

Postal services: further opening to competition

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The European Commission adopted its 4th report on the application of the Postal Directive (Directive 97/67/EC as amended by Directive 2002/39/EC). The report covers the period 2006-2008 and provides a comprehensive assessment of the overall transposition of the Postal Directive in Member States, including regulatory developments and appropriate information on market developments (in particular on technical, social, employment and quality of service aspects).

A number of decisive developments took place in the short timeframe this Report is covering:

- Germany – by far the biggest single (national) postal market in the EU – fully liberalised its postal market on 1 January 2008;
- an evaluation of the full market opening in the UK, which took place on 1 January 2006, seems now possible;
- the effects of the reduction of the threshold for the reserved area to 50 grams by 1 January 2006 throughout the EU – which is the last intermediate step before the full market opening – can now be assessed;
- lastly, the Third Postal Directive (2008/6/EC), adopted in February 2008, sets a deadline for the full market opening by 31 December 2010 for the majority of Member States and by 31 December 2012 for the remaining Member States.

The report's main observations are as follows:

Market opening: during the reporting period, gradual market opening of the postal sector continued and Germany fully liberalized its postal market. Competition also continued to evolve. However, the development of competition with its benefits for businesses and consumers, although emerging, remains slower than expected. This, on the one hand, is due to the fact that a large part of the postal market is still reserved for the incumbent postal operators. The adoption of the Third Postal Directive must be seen as being the decisive step in this respect as it provides for the abolishment of the last legal monopolies and represents a unique opportunity for the postal sector and for the whole economy. Emerging competition, as already identified in Member States that fully opened their market, leads to higher quality and more customer oriented postal services.

Removing the final barriers: apart from the reserved area, other (legal and strategic) market entry barriers still persist. If the vision of an internal market with sustainable and efficient postal services is to become a reality, these market barriers have to be dealt with efficiently and removed. This is the joint responsibility of the Commission and the Member States as well as all stakeholders. In this context, the Commission recalls that in 2003 it submitted to the Council a proposal removing the VAT postal exemption and providing for taxation of all postal service providers. The Council has however not yet been able to agree on this proposal and it has not been discussed since 2004. The adoption of this proposal is now even more pressing since the Third Postal Directive sets a definitive date for the full liberalisation of the national postal markets.

Definition of the Universal Service Obligation and its future financing could also lead to uncertainties for postal operators, especially if implementing national legislation does not provide a clear legal basis (e. g. in relation to the scope of the Universal Service Obligation). Moreover, authorisation and licensing procedures and related conditions are not always conducive to the development of competition. Lastly, the level of transparency of Universal Service Providers' cost data and accounting is still extremely varied and therefore very inconsistent across Member States.

Role of National Regulatory Authorities (NRAs): it has also been established that National Regulatory Authorities (NRAs) play an essential role in realising the goal of accomplishing the Internal Market and in a multi-operator environment. The main challenges ahead for the NRAs will be, among others, to arrange interoperability in a multi-operator market, take action against strategic barriers to entry and ensure that tariffs are more geared to costs. In order to allow NRAs to successfully fulfil their tasks, the expertise and staffing of the NRAs should be increased in most of the Member States.

In conclusion, the Commission considers that the focus of the postal sector in the coming years cannot exclusively lie on the transposition process for the Third Postal Directive. **Market monitoring and the critically evaluating of the application of the current Postal Directive are of key importance.** Member States, especially their NRAs, have to devote their full attention to an efficient transposition of the Third Postal Directive, while at the same time ensuring efficient regulation under the currently applicable Postal Directive. This phase ahead is – as it concerns the transition from several legal regimes to only one – of crucial importance.

The Commission will actively participate in these processes by providing Member States with the opportunity to establish best regulatory practices and, at the same time, continue with active and transparent market monitoring in order to safeguard the objectives of the EU postal reform.