

# Postal services: further opening to competition

2000/0139(COD) - 22/12/2008 - Follow-up document

The Community framework for EU postal services is set out in Directive 97/67/EC as amended by Directive 2002/39/EC (hereafter referred as “the Postal Directive”). Article 23 of the Postal Directive **requires the Commission to report on the application of the Postal Directive** to the European Parliament and Council “every two years”. It also requires that this report should include “appropriate information” on market developments including technical, social, employment and quality of service aspects.

**Regular market monitoring and reporting** is an important element for the full accomplishment of a postal Internal Market in order to identify any shortcomings and problems in due time and to be able to take appropriate (legal) actions when necessary and implement corrective measures. Market monitoring has also been essential to be able to proceed with the EU Postal Reform in a transparent manner and to establish if it has generated the desired effects and benefits.

The Commission provided its first Application Report in November 2002, a second in March 2005 and a third in October 2006. As in the case of previous Application Reports, this Report provides a **comprehensive assessment of the overall transposition of the Postal Directive in Member States**, including the application of key elements of the Postal Directive and regulatory developments. The Report describes the main developments since the last Application Report adopted in October 2006 and covers the **reporting period 20062008**.

It should also be recalled that in February 2008 the Council and the European Parliament adopted Directive 2008/6/EC further amending the Postal Directive (hereafter referred to as "the Third Postal Directive"). The **Third Postal Directive** sets a deadline for the full market opening by 31st December 2010 for the majority of Member States and by 31st December 2012 for the remaining Member States. This Directive thus provides the legal basis for the accomplishment of the internal market for postal services.

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.

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. It is essential that a system of efficient regulation is put in place in all Member States and that national postal legislation does not provide a burden for the emergence of competition and its positive impact on customers' needs.

In this context, it should be recalled that in 2003 the Commission 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. It might be of interest to add that a referral for a preliminary ruling regarding the scope of the VAT exemption for postal services is currently pending before the ECJ.

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.

The focus of the postal sector in the coming years is very clear. It 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.

On the basis of the commitments by the Community legislator and its obligations, 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.