>25</sup>

As letter volumes differ significantly between Member States, and in view of current rates of decline, some of the Member States are unlikely to ever reach the letter volume levels that Member States with mature postal markets previously had. Therefore, even if the decline in letter volume in less developed postal markets is lower in relative terms it is nevertheless likely to have a significant impact, given the smaller economies of scale than in the more mature markets.

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<sup>21</sup>Universal Postal Union, number of letter post items domestic service and international service dispatch estimates for EU27. Universal Postal Union statistics include member designated operators of the universal postal union only.

<sup>22</sup> WIK-Consult, *Main Developments in the Postal Sector (2010-2013)*

<sup>23</sup> WIK-Consult, *Main Developments in the Postal Sector (2010-2013)* and European Commission Postal Statistics Database; own calculations

<sup>24</sup> Post Nord, *Annual and Sustainability Report 2014, 2015*, Post Nord, *Interim Report Q1 2015*, 2015.

<sup>25</sup> WIK – Consult, *Developments in the Dutch Postal Market*, 2011

## **8. Parcels are a growth area but consumers and e-retailers complain about the quality and costs of cross-border delivery services**

There is no clear consensus about the size of the European parcel market.<sup>26</sup> For example estimates of the size of the European parcel market suggest values of EUR 60 billion for the combined European courier, parcel and express markets in 2010;<sup>27</sup> EUR 47 billion in 2011 (including shipments up to 2,500kg);<sup>28</sup> EUR 37 billion for the parcel and express market in 2011;<sup>29</sup> and EUR 53.5 billion in 2014.<sup>30</sup> Even counting parcels dispatched by universal service providers alone, the EU parcel market has grown from an estimated 1.65 billion ordinary parcels in 2008 to around 1.96 billion in 2013.<sup>31</sup> The number of parcels per capita does however differ greatly between Member States. Estimates for the whole parcel market indicate a range in parcels per capita from almost 30 (Germany and the UK) to around two (Poland, Romania, Croatia, Latvia) for 2011.<sup>32</sup>

As parcel services were never part of the previously reserved area,<sup>33</sup> competition appears to have developed to a greater extent in the parcel market than in the letter market. 'Express' operators such as UPS, DHL, TNT and FedEx as well as courier companies who traditionally focused more on value-added business to business (B2B) services are increasingly developing their business to consumer (B2C) services to take advantage of the growth in e-commerce, and new companies are entering the market. At the same time, universal service providers are developing more sophisticated parcel delivery services, for example by guaranteeing delivery times, to take advantage of online shopping. There is thus some convergence in the products and services offered by different types of delivery operator and the boundaries between them are becoming more blurred.

Concerns do, however, persist about the affordability, accessibility and availability of cross-border parcel delivery services: the absence of delivery features (e.g. track-and-trace information), poor price transparency and high prices are repeatedly amongst the main complaints from both consumers and e-retailers.<sup>34</sup> Alongside the Digital Single Market

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<sup>26</sup> This mainly stems from different market definitions, especially regarding the weight limit of shipments and the service characteristics, different methodologies as well as lack of data that covers all delivery operators.

<sup>27</sup> TNT Express (2012), 4Q 2011 Analysts presentation: 2011 Highlights and Strategy update, 21. February 2012

<sup>28</sup> AT Kearney, *Europe's CEP Market: Growth on New Terms*, 2012

<sup>29</sup> WIK-Consult, *Main Developments in the Postal Sector (2010-2013)*

<sup>30</sup> Apex Insight, *European Parcels: Market Insight Report 2015*, 2015

<sup>31</sup> Universal Postal Union, Number of ordinary parcels, domestic service and number of ordinary parcels, international service – dispatch estimate for EU27. Data only collected from designated operators of the universal postal union. <http://www.upu.int/en/resources/postal-statistics/about-postal-statistics.html>

<sup>32</sup> WIK-Consult, *Main Developments in the Postal Sector (2010-2013)*, p225

<sup>33</sup> 97/67/EC permitted ordinary correspondence of up to 100g to be reserved to the universal service provider. 2002/39/EC reduced this to 50g.

