COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.10.2006
COM(2006) 595 final

REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

on the application of the Postal Directive (Directive 97/67/EC as amended by Directive 2002/39/EC)

{SEC(2006) 1293}

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(Text with EEA relevance)

1. THE IMPORTANCE OF POSTAL SERVICES AND THEIR CHANGING ROLE

In 2004, postal services in the EU earned about 90 billion EUR or 0.9% of the gross domestic product (GDP). The postal sector is thus of significant importance for the economy of the European Union. Postal services are labour intensive and are also one of the principal public employers in Europe. Employment in the sector is fairly stable with about 1.71 million persons in 2004 employed by universal service providers (USPs) according to the most recent estimation by WIK-Consult[1]. However, roughly 5 million jobs are related to postal activities, i.e. directly dependent on, closely related to or induced by the postal sector[2].

Postal services are an essential vehicle of communication and trade and are vital for many economic and social activities. The Internal Market, international trade and commerce, can only function given good communication and distribution channels. Many key sectors, such as e-commerce, publishing, mail order, insurance, banking and advertising depend on the postal infrastructure. It should also be noted that postal services bring social benefits which cannot always be qualified in economic terms (e.g. by contributing to regional and social cohesion). In addition, many of the USPs have an important role to play in the provision of other services (e.g. financial services) to EU citizens.

Postal services are changing fast. The sector is at the crossroads of three markets which are vital to the European economy: communications, advertising and transportation/logistics. Sector boundaries are blurring and adjacent sectors – which are fully open to competition - have to be taken into account. There are a number of drivers for change within the postal sector, the five most important are: changing customer demand, organisational change, market opening, automation/new technologies and electronic substitution.

Postal services are an important element of the Internal Market for Services[3] and are included in the framework of the Lisbon Strategy (fundamentally re-launched in 2005[4]) as a source for economic growth and job creation. According to the Lisbon Strategy, the Internal Market must be made fully operational[5], while preserving the European social model, an element of which is the provision of effective and high quality Services of General Economic Interest (SGEI). This is a key component of the European welfare state. Postal services are an essential element for ensuring social and territorial cohesion and contribute to

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1 WIK Consult, Main Developments in the Postal Sector (2002-2004), 2006.
2 Pls Rambøll, Employment trends in the EU postal sector, October 2002.
3 Communication from the Commission, Internal Market Strategy – Priorities 2003-2006 - COM(2003) 238, p. 13.
4 Presidency Conclusions, Brussels European Council, 22/23 March 2005.
5 Presidency Conclusions, Brussels European Council, 23/24 March 2006.

competitiveness[6]. Modern postal services continue to defy pervasive assumptions made some years ago that the sector was bound to decline due to the introduction of new and alternative communication technologies. Postal providers have, instead, taken advantage of innovative technology to increase productivity and offer new products. Some segments of postal services such as direct mail and home shopping have significant growth potential. At the same time, substitution (e.g. of transaction mail) is not materialising at the rate forecast some years ago. Mail is still relevant, but in order for this to continue to be the case further action is required. In the postal sector, gains arising from reform also need to be compared, as in other sectors, with the costs of not adapting or doing nothing. Examples of such costs might be increasing substitution, less use of technological innovations, less focus on the customer needs and in general a negative market dynamic.

2. BACKGROUND AND PURPOSE OF THIS REPORT

Article 23 of Directive 2002/39/EC (hereafter referred to as "the Postal Directive")[7] asks the Commission to report on the application of the Postal Directive to the European Parliament and Council "every two years".

The Commission provided its first Application Report in November 2002[8] and its second Application Report in March 2005[9]. As in the case of the 2005 Application Report, 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 Directive as well as detailed market trends (including economic, technical, social, employment and quality of services aspects). A more detailed assessment is presented in a Commission Staff Working Paper. This Report from the Commission to the Council and the European Parliament on the Application of the Postal Directive summarises and pulls together the main elements and findings of the Commission Staff Working Paper.

Despite the relatively short period which has elapsed since the last Application Report/Staff Working Paper, there have been some important achievements and significant changes have occurred in the postal sector.

A series of preparatory works for the new Postal Directive were undertaken in 2005/2006 by the Commission; they are described in detail in the annexed Staff Working Paper (see in particular Chapter 1.3). In addition, the Commission has drafted a Prospective Study and a Proposal for a Directive amending the current Postal Directive. All these documents are being submitted to the legislator at the same time. This third Application Report and the

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6 Communication from the Commission, Common Actions for Growth and Employment: The Community Lisbon Programme - COM(2005) 330.

7 Directive 97/67/EC of the European Parliament and the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service; Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services.

8 Report from the Commission to the European Parliament and the Council on the Application of the Postal Directive (97/67/EC) - COM(2002) 632.

9 Report from the Commission to the European Parliament and the Council on the Application of the Postal Directive (97/67/EC as amended by Directive 2002/39/EC) - COM(2005) 102 and SEC(2005) 388.

accompanying Commission Staff Working Paper therefore have to be read in conjunction with the Prospective Study and the legislative proposal.

