Cross-border parcel delivery services

2016/0149(COD) - 25/05/2016 - Legislative proposal

PURPOSE: to establish the rules necessary to improve regulatory oversight, to improve transparency of prices and establish certain principles as regards cross-border parcel delivery services.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: EU consumers and e-retailers do not take full advantage of the single market. In 2014, only 15 % of consumers bought online from other EU countries, although 44 % did so in their own country. A European Parliament study estimated that the potential contribution to European GDP of achieving a fully functioning Digital Single Market could be in the range of **EUR 415 billion**. The benefits from cross-border e-commerce are estimated at 0.27% of GDP.

The Commission's 2012 Communication on e-commerce identified improving the physical delivery of goods ordered online as one of the key elements for e-commerce growth. Subsequently, its 2013 Parcel Roadmap set out actions to achieve three sets of objectives:

- increasing transparency and information for all actors along the e-commerce value chain;
- improving availability, quality and affordability of delivery solutions;
- enhancing complaint handling and redress mechanisms for consumers.

Although there have been some improvements, the Commission stated that complementary measures are needed in the areas of price transparency and enhanced regulatory oversight given that the **prices for some cross-border services are still high** and not all national regulatory authorities have the ability to collect the data needed to monitor the evolution of the parcel markets due to differences in their competences and in the definition of the parcel services.

In the Digital Single Market Strategy, the Commission committed to launch measures to improve the price transparency and regulatory oversight of cross-border parcel delivery in the first half of 2016.

In its resolution entitled 'Towards a Digital Single Market Act', the European Parliament stressed that accessible, affordable, efficient and high-quality delivery services are an **essential prerequisite for cross-border e-commerce to thrive**. It also supported measures to improve price transparency and regulatory oversight directed at the smooth functioning of cross-border parcel delivery markets.

IMPACT ASSESSMENT: the impact assessment recommended a package of measures to **improve the transparency of tariffs of universal service providers and strengthen the regulatory oversight** of all parcel service delivery providers.

The preferred options would have no direct or indirect negative social impacts. There will be no direct impact on the environmental or fundamental rights.

CONTENT: the general objective of this Regulation is to address specific issues relating to **cross-border parcel delivery services**. It also builds on and complements the rules on cross-border parcel delivery services provided by Directive 97/67/EC as amended by Directive 2002/39/EC and Directive 2008/6/EC.

The specific objectives of this proposal are to:

- make markets work more effectively by making the regulatory oversight of the parcels markets more effective and consistent and encouraging competition;
- increase the transparency of tariffs in order to reduce unjustifiable tariff differences and lower the tariffs paid by individuals and small businesses, especially in remote areas.

The main elements of the proposal are as follows:

Scope and definitions: the definitions complement those contained in Directive 97/67/EC as far as parcels are concerned; they are fully consistent with those established in the Directive. As laid down in the relevant provisions adopted by the Universal Postal Union (UPU) the term terminal rates is used so to encompass both terminal dues (that are applicable for letter mail items) and inward land rates (that apply to parcels).

In line with relevant practice of parcel service providers and Member States parcels considered for the scope of this Regulation are those with a maximum weight of **31.5 kg**. Therefore, this Regulation will not apply to logistics; it will also not apply to transport alone, that is when it is not undertaken in conjunction with clearance, sorting or distribution.

Provision of information: the proposal obliges all parcel delivery providers with **over 50 employees** to annually submit a limited set of information. The aim is to unify and clarify the currently fragmented regulatory competences and build on existing best practice. Only larger operators in addition to those established in more than one Member State would be included so to ensure that national regulatory authorities have the core data on the range of parcels that are used for e-commerce.

Transparency of tariffs and terminal rates: the proposal contains a targeted obligation only for universal service providers to annually submit (on 31 January at the latest) to the national regulatory authority the **public list of tariffs applicable on 1 January of each calendar year** for a specific set of services contained in the Annex. The 15 postal items provided by universal service providers contained in the Annex are the most relevant and used ones for individual customers and small businesses.

This obligation is limited to public list of tariffs and does therefore not include any discounted tariffs or individually negotiated tariffs.

The Commission shall **publish tariffs** by 30 April of each calendar year on a dedicated section on the Commission's EUROPA website.

Furthermore, the universal service providers should submit to the national regulatory authorities – and in turn to the Commission - annually their 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).

Assessing affordability of tariffs: national regulatory authorities are obliged to assess the affordability of the tariffs of universal service providers obtained on the basis of objective elements. The most common and important input elements for this assessment are subject of a non-exhaustive list in the proposal.

The assessment together with the justification, if applicable, are to be communicated not only to the Commission but also to the other national regulatory authorities. Furthermore, the assessment should also be communicated to the relevant authorities entrusted with the implementation of competition law, who are equally bound by confidentiality obligations.

Transparency and non-discriminatory cross-border access: the proposal is largely a codification of the principles that have been analysed in the so called REIMS decisions (relating to the multilateral cross-border agreements on terminal dues that universal service providers have established on letters/parcels), and is inspired by the procedural elements established in Regulation 531/2012 relating to wholesale roaming access. It should provide legal certainty for universal service providers and other parcel delivery services providers that might want to access cross-border services.

Penalties: a standard provision aims at providing the national regulatory authorities with effective, proportionate and dissuasive penalties for breaches of EU law.