<sup>34</sup> See for example Civic Consulting for Executive Agency for Health and Consumers, *Consumer market study on the functioning of e-commerce and internet marketing and selling techniques in the retail of goods*, 2011; FTI Consulting, *Study on intra-community cross-border parcel delivery*, 2011; Copenhagen Economics, *Study on the state of play of EU parcel markets with particular emphasis on e-commerce*. 2013; Special Eurobarometer 398 Internal Market Report, 2013; Flash Eurobarometer 413: Companies Engaged in Online Activities, 2015 and



Strategy,<sup>35</sup> adopted on 6 May 2015, the Commission launched a public consultation to help identify solutions to improve cross-border parcel delivery and to gain a better understanding of how this market functions. The Commission will launch measures in the first half of 2016 to improve price transparency and regulatory oversight of cross-border parcel delivery. This is in addition to the actions already undertaken by the Commission and different stakeholders following the adoption in 2013 by the Commission, of the *Roadmap for completing the single market for parcel delivery*.<sup>36</sup>

## **9. Employment by universal service providers has declined, primarily as a result of e-substitution and working conditions are more varied**

In 2013 around 1.2 million people were employed by universal service providers in the EU, and in some Member States universal service providers were responsible for a notable proportion of domestic employment.<sup>37</sup> Employment generated by other postal operators increases this total and an estimated 272,000 were directly employed by the express industry in 2010.<sup>38</sup>

Falling letter volumes, combined with modernisation and increasing automation are having an impact on employment levels. Universal Postal Union figures report a fall in the total number of staff employed by universal service providers of about 250,000 between 2008 and 2013.<sup>39</sup> Employment by universal services providers decreased at an average rate of 4.4% in the 28 Member States between 2012 and 2013.<sup>40</sup> Universal service providers are generally unionised with wages and working conditions covered by collective sectorial and/or general labour agreements. In many instances modernisation has been managed in a socially responsible way together with the trade union and early retirements and voluntary departures have been used to minimise the number of compulsory redundancies. Despite workforce reductions, a large proportion of staff continues to be involved in delivery operations. There have, however, been significant increases in the proportion of part-time employees in some Member States and overall there is a trend towards more flexible forms of employment contracts.

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European Commission, Consumer survey identifying the main cross-border obstacles to the DSM and where they matter most, 2015

[http://ec.europa.eu/consumers/consumer\\_evidence/market\\_studies/obstacles\\_dsm/index\\_en.htm](http://ec.europa.eu/consumers/consumer_evidence/market_studies/obstacles_dsm/index_en.htm)

<sup>35</sup> COM(2015)192 final

<sup>36</sup> COM (2013)886 final

<sup>37</sup> European Commission Postal Statistics Database, 2013, own calculations

<sup>38</sup> Oxford Economics *The Economic Impact of Express Carriers in Europe*, 2011. Employment data for operators other than the universal service providers is not included in the European Commission postal statistics,

<sup>39</sup> Universal Postal Union (UPU) estimates for EU27. Figures include UPU designated operators – i.e. universal service providers – only.

<sup>40</sup> Estimated value on the basis of the European Commission Postal Statistics Database

## **10. Close monitoring is needed as the market continues to evolve**

Overall the two core aims of European postal policy, namely ensuring a minimum range of services of specified quality at affordable prices for all users and market opening with fair conditions of competition, have broadly been achieved, though concerns persist about the cross-border parcel market. Nonetheless, the postal market continues to evolve rapidly and ongoing close monitoring and further analysis of the overall postal market, and the effects of the regulatory framework, are needed. This is particularly important in view of the impact, on the provision of universal service obligation, of the decline in letter volumes and the growing number of parcels, and in order to be able to respond, if necessary, to changes in the technical, economic and social environment, and to the needs of users to ensure the sustainability of the sector. The Commission will publish statistics annually from 2016 to provide regular updates on developments in the letter and parcel markets in the European Union.