Internal market of postal services

2006/0196(COD) - 18/10/2006 - Legislative proposal

PURPOSE: to open EU postal markets fully to competition by 2009, in line with the agreed target date set out in the current Postal Directive.

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

CONTEXT: Postal Services in the EU are covered by the 1997 Postal Directive (97/67/EC). This created a regulatory framework which guarantees citizens a universal service, while gradually limiting the scope of the reserved area (initially mail under 350 grams, amended in 2002 to 100 grams and reduced on 1/1 /2006 to 50 grams). The Directive aimed at ensuring the best possible service through a gradual opening of the market, with a final target set for full opening in 2009. It included a requirement that the Commission should provide periodic reports on its implementation, and, before the end of 2006, confirm whether the 2009 date remained appropriate. The Commission is now proposing, by means of a further amending Directive, that the date should be confirmed. A number of Member States have already opened up their market to full competition or have firm plans to do so before the 2009 target date.

CONTENT: the present proposal is based on the conclusions of the Prospective Study on the impact on universal service of the full accomplishment of the postal internal market in 2009, as required by the Postal Directive, an Impact Assessment Report and a Report on the application of the Postal Directive which includes a thorough review of the sector.

The main elements of the proposed Directive are as follows:

Maintaining universal service

The proposal maintains the current obligations on Member States to ensure a high-quality universal service comprising at least one delivery and collection five days a week for every EU citizen. It will also further reinforce consumer protection and increase the role of national regulatory authorities. The obligation to ensure affordability of postal services is maintained in the proposal, as is the possibility for Member States to impose a uniform tariff for single piece tariff items such as consumer mail. In the event that remaining net costs of providing universal service need to be covered, Member States will be able to choose from a range of options, including, for example, state aids, public procurement, compensation funds and cost sharing. It will be for Member States to decide which model best suits their needs.

Other measures included in the proposal

- *Authorisation and licensing*: Member States may continue to use authorisation and individual licenses whenever justified and proportionate to the objective pursued, subject to the provisions of Article 9 of the Postal Directive. However, as highlighted by the third Commission Report on the Application of the Postal Directive, further harmonisation of the conditions that may be introduced and the principles applicable to those conditions and procedures appears to be necessary so as to reduce unjustified barriers to the provision of services in the internal market.

- *Access to key postal infrastructure and services*: drawing on the experience of some Member States, this proposal introduces a new Article in order to require Member States to assess whether, in a multi-operator environment, a number of elements of the postal infrastructure or services: may be indispensable

for or greatly facilitate the provision of services by operators willing to compete with universal service provider(s); and/or benefit users and consumers by reducing the number of items which are wrongly addressed or cannot be returned to its sender.

- ***Control of fair competition***: in a fully competitive environment, Member States must conduct the delicate exercise of providing sufficient freedom to universal service providers to adapt to competition and at the same time, ensure adequate monitoring of the behaviour of the likely dominant operator in order to safeguard effective competition. Because this exercise will require an assessment of the market conditions, institutional arrangements and oversight capacities of every Member State, it is appropriate to leave Member States the freedom to decide the precise regulatory mechanisms for the control of the incumbent operator, while maintaining a necessary minimum common ground. This justifies, on the one hand, the deletion of the requirement imposed on Member States to monitor cross subsidies through sector specific rules and, on the other, the maintenance of the rules on transparency of accounts.

- ***Reinforcing consumer protection***: this proposal provides to extend the application of minimum principles concerning complaint procedures beyond universal service provider(s). Consumer interests are also further protected through: 1) the enhanced inter-operability between operators resulting from access to certain elements of infrastructure and services, as provided for in the proposed new Article 11a, as further explained above; 2) the requirement for cooperation between national regulatory authorities and consumer protection bodies included in the proposed amendment to Article 22, second paragraph; 3) the clarification of the role and powers of national regulatory authorities to monitor and supervise the universal service in Article 22, third paragraph, and Article 22a, first paragraph. Finally, given the importance of postal services for blind and partially sighted persons as consumers of postal services, it its proposed to confirm that the process of market opening should not curtail the continuing supply of certain free services for blind and partially sighted persons introduced by the Member States in accordance with applicable international obligations established in the framework of the Universal Postal Union.

- ***National regulatory authorities***: in order to improve the effective functioning of those bodies, this proposal provides for the following amendments: i) structural separation of the regulatory functions from activities associated with ownership or control in an operator; ii) transparency in the allocation of regulatory functions and cooperation between national bodies exercising regulatory functions; iii) confirmation of the right to appeal against decisions made by national regulatory authorities and of their temporary standing; iv) enhanced cooperation between EU national regulatory authorities.

- ***Provision of information to national Regulatory authorities***: this proposal provides for the introduction of a new Article to empower national regulatory authorities to collect information whenever proportionate and justified, including for statistical purposes.

- ***Review and reporting on the application of the Postal Directive***: this proposal provides for the retention of regular monitoring and reporting on the application of the Directive. Drawing on past experience, it is proposed to amend Article 23 to extend the reporting period from two to three years.