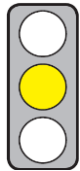


KEY ISSUES

Objective of the Communication: The Commission wants to stimulate cross-border e-commerce in the EU by improving parcel delivery conditions.

Parties affected: Consumers, delivery operators, e-retailers.



Pro: The active inclusion of all the main interest groups in the decision-making process increases the acceptance of the agreed measures.

Contra: (1) The consolidation of small shipments from smaller e-retailers delays their parcel delivery and puts them at a competitive disadvantage with regard to large e-retailers.

(2) Obligatory tracking of shipments in the case of "lighter parcels" restricts competition and leads to reductions in efficiency.

CONTENT

Title

Communication COM(2013) 886 of 16 December 2013: A **roadmap** for completing the single market for **parcel delivery**. Build trust in delivery services and **encourage online sales**

Brief Summary

► Context and objectives

- Cross-border e-commerce is growing more slowly than domestic e-commerce. According to the Commission, this is particularly due to uncertainty about cross-border parcel delivery. "Parcel" means any item weighing between 100 g and 30 kg (p. 2, footnote 6).
- There are "information asymmetries" on the cross-border parcel delivery market between consumers and delivery operators as well as between e-retailers and delivery operators, which the Commission sees as "signs of some market failures" (p. 3 et seq., 6).
- Difficulties in relation to cross-border parcel delivery also arise where delivery operators do not have access to a cross-border delivery network. Such delivery operators have to enter into a cooperation on cross-border delivery,
 - either with a universal service provider (this is a delivery operator, which provides the minimum statutory comprehensive service)
 - or with another delivery operator.
- The Commission sets out four areas of action, which could make "tangible" improvements to cross-border parcel delivery and thus promote cross-border e-commerce (p. 2 et seq.):
 - Transparency in the cross-border parcel delivery market will be increased for all those involved in e-commerce - namely consumers, delivery operators and e-retailers.
 - National regulatory authorities will collect more data on cross-border parcel delivery.
 - The quality of delivery, i.e. punctual delivery of ordered goods, to the right place, in an undamaged condition, will be improved. Cross-border parcel delivery will be offered at more "affordable" prices and be more easily available to remote areas or peripheral regions.
 - Consumer protection will be enhanced; particularly the options for addressing complaints to e-retailers and delivery operators and for settling any disputes out of court, when there are problems with cross-border delivery.

► Greater transparency

- According to the Commission, consumers have a lack of reliable information about parcel delivery.
- The Commission wants (p. 9, 15)
 - e-retailers to allow consumers to evaluate their delivery experience,
 - the trust marks used in e-commerce to be extended to include delivery requirements and
 - e-retailers to undertake to provide "easily understandable" information on cross-border shipments on their websites; this refers in detail to (p. 3 et seq.):
 - shipping tariffs,
 - delivery options such as relay points, parcel kiosks and express delivery,
 - delivery periods,

