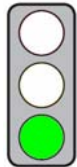


MAIN POINTS

Objective of the Directive: The internal market for postal services should be accomplished and the universal postal service should be safeguarded in all Member States.

Affects: Public and private postal service providers; consumers and enterprises.



Pro: Competition on the European postal markets is enabled. The universal service is safeguarded.

Contra: —

Need for Changes: No changes needed. The directive should be adopted.

CONTENT

Title

Proposal COM (2006) 594 (final) of 18 October 2006 for a **directive** 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 Commission recommends the **full opening of the European postal markets as of 1 January 2009**. This proposal for a directive plans for the following amendments to the Postal Directive 97/67/EC (in the version of Directive 2002/39/EC):

Termination of the postal monopolies

- ▶ As of 1 January 2009, all **postal monopolies will be terminated**. Postal services can then no longer be reserved for an operator with exclusive or special rights (new Art. 7, paragraph 1).

Universal postal service

- ▶ Member States may designate one or more companies as universal service providers for the supply of the universal postal service for the entire region or for portions thereof, as well as for certain elements of the universal service.
Every member state must determine and publish the rights and obligations of the universal service providers. The assignment must be objective, transparent, non-discriminatory and proportionate. It should distort the market as little as possible and be limited in time (new Art. 4, paragraph 2).
- ▶ The measures taken by the Member States to ensure the universal service will be monitored by a committee appointed by the Commission (new Art. 4, paragraph 1 and new Art. 21).

Financing of the universal postal service following the end of the postal monopolies

- ▶ The following mechanisms are proposed for the financing of the universal service:
 - the provision of universal service through public tendering (new Art. 7, paragraph 2);
 - compensations in case the universal service obligations lead to disproportionately high net costs for the universal service provider:
 - through public funds (state aid) (new Art. 7 paragraph 3 (a)), and/or
 - through a compensation fund, financed through fees paid by universal service providers and/or users of postal services (new Art. 7, paragraph 3(b) and paragraph 4).

Conditions for providing postal services

- ▶ For services, which fall within the scope of the universal service (in Germany that includes a.o. letter mail up to 2 kg and packages up to 20 kg), member states may require authorisation procedures.
The granting of authorisations may:
 - involve requirements concerning quality and be made subject to universal service obligations, **or**
 - be subject to the obligation to make financial contributions to the compensation fund (new Art. 9, paragraph 2, 1st and 2nd indents).
- ▶ Authorisations for such licenses may not be limited in number. Universal service and quality obligations for a service provider may not be combined with the obligation to make financial contributions to a compensation fund. These regulations do not pertain to undertakings that have been designated as universal service providers (new Art. 9 paragraph 2, 3rd indent).

- ▶ Whenever necessary to protect the interests of users or to promote effective competition, member states shall make certain elements of the postal infrastructure available to all operators. This includes a.o. the postcode system, address databases, post office boxes, and collection and delivery boxes (new Art. 11a).

Prices for the universal service

- ▶ Prices for the universal postal service must be affordable, cost-oriented, and must stimulate efficiency. Deviating from the principle of cost-orientation and as far as necessary for reasons of public interest, member states may apply uniform tariffs to services provided at single piece tariff. Those are mailings which are part of the universal postal service and which are sent at a fixed price (for example, items mailed using postal stamps). In case of legitimate reasons of public interest, member states may apply uniform tariffs to other services as well (new Article 12b).

Additional provisions

- ▶ Universal service providers no longer must keep accounts for universal services separate from other services if the universal service is not longer being subsidised by public means or by private means of other operators and competition in the market is fully effective (new Article 14).
- ▶ All post operators must establish transparent and inexpensive procedures for dealing with postal users' complaints, so that disputes in cases involving loss or damage of shipped items can be promptly settled. The customer has a right to reimbursement and/or compensation (new Article 19).
- ▶ Member States holding stakes in undertakings providing postal services shall ensure separation of the regulatory functions from activities associated with ownership or control (new Article 22).
- ▶ While there exists a right to appeal a decision of a national regulatory authority, such appeal shall have no suspensory effect. (new Article 22).
- ▶ Postal operators must provide any necessary information, including financial information, if justifiably requested by the national regulatory authority or for clearly defined statistical purposes (new Article 22a).

