

MAIN POINTS

Objective of the Directive: The accomplishment of the postal internal market should be gradually further completed.

Affects: Public and private postal service providers; consumers.

CONTENT

Title

Directive 2002/39/EC from 10 June 2002 of the European Parliament and of the Council amending Directive 97/67/EC concerning **the full accomplishment of the internal market of Community postal services**

Summary

The Directive 2002/39/EC amends the first Postal Directive 97/67/EC in the following central points:

- ▶ The possibility for **Member States** to reserve certain postal services exclusively for the universal service providers is limited.

For the safeguarding of the universal postal service, member states **may reserve**:

- **as from 1 January 2003, only domestic mail and incoming cross-border mail weighing less than 100 gram**, the price of which is less than three times the public tariff in the first weight step of the fastest standard category.
- **as from 1 January 2006, only domestic mail and incoming cross-border mail weighing less than 50 gram**, the price of which is less than three times the public tariff in the first weight step of the fastest standard category.

If necessary for maintaining the universal service, direct mail may be reserved for universal service providers within the same weight and price limits.

The markets for all **outgoing cross-border mail** are in principle **opened to competition**. Only when necessary in order to safeguard the universal postal service, these services can remain reserved within the above-mentioned weight limits (new Art. 7, paragraph 1).

- ▶ **The Commission will conduct a prospective study** assessing the **impact on the universal postal service in all member states** of completely opening up of the postal market as planned in 2009. On the basis of this study, the Commission will propose by 31 December 2006 further measures to be taken to complete the liberalisation of the postal markets, such as for example the confirmation of the date for the accomplishment of the internal postal market by 2009. (new Art. 7, paragraph 3).
- ▶ If a universal service provider **offers special conditions** to business customers, bulk mailers, or other postal service providers, it **may not treat these customers differently** with regard to tariffs or conditions. Private customers must also receive the same special conditions if they submit mailings under similar conditions (new Art.12, 5th indent).
- ▶ The **cross-subsidisation** of parts of the universal postal service which are not part of the reserved area with revenues generated from services in the reserved areas is **in principle not allowed**. Only when cross-subsidisation is absolutely necessary to satisfy universal service requirements in a non-reserved area, it is possible to allow for an exception, which is to be monitored by the national regulatory authority (new Art. 12, 6th indent).
- ▶ Member states **must amend** the existing procedures for the handling of complaints. They must establish a procedure for clarifying liability, a.o. for loss or damage of universal service deliveries in cases in which more than one service provider is involved. In addition, the member states can determine that recipients of services, which are not part of the universal postal services or which are not provided by the universal service provider can also utilise this complaint procedure. (new Art. 19, paragraph 1).
- ▶ Member states shall transpose this directive into national law by 31 December 2002. The amended Directive is valid until 31 December 2008 (new Art. 27).

Changes to the Status quo

The directive 2002/39/EC amends the existing directive 97/67/EC. The possibility for Member States to reserve domestic mailings and incoming cross-border mail is limited: as from 2003 from 350 gram to 100 gram; as from 2006 from 100gram to 50 gram. The outgoing cross-border mail is completely opened to competition. As a matter of principle, cross-subsidisation with revenues generated in the reserved sectors is not permitted. For the first time, the directive includes the year 2009 as the date set for the accomplishment of the internal postal market.

Subsidiarity Justification

The directive does not include any subsidiarity justification.

Positions of the EU Institutions and Bodies

European Commission

The original plans by the Commission were for a more ambitious schedule for the further opening of the postal market. The Commission wanted to accomplish the internal postal market in Europe in two phases. The weight and price limits were to be reduced to 50 gram on 1 January 2003 before they were to be completely removed on 1 January 2007. Reserving postal services would only then be possible where necessary for the safeguarding of the universal postal service.

Committee of the Regions

The Committee of the Regions in principle agrees with a gradual and controlled liberalisation of the internal postal market. However, according to the Committee, it should be reviewed as to how desirable a complete liberalisation would in fact be regarding the special status of universal postal services. The Committee of the Regions advocates the weight limit for reserved services to be reduced only to 150 gram instead of to 50 gram and that the aspect of employment play a central role in the decision regarding liberalisation. The opening of the postal market should not lead to a worsening of working conditions.

European Economic and Social Committee

The EESC supports the long-term goal of the accomplishment of the internal postal market and supports a cautious continuation of the liberalisation of the postal sector. The maintenance of both the universal postal service and the jobs in the postal sector, as well as solutions to social issues regarding the presence of post offices in rural regions are matters that must be taken into consideration, according to the EESC.

European Parliament

The EP is opposed to a general reduction of the weight limit for reserved services to 50 gram. It demands a weight limit of 150 gram or a price limit of four times the public tariff. It also opposes the fundamental liberalisation of the market for outgoing cross-border mail. The EP emphasizes the importance of permanent provision of universal postal services, a high level of employment and a high degree of social protection in the postal sector.

Council – “Transport and Telecommunication”

The Council endorses the objective of the Commission to accomplish the internal postal market in Europe. The common position of the Council envisions a complete liberalisation in three steps by 2009. It includes that the Commission is to provide a recommendation by the end of 2006, in which it possibly confirms the date of 2009 for the accomplishment of the internal postal market.

Status of the Legislation

30 May 2000	Adoption by Commission
29 November 2000	Opinion of the European Economic and Social Committee
13 December 2000	Opinion of the Committee of the Regions
10 June 2002	Adoption by the European Parliament and Council
05 July 2002	Publication in the Official Journal and entry into force

Options for Political Influence

The Directive has been adopted and has entered into force.

Formalities

Competence:	Article 47, paragraph 2 TEC (Right of Establishment), Article 55 TEC (Services), Article 95 TEC (Internal Market) in the version of the Amsterdam Treaty
Type of Legislative Competence:	Concurrent Legislative Powers
Procedural Method:	Article 264 TEC (Co-decision Procedure) in the version of the Amsterdam Treaty