- return options such as collection from the consumer, exchange of goods, return with acknowledgement of receipt and return by way of another delivery operator, and
 - "mechanisms" whereby consumers can make complaints in the case of damage, delivery of the wrong product or failure to deliver at all, or whereby they can settle disputes.
 - Member States will ensure that consumers and delivery operators are "regularly" and transparently given "sufficiently detailed information" by universal service providers about the shipping prices and delivery options (p. 11).
 - The Member States will ensure that e-retailers receive more detailed information on national and cross-border shipping information, e.g. via publicly accessible websites available in their own language (p. 10, 15).
 - All delivery operators and intermediaries involved in cross-border delivery - e.g. consolidators and "parcel brokers" - will be given the possibility of presenting their services on such websites. "Parcel brokers" are agents who inform particularly small and medium-sized e-retailing enterprises (SMEs) about delivery operators and delivery options and who negotiate shipping prices with delivery operators on behalf of SMEs. (p. 10)
 - E-retailers and delivery operators will establish "basic features" - such as parcel sizes, delivery periods and additional services - which are based on "consumer needs" (p. 10, 15).
 - The Commission will organise dedicated meetings and workshops with all "relevant" interest groups - namely consumers, delivery operators and e-retailers - in which the measures will be agreed. Subsequently the implementation of the agreements will be monitored and assessed. (p. 7, 10, 16)
- **More data for national regulatory authorities**
- Member States will ensure that national regulatory authorities for postal services can collect "relevant" market data on domestic and cross-border parcel delivery. Relevant market data refers inter alia to (p. 11)
 - parcel volumes,
 - shipping tariffs,
 - "terminal payments", i.e. the proportion of the shipping tariff paid to the destination delivery operator in the case of cross-border delivery (p. 8, footnote 19),
 - delivery options,
 - quality of deliveries and
 - country-specific rules on parcel delivery, e.g. provisions on value added tax and environmental and consumer protection provisions.
 - This data will be collected for delivery to end-consumers (Business-to-Consumer, B2C) as well as delivery to business customers (Business-to-Business, B2B) and published annually (p. 11, 15).
- **Higher quality, lower prices and improved availability of parcel delivery**
- Member States establish "clear" quality standards for the universal service providers in relation to cross-border parcel delivery - e.g. minimum standards for speed of delivery - and ensure "independent" monitoring (p. 11, 15).
 - Closer cooperation between delivery operators and e-retailers will, in particular, reduce costs for SMEs with regard to cross-border deliveries. Small, cross-border shipments from several e-retailers will be "systematically" consolidated prior to dispatch by the delivery operators or the intermediaries involved. This will also apply accordingly to returns. (p. 12, 15)
 - Delivery operators and e-retailers will improve the interconnection of their information systems and facilitate data exchange with each other via "open interfaces". Increased interoperability and "innovative data flow solutions", in relation to cross-border deliveries, will
 - speed up the exchange of information,
 - facilitate the consolidation of small shipments and
 - reduce administration costs. (p. 12, 15)
 - In order to achieve greater interoperability between delivery operators and e-retailers in the case of cross-border delivery, the tracking of shipments ("track and trace") and the labelling of parcels will be harmonised. The Commission is considering whether to stipulate shipment tracking for "lighter parcels" - 100 g to 2 kg - at "affordable" prices. (p. 6, 12, 15)
 - The Commission will give a mandate to the European Committee for Standardization (Comité Européen de Normalisation, CEN) to develop voluntary standards for an EU-wide "address system" - with standard address labels and standard positioning on parcels (p. 13, 15).
 - Solutions for returns in the case of cross-border parcel delivery should be made easier and "more effective" (p. 12, 15).
- **Enhanced consumer protection**
- Member States will ensure that out-of-court settlement procedures, as provided for under the Directive on alternative dispute resolution for consumer disputes (Directive 2013/11/EU), are also applied to problems relating to parcel delivery (p. 13, 15).

- Solutions for handling complaints will be extended and made more "consumer friendly". For this purpose, the Commission will (p. 13, 14, 16)
 - give a mandate to the CEN to develop voluntary standards so that complaints about damaged, delayed or lost parcels can be recorded according to uniform standards,
 - request the European Regulators Group for Postal Services (ERGP) to analyse consumer complaints connected to cross-border parcel delivery.

► **Monitoring, assessment and follow-up measures**

- The Commission will monitor the progress of the measures which it is proposing. From mid-2015 it will (p. 3, 7)
- take stock,
 - correct actions which have not been fully accomplished or have proven to be ineffective and
 - consider the necessity of additional measures including legislative provisions.

Policy Context

According to the Commission, e-commerce creates new jobs and is therefore tied to the Communication on a European contribution towards full employment [COM(2010) 682; see [cepPolicyBrief](#)]. The Commission's Communication on the E-commerce Action Plan [COM(2011) 942; see [cepPolicyBrief](#)] therefore already sets out its goal of extending e-commerce by 2015. This will also be achieved by way of better quality parcel delivery conditions which are equal across Europe. The Green Paper on Parcel Delivery [COM(2012) 698; see [cepPolicyBrief](#)] identifies four areas of action in which measures to improve cross-border parcel delivery should be taken. This Communication proposes more concrete measures for these areas of action. The fifth report on the application of the Postal Service Directive (Directive 97/67/EC), which the Commission still wants to publish in 2014, will focus on cross-border parcel delivery. Parcel delivery also depends on the aspects of transport infrastructure and the policy requirements for CO₂ emissions in inner cities covered by the Transport White Paper [COM(2011) 144; see [cepPolicyBrief](#)].