At the same time, this Report and the accompanying Commission Staff Working Paper can be distinguished from the Prospective Study and the proposal for a new Directive since this Application Report looks back and assesses the impact of the Postal Directive during the years 2004-2006 (hereafter: the "reference period"). Ex post evaluations are the counterpart of impact assessments and they examine, at regular intervals, whether EU policies and programmes have achieved their objectives[10]. This is of particular importance in the context of the above initiatives in the postal sector due in 2006.

This Report confirms that postal reform in the EU is advancing well. Improvements have been made particularly as regards quality of services, customer orientation, business efficiency, and the separation of regulators from operators. The Commission believes that good results have been achieved so far – and in particular in the last 5 years. These achievements are illustrated in detail in the Commission Staff Working Paper and clearly show that further gains can be made through continued reform.

3. THE APPLICATION OF THE POSTAL DIRECTIVE AND REGULATORY DEVELOPMENTS

Currently all Member States have notified the transposition of the Postal Directive including those which joined the Community in 2004. Also, the further reduction of the reserved area on 1 January 2006 (to 50g) has been transposed in all Member States.

However, transposition is merely the first step in the process of full implementation of the Community framework. Clearly the legislative implementation has had a positive impact particularly on the achievement of core aims of the Directive, such as a substantial and measurable improvement of the quality of postal services, the establishment of a harmonised minimum level of universal service and the introduction of a gradual and controlled opening of the postal market to competition. It should, for example, be emphasised that throughout the reference period of this report service quality among postal operators in Europe – measured in delivery time – continued at a high level and exceeded the EU's performance objectives for delivery of 85% of intra-EU mail within three days, and 97% within five days. Another important element triggered by the Postal Directive is the independence of National Regulatory Authorities (NRAs) from the operators; the independence (understood in a broader sense) of the NRAs was further strengthened in the reference period. However, when it comes to successfully implementing some of the more complex elements of the Postal Directive such as licensing/authorisation schemes, price control and accounting, a very varied implementation by Member States can be observed. As a possible misinterpretation of these conditions could constitute a barrier to market entry, a review of national practices together with competent authorities of the Member States should be discussed. Administrative cooperation as regards pricing and transparency of accounts seems to be of particular importance.

Significant regulatory developments have also occurred in several Member States. These go beyond what is required by the EU regulatory framework. In particular on 1 January 2006 one Member State – the United Kingdom – fully opened up its postal market (joining the other

[10] Commission Legislative and Work Programme 2006 - COM(2005) 531.

two Member States that have de jure already fully opened their postal sector to competition: SE, FI). Equally Germany and the Netherlands have confirmed their plans to proceed faster than envisaged in the Postal Directive. Taking these developments into account and combining them with previous ones, around 60% of the EU letter post will effectively be opened up to competition by the end of 2007. The complete abolition of a reserved area in some Member States, its significant reduction in some others and the firming up of plans in several others gives a strong impetus to those Member States still applying a reserved area to move rapidly in the same direction.

4. MARKET TRENDS

During the reference period the postal market has continued to evolve towards a one way distribution market and away from the more traditional two way communications model. Today, more than 87.5% of letter post items (EU wide) are sent by businesses and organisations rather than individuals; the business to consumer (B2C) segment of the letter post alone now accounts for 62% of total volume, up from 60.5% in 2004. This trend is expected to continue as the growth rates of the connected products (unaddressed and addressed direct mail) are substantively higher than that of traditional letter mail as such. This is also one important element of optimism for the sector as a whole, but only if the pace of postal reform is maintained. Compared to other world economies, like the USA for example, there appears to be significant growth potential in the market (particularly in some of the EU-10 Member States). However, only a modern and dynamic postal market will be able to release the full potential of the sector. This potential has also to be seen in the broader context of the wider communications market which contains many new products and services (home shopping, e- commerce, hybrid mail[11] and value added services).

The postal sector has undergone a remarkable transformation in the last decade. A number of European postal companies have risen to the challenge. Growth oriented strategies and the prospect of gradual market opening have inter alia resulted in postal operators entering adjacent sectors. Political decisions in the 1990s started a process that has now gained its own momentum. The developments seen in the postal sector are not unique. Other sectors have already gone through equally far reaching changes. The evolution of the postal market is expected to continue and the pace of change is expected to quicken.

Growth in terms of revenue as well as in terms of profit margins has increased in the reference period. According to the available information, the profit rates achieved in the letter post business have been significantly higher than the rates in the more competitive parcel and express segment. In the letter post segment profit margins can vary between 10% and 20%, while in the parcel and express segment profit margins can be between 2.5% and 10%[12].

Meaningful competition in the letter post market has yet to develop. Objective analysis of market shares of competitors as well as subjective perception of key players both confirm that even in cases where the monopoly has been completely abolished or substantively reduced, real competition is only emerging. This concerns particularly letter post, items of correspondence as well as – with some notable exceptions – direct mail. Between 2000 and

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[11] "[This] involves the transmission of an electronic image of a document or its conversion in digital format and transmission to a distant point, where the image is printed out, enveloped and sent to the addressee." – COM(91) 476, p. 46.

