

Postal services and the postal market

Towards full market opening

Introduction

- Basic statistics on Postal Services in Europe – Eurostat DATA in focus (12/2007)/ <http://ec.europa.eu/eurostat>
- The significance of postal services – The postal services are what we call a “Lisbon deliverable”
- At the crossroads bet. communications, advertizing/ e-commerce and transport
- A key industry which, together with transport and communication services, holds the internal market and its citizens together
- The importance of postal services both for the economic prosperity and social well-being & cohesion of the EU makes them a priority area for Community/ Union action
- Internal Market and Services Commissioner McCreevy’s statement on the huge potential of the postal sector on the occasion of the adoption of the 3rd Postal Directive

Objectives of Community/ Union policy in the postal sector

- To complete the internal market for postal services
- To ensure, through an appropriate regulatory framework, efficient, reliable and good-quality postal services throughout the EU, available to all citizens at affordable prices
- Some specific objectives for action at Community/ Union level have been identified (most importantly):
 - To define at Community level a universal postal service
 - To set a common maximum limit to the extent of the postal reserved areas which a Member State may grant to its provider(s)
 - To develop a process of gradual and controlled market opening to competition, while giving the MS means to ensure that the provision of universal service is guaranteed
 - To improve the quality of postal services by setting at Community level common quality of service standards

Objectives of Community/ Union policy in the postal sector

- To establish the principle of cost-related tariffs
- To ensure that the financing of the provision of universal service is carried out in a transparent manner compatible with Community/ Union law
- To encourage harmonization of technical standards
- To ensure fair competition outside the reserved areas
- To encourage and assist the postal sector to adapt to technological progress and changes in demand
- To ensure that the needs of users, the interests of employees and the general importance of the postal sector for the economic, cultural & social development and cohesion of the Community/ Union (including the special difficulties encountered by remote regions) are taken into account when regulating the sector
- To co-ordinate the development of postal policy with other Community/ Union policies

Legal framework of Community/ Union postal policy

- Legislative and regulatory timetable for the market opening process
- 1992: Green Paper on the development of the single market for postal services ([COM/91/476](#))
- 1994: Council Resolution of 7 February 1994 on the development of Community postal services ([COM/93/247](#))
- 1997: 1st Postal Directive ([97/67/EC](#))
- 1999: 1st reduction of the "reserved area"
- 2002: 2nd Postal Directive ([2002/39/EC](#))
- 2003: 2nd reduction of the "reserved area"
- 2006: 3rd reduction of the "reserved area"
- 2008: 3rd Postal Directive ([2008/6/EC](#))
- 31.12.2010/2012: Target date for the accomplishment of the internal postal market

Transposition of the Postal Directives by Member States – Case law

- Transposition according to specific timetables:
- Acc. to art.24 of the 1st Directive, MS shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 12 months after the date of its entry into force; art.2 of the 2002 Directive provides that MS shall comply no later than 31 Dec. 2002 and pursuant to art. 2 of the 2008 Directive, they shall comply by 31 Dec. 2010/2012
- Failure to do so on time *or* in an incorrect manner can lead to infringement proceedings
- MS inform the Commission of the progress they are making on transposition (art.24 §1 of 1997 Dir./ art.2 of 2002 & 2008 Dir.), and both parties work together to deal with any problems such as the interpretation of certain provisions in the Directive
- Procedure followed in case of infringement – possible infringement proceedings against concerned MS/ cf issuance of reasoned opinions

Case C-240/02 (ref. for a preliminary ruling from the Tribunal Supremo*)

- Reference to the ECJ under EC Art.234, for a preliminary ruling in the proceedings pending before that court on the interpretation of *Directive 97/67/EC* of the European Parliament and of the Council, of 15 Dec. 1997, on the *common rules for the development of the internal market of Community postal services and the improvement of quality of service*
- Art. 7 of the Directive concerning the services which may be reserved for the USPs, read in the light of recital 21 thereof, must be interpreted as meaning that it does not permit self-provision (as defined in recital 21) to be subject to additional conditions (first question)
- Money order services, which consist in making payments through the public postal network to natural or legal persons on behalf of and on the order of others, are not within the scope of Directive 97/67 (second question)

The postal sector & competition rules*

- (basically) What is the role of competition policy in a liberalized postal market?
- Important to ensure effective and staunch enforcement of EC competition rules, covering all three instruments of competition policy (antitrust, state aid and merger control), which is also the European Commission's priority in the postal sector
- Whenever there are concerns that MS are not fulfilling their obligations, or when MS or company behavior indicates a frustration of the results achieved on the legal framework, the Commission shall act (cf formal notice with preliminary view or reasoned opinion – examples)
- The aim is to open up the postal market to competition, while at the same time ensuring that strong universal service obligations continue to be fulfilled

The postal sector & competition rules

- Universal service must indeed be maintained; therefore, we need to make sure that the financing of universal service obligations is secured, while at the same time competition is encouraged
- Cf assessment of compensation for fulfilling public service obligations – adequate compensation cannot be over compensation
- The principle: compensation cannot exceed the extra cost of providing the universal service and it must not cross-subsidize commercial activities (examples)
- See other advantages granted to postal operators, such as unlimited guarantees granted to some postal operators by some MS
- On the other hand, national competition authorities in the MS will make sure competition rules in the postal sector are enforced as well, in their area of competence

Conclusion

- As stated by Commissioner McCreevy, following the adoption of the 3rd Postal Directive, last Feb., “The Directive was a job well done. But work is hardly finished. A Directive means little if it is not properly transposed in national law and rigorously implemented on the ground. We have to be vigilant to ensure that what is given by one hand is not taken away by the other”
- The remaining 3,5 years towards the opening of EU postal markets to full competition will be crucial; they will determine whether the path that has been followed so far (namely through the adoption of the 1992 Commission Green Paper, the 1994 Council Resolution and 3 successive Directives of 1997, 2002 & 2008) has managed to address in a satisfactory and efficient manner the main concerns of the postal sector, specifically from a user & provider perspective
- cf Questions about future developments in the postal sector and the challenges lying ahead