Options for Influencing the Political Process

Directorates General:	DG Internal Market and Services (leading)
Committees of the European Parliament:	Internal Market and Consumer Protection (leading), Rapporteur TBA
Federal Ministries:	Economic Affairs and Energy (leading)
Committees of the German Bundestag:	Economic Affairs and Energy (leading); Legal Affairs and Consumer Protection

ASSESSMENT

Economic Impact Assessment

The fact that the volume of cross-border e-commerce is lower than domestic e-commerce does not mean that the parcel delivery market is dysfunctional per se. In fact, particularly in the case of consumers, it is more a reflection of the language barriers and uncertainty about the applicable law on the sale of goods. Greater use of cross-border e-commerce would, however, have four major advantages for consumers: Firstly, they could buy the desired product in the Member State where it is cheapest. Secondly, since this would increase the competitive pressure for domestic suppliers, consumer prices would also fall at home. Thirdly, the choice of products available to consumers would increase. Fourthly, greater use of cross-border e-commerce would have the result that more delivery operators would offer cross-border delivery, which would result in more competition and thus in better cross-border delivery conditions.

A mechanism for consumers to evaluate the delivery would provide e-retailers with feed-back on delivery quality. This information allows them to choose delivery operators and delivery options which correspond to the preferences of the consumer. However, since e-retailers already have enough incentive to look after the consumer's needs, it is doubtful whether measures by the Commission are necessary in this regard.

The inclusion of delivery conditions in trust labels would make such labels more expensive. Here too the question arises as to why the delivery conditions have not generally been included in trust labels before now if, according to the Commission, there is a need for such information.

Voluntary commitments by e-retailers to provide all shipping information - particularly shipping tariffs and delivery options - may make it easier for consumers to compare delivery options. However, it is doubtful whether voluntary commitments for e-retailers are necessary since it is already in their own interest to provide delivery information where consumers need such information for cross-border online purchases; such information would then increase the turnover of e-retailers. If e-retailers have, until now, only provided a limited amount of cross-border shipping information, it is likely that this information did not significantly promote cross-border e-commerce.

Publicly accessible websites with national and international shipping information, on the one hand, make it easier to compare delivery prices and thus increase competition on the cross-border parcel delivery market,

which may result in a fall in delivery prices. On the other hand, e-retailers and delivery operators incur costs in setting up and operating such comparison websites. Furthermore, these websites have already been set up in some Member States by third parties, which makes legislation seem superfluous - at least in these Member States.

By **actively including all of the main interest groups in the decision-making process**, by way of "regular" meetings and workshops, the Commission turns those affected into participants, which **increases the level of acceptance of the agreed measures** among those affected. The number of discussion partners admittedly also puts up the costs of the decision-making process.

The collection of "relevant" market data by national regulatory authorities gives rise to costs for the delivery operators. This is particularly true where the information is not already available to the delivery operators and they have to collect it separately. These costs may lead to higher consumer prices.

By **consolidating small shipments**, smaller e-retailers can, on the one hand, profit from economies of scale and thus reduce costs; on the other hand, it **leads to a delay in delivery of the parcel and thus to a competitive disadvantage as compared with large e-retailers**. Since competition has not so far given rise to cooperation on parcel delivery, we may assume that the disadvantages outweigh the advantages. A legislative requirement for small shipments to be consolidated would represent major interference with the freedom of contract.

The obligatory tracking of shipments for "lighter parcels" represents a restriction of competition on the parcel delivery market, limits the freedom of consumers and companies **and** amounts to pure paternalism. It **leads to losses in efficiency**, which are made worse by administered prices.

Legal Assessment

Legislative Competency

Unproblematic. The Commission can propose non-binding measures (Art. 17 TEU). In particular, it can give a mandate to the CEN to develop voluntary standards (Art. 10 (1) Regulation (EU) No. 1025/2012). As regards additional legislative provisions on general cross-border parcel delivery, which the Commission wants to examine as from mid-2015, the internal market competence may be used (Art. 114 TFEU). For additional legislative provisions, particularly relating to the universal service, there is a power to establish services of general economic interest (Art. 14, sentence 2 TFEU), but only by way of Regulation.

Subsidiarity

Unproblematic. As regards further legislative provisions, we need to wait and see how they are actually worded.

Proportionality with Respect to Member States

Unproblematic. As regards further legislative provisions, we need to wait and see how they are actually worded.

Compatibility with EU Law in other Respects

Assessment not yet possible.

Impact on German Law

Assessment not yet possible.

Conclusion

The active inclusion of all the main interest groups in the decision-making process increases the acceptance of the agreed measures. The consolidation of small shipments by smaller e-retailers delays their parcel delivery and puts them at a competitive disadvantage with regard to large e-retailers. Obligatory tracking of shipments in the case of "lighter parcels" restricts competition and leads to reductions in efficiency on the parcel delivery market.