[12] Particularly figure 4.2.19 in WIK, Main Developments, 2006.

2005 there seems to have been no significant growth in competition in this segment of postal services and this must be seen as giving rise to some concern.

Nevertheless, the mere prospect of market opening has created considerable momentum within the postal sector and is likely to further generate changes (e.g. operationally and customer focused). There seems to be broad agreement that postal services do not constitute natural monopolies. Competition is not an end in itself, but a means to promote innovation, investment and consumer welfare. Consequently, both static benefits, i.e. the efficient use of resources and capital goods at a given time – and dynamic benefits, i.e. the possibility of new and more efficient uses of resources and of capital goods over time – could be brought about by increasing competition.

Market opening of network industries, including the postal sector, was explicitly mentioned in the Kok Report[13] as an important part of the Lisbon agenda. If a functioning Internal Market in postal services is to be attained, a plurality of actions by different actors on the Community and national level will be required. This is in line with the understanding that Member States have a crucial role to play and that they must take full ownership of the Internal Market[14].

5. THE MARKET IMPACT OF THE POSTAL DIRECTIVE

The reference period is particularly illustrative of the positive achievements of the postal Directive; its implementation and application has had a major regulatory and market impact. In the reference period the further reduction of the reserved area to 50g (for letters) by 1 January 2006 has opened up an additional 7% of volume to competition. The planned and gradual process of full market opening and the outlook generated by the target date of 2009 for the achievement of full market opening has triggered a dynamic reform process, greater efficiency and the development of a far more customer-oriented market.

Market opening is but one element that has resulted from the Postal Directive. At the same time, the availability of a wide range of high quality universal services available throughout the Community has been confirmed in the reference period. While constituting a minimum, the requirements enshrined in the Postal Directive have been an important reference point for all stakeholders.

In general there is evidence that the positive effects of postal reform include more customer focused services. Consumer satisfaction as regards postal services ranks high[15] compared to all other services of general interest.

The postal sector, which offers a key communications infrastructure with high economic and social importance, also needs to develop in harmony with the major changes taking place in the communications, advertising and transportation/logistics markets or it will be left behind. The Postal Directive has so far ensured that this did not materialise but the pace of change in the wider communications markets needs to be followed.

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13 Report from the High Level Group chaired by Wim Kok, Facing the challenge, 2004, p. 23.

14 Commissioner McCreevy, Speech on 2 February 2005 in the Legal Affairs Committee of the European Parliament; Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Second Implementation Report of the Internal Market Strategy 2003-2006 - COM(2005) 11.

15 Special Eurobarometer, Services of General Interest, 2006.

The Postal Directive has been one of several forces contributing to postal reform in Europe. Based on the positive results so far – described in detail in the annexed Commission Staff Working Paper – further steps are needed at this crucial moment of development.

6. CONCLUSION

Confirmation of the timetable in the Postal Directive: finalise the construction site

All the intermediate policy results of the Postal Directive have been achieved to date: first, monopolies have been progressively reduced by either implementing the gradual market opening calendar enshrined in the Postal Directive (e.g. reduction of the reserved area to 50g on 1 January 2006) or by additionally opening important segments (such as direct mail) or fully opening the postal market (UK, SE, FI). Second, competition has grown and in the most advanced Member States the market shares of the incumbents have been reduced to around 90% and the perceived degree of competition has generally grown between 2000 and 2005[16]. Still competition has not grown as much as hoped. Third, universal service providers have restructured and successfully adapted to the regulatory and market developments. This is underpinned by the generally positive trend as regards overall revenue and profitability growth[17]. Fourth – as already illustrated - the quality of service has improved, consumer satisfaction is high and the universal service has been maintained.

Developments to date provide no evidence supporting the need for a change of the deadline of 2009 as set out in the Postal Directive. On the contrary, the important regulatory developments in the reference period of this report provide a strong impetus to those Member States that have not fully opened up their postal markets to follow suit. In addition the market conditions are favourable and the window of opportunity they present should be used.

Main focus: High level of universal service and consumer needs

The present Postal Directive is based on the principle of minimum harmonisation. It has already given Member States a number of possibilities to adapt universal service to the specific needs of the country in question. The reference period has given some examples where business oriented products – that are commercially appealing – no longer had to be considered as part of the universal service since the market fully ensures their provision.

On the other hand, the need to fully assure universal service rights for consumers and small businesses is generally uncontested. Individual consumers (including SMEs) and citizens must enjoy the same quality of service – if not better – after full market opening. Their needs, including future ones, must be the guideline. This also requires that their rights, when it comes to treating their complaints, should be strengthened (e.g. by extending appeal procedures to all operators). Furthermore, greater cooperation between National Regulatory Authorities could also enhance best practice. This might concern benchmarking and information exchange in relation to consumer complaints (i.e. by profiting from the practices of Member States that have more experience in dealing with complaints) or in relation to authorisation procedures and accounting.

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[16] See Chapter 4.1 and 4.6 of the Commission Staff Working Paper.

[17] See Chapter 4.4 of the Commission Staff Working Paper.