Changes to the Status quo

- ▶ The current option of reserving certain areas of the postal market for universal service providers is abolished.
- ▶ The financing of the universal postal service is complemented by the option of public tendering. In case of disproportionately high net costs for providing the universal service, the directive allows for public compensation through state aid.
- ▶ The rules regarding the compensation fund are specified. Those undertakings that are providing certain universal services but that are not designated as universal service providers may no longer be obligated to both provide certain universal services and pay into the compensation fund.
- ▶ Member States may only introduce uniform tariffs for single piece tariff mail when necessary for reasons of public interest.
- ▶ Universal service providers no longer must keep accounts for universal services separate from other services if universal service is no longer being subsidised by public means or by private means of other operators.
- ▶ All postal service providers must install a procedure for users' to file complaints.
- ▶ Member States that retain ownership or control of undertakings providing postal services must ensure separation of the regulatory functions from activities associated with ownership or control.
- ▶ Postal service providers are required to provide all necessary information, including financial information.

Subsidiarity Justification

According to the Commission, the objectives of the Directive proposal – the accomplishment of the internal Postal Market – cannot be sufficiently achieved by the member states. As proof thereof, the Commission points out the various degrees of liberalisation of the national postal markets: there are still distinct monopolies in several Member States, while others have already abolished them. The extent and objectives of the proposal thus can be better achieved on the Community level.

Positions of the EU Institutions and Bodies

European Commission

The Commission aims at reaching full liberalisation of the internal postal market by 2009. The Commission's central points are the abolishment of all postal monopolies and the EU-wide safeguarding of the universal postal service.

Committee of the Regions

Undecided.

European Economic and Social Committee

Undecided.

European Parliament

Undecided.

Council – “Transport, Telecommunications, and Energy”

On 11 December 2006, the Council held an exchange of ideas without outcome.

Status of the Legislation

18 October 2006

Adoption by Commission

11 December 2006

Discussion in the Council

Open

Adoption, publication in the Official Journal and Commencement

Options for Political Influence

Leading Directorate-General:

DG Internal Market and Services

Committees of the European Parliament:

Committee for Transport and Tourism (responsible), Rapporteur Markus Ferber (PPE-ED-Faction, D); Economic and Monetary Affairs; Employment and Social Affairs; Industry, Research and Energy; Internal Market and Consumer Protection; Regional Development.

Committees of the German Bundestag:

Committee for Economics and Technology (leading); Committee of the Interior; Nutrition, Agriculture, and Consumer Protection; Affairs of the European Union.

Procedure for Council Decision:

Qualified majority (Adoption by a majority of the Member States and by 255 of 345 votes; Germany: 29 votes)

Formalities

Competence:

Article 47, paragraph 2 TEC (Right of Establishment), Article 55 TEC (Services), Article 95 TEC (Internal Market)

Type of Legislative Competence:

Concurrent Legislative Powers

Procedural Method:

Article 251 TEC (Co-decision Procedure)

ASSESSMENT

Economic Impact Assessment

Regulatory Policy Assessment

Through the abolition of one of the last state-secured monopolies, the **directive strengthens economic freedom and allows for full competition on the postal market** for the first time. The insight, that the **organisation of the postal markets is to be separated from** the politically predetermined **universal postal service**, is to be welcomed. The **opening of the postal markets does not endanger** the aim of providing an area-wide **universal postal service**.

Hence, the postal monopoly cannot be justified. In EU countries such as Sweden, Finland and Great Britain, where the postal markets have in principle been opened to competition, universal service has been maintained, and quality and reliability of postal services has improved.

Impact on Efficiency and Individual Choices

There is no alternative to **opening the postal markets** to European-wide competition. It increases the product choices for consumers and leads to innovations and thus also to the more efficient provision of postal services. It is exactly this that **enables** the long-term provision of the **universal postal service at affordable prices**. The proposal gives the member states sufficient leeway for designing measures to finance universal service. In this context, the use of **mandatory uniform tariffs** as a means of cross-subsidising universal service is **inappropriate** as it would too severely limit price competition between the providers, as well as limit the selection of users' choices.

If some of the universal services are not provided through market forces, their financing must still be based on an efficient provision. The planned instrument of **public tendering is more apt** to reach this goal **than the imposition of an obligation to provide universal service** that would be financed through state aid or fees paid by competitors. Public procurement of services leads to competition for the universal postal service and renders the calculation of the exact costs of the universal service through separate accounting unnecessary. **No decline in the level of service provision**, such as the availability in rural areas, is **to be expected** following the abolition of postal monopolies. The minimum requirements for the universal service are politically specified – in Germany in the Post-Universaldienstverordnung.

Current **regulations do not allow** for a **decline in the postal services** offered in Germany: Deutsche Post AG has to a large extent already reduced its services to the minimum level required by law. Since the beginning of the gradual liberalisation in Germany in 1997, Deutsche Post AG has already reduced the number of post offices by 18%, nearly reaching the minimum number of post offices of 12,000 prescribed by law.

Impact on Growth and Employment

Postal services in the EU make a significant contribution to the EU economy. Contributing EU-wide revenues of about 90 billion EUR, the sector provides direct employment to 1.7 million citizens. Including related sectors, it facilitates 3.5 million jobs.

The **opening of the European postal markets** will lead to more growth in the sector and hence **is the best guarantee for** a rise of **employment** in the postal sector. Although it cannot be excluded that some former monopolists will reduce employment, many of them have already completed their preparations for market liberalisation over the past few years. In addition, it can be expected that private postal providers create a considerable number of new jobs.

A [CEP Study](#) (pdf-file, 140kb) concludes that the liberalisation of the postal market can create **at least 31,000 new jobs in Germany on a net basis**. The establishment of **equal terms of competition is a prerequisite for** securing fair market wages for postal employees, as well as for creating **competition for the best employees, which tends to result in higher wages**.

The abolition of the postal monopolies will enable private postal operators to offer a more complete range of services as well as to establish a consistent customer base, allowing these undertakings to operate more efficiently. Other privileges that discriminate against private operators, such as Deutsche Post's value-added tax exemption, also have to be abolished. The **opening of the postal sector will** lead to more innovations, price decreases, and efficiency gains, which will **increase the growth potential** in the upstream sectors and in those using postal services.

Impact on Europe's Quality as a Business Location

Within the EU, 87.5% of all letters are sent by companies. The **directive** lowers the cost for business activity, especially for economic sectors with large mail volumes, such as the advertising sector. The directive **strengthens** the incentives for these companies to become active within the EU and hence reinforces the **quality of Europe as a business location**.

Subsidiarity and Proportionality

Justification of State Action

The postal monopoly, which is established in the German Postal Act, can only be abolished by state acting.

Legitimacy and Adequacy of EU Action

The EU-wide opening of the postal markets can only take place through EU action. This is the only way to guarantee the freedom of establishment and of provision of services.

Proportionality

The directive is a proper means for achieving the objective of opening the postal markets while at the same time safeguarding the provision of universal postal services. The **obligations for financial contributions and reporting** in the directive are necessary, but at the same time, they are kept as unobtrusive as possible, thus remaining **proportional**. The provision that **appeal against a decision** by a regulatory authority **has no suspensory effect** pending the outcome of the decision of the appeal **is appropriate**. It removes the opportunity for member states to hinder free competition through contrarian regulations.

Legal Assessment

Legality of the Directive, Compatibility with EU Law

Unproblematic. With the directive, the Commission takes the final step within the framework of the targeted accomplishment of the internal postal market.

Compatibility with German Law

Unproblematic. Almost all of the provisions in the directive already exist in the German Postal Act, so that only minimal adjustments have to be made.

Alternative procedure

—

Possible future follow-up action by the EU

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Summary of the assessment

The directive allows full competition on the European postal markets for the first time. It offers advantages for those demanding postal services and has a positive impact on employment. The provision with universal postal service remains safeguarded. The directive should be adopted.