

Newsletter

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EDITORIAL



Philippe Bodson

In Member States where postal services markets have been already liberalised, the prices for stamps have remained stable during the course of last year. This is the main finding of our 2008 stamp prices survey.

This survey also shows the importance of national regulators in ensuring the maintenance of the universal service and adequate cost-based tariff setting. A quick decision on pending state aid cases by the European Commission might help to provide further guidance on cost and financing of the universal service.

I am therefore very pleased to feature in this issue, Mr Ulrich Damman's, Chairman of the European Committee for Postal Regulation, statement on the matter, which highlights the challenges faced by the European postal regulators and the need for transparent, equal, fair and harmonised postal regulation throughout Europe.

On the same subject, the January European Commission's report on the application of the Postal Directive reiterates the important role of the national regulators in the opening of the market.

The Commission also reveals in this report that the development of competition in the postal market remains very slow.

Postal users are concerned by the slow development of competition in this area that may be attributed to the lack of legal certainty which persists in the postal sector and prevents postal operators to enter other markets.

The coming months will be crucial for the implementation of the Third Postal Directive. In this context, postal stakeholders are looking forward to having the Commission's final decision on the pending cases which challenge Member States for non compliance with competition in order to set the right legal standards for financing of universal service and increase legal certainty in this area.

Philippe Bodson ■

STATE AID IN THE POSTAL SECTOR

Legal uncertainty persists

In the context of the current financial crisis, the provision of state aid has appeared to become more and more accepted. However, difference must be made between what is allowed and what constitutes an unlawful state aid.

According to the Community framework for State aid in the form of public service compensation, a public service compensation must not exceed the net costs entailed by the undertaking in providing the public service. This aims at preventing undertakings from using public service compensation to cross subsidise commercial activities.

Despite this legal framework, legal uncertainty persists in the "soon to be opened" and in some "already opened" postal markets due to the numerous competition cases on state aid which are still pending. Some of these cases have been launched years ago but the Commission has still not taken any decision on them. For instance, in September 2007, the Commission launched an infringement procedure against Deutsche Post and Germany on the topic of States Aid, suspecting Deutsche Post to have used public funds to cross subsidise commercial activities.

It is important to have an early decision on this case. The Commission has often indicated that the development of competition in the market cannot only be achieved through Directives but also requires jurisprudence to provide legal certainty and clarification on aspects such as the financing of the universal service. With less than 2 years to go before market opening in the rest of the EU, such clarity is needed.

The decision with regards to Germany and Deutsche Post is not the only pending decision on state aid case. The Commission also needs to deliberate on other cases such as the unlimited state aid guarantee for La Poste France (case C 56/2007), the alleged aid of Royal Mail (case C7/2007), etc.

The key principle behind these decisions is not to repair the damages of the past but to set the limits for the future. As it stands now, dominant operators like Deutsche Post, La Poste or Royal Mail will continue to act as they do now because new entrants will continue to be discouraged to enter the market due to lack of legal certainty. Member States are currently reviewing their legislative framework in order to open up their market by 1 January 2011 or 2013. National Regulators are being reformed and prepared so as to deal with a new open market. The decisions of the pending state aid cases should clarify the legal principles, which will help Member States to better implement the Third Postal Directive. ■

WHAT IS NEW IN THE MEMBER STATES

Discuss full postal liberalisation at national level.

One year after the adoption of the Third Postal Directive, only few Member States have already fully opened their postal market. However, discussions on the liberalization of the postal services has already begun in several Member States.

Until now, the Netherlands have continuously postponed the date set for the liberalisation of their market. The date was first set on 1 January 2008 but given the establishment of a minimum wage in Germany, the date was finally postponed to a future, unspecified date.

However, as stakeholders seem to be close to an agreement on a minimum standard for the terms and conditions of employment in the Dutch postal, the Dutch government decided early this month to fully open the Dutch postal market as of 1 April 2009.

In Belgium, things are also moving slowly. Discussions on the draft bill implementing the European postal Directive are on-going between Belgian ministries. A first draft should be soon presented to the Council of Minister and discussions in the Belgian Parliament should start later this year.

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However, some stakeholders fear that by establishing conditions to enter the market, such as the obligation to cover a percentage of the national territory, the Belgian bill would develop barriers at the entry instead of suppress them and could harm the development of a free and faire competition. On the other side, Belgium has just adopted a legislation giving more power to the postal regulator.

In France, discussions are also on track. Beginning of December the French Committee on the future of La Poste issued its report* in which it makes clear proposals on how to improve La Poste's performance and functioning in order to be ready for the full liberalisation of the market on 31 December 2010. On the basis of this report, the French government should make its recommendation to the Parliament before the summer this year. ■

*http://www.premier-ministre.gouv.fr/IMG/pdf/Rapport_Ailleret.pdf

VIEWPOINT

European Postal Regulators facing up to the challenges of liberalisation

By Ulrich Dammann, Chairman of the European Committee for Postal Regulation, CERP

CERP is a committee of the European Conference of Postal and Telecommunications Administrations and, as such, is a restricted union of the Universal Postal Union. Over and above that, CERP is the relevant forum where European postal regulators meet at regular intervals to discuss and develop common viewpoints. As sixty percent of the 48 CERP member countries are EU members, it is obvious that the majority of regulators have a keen interest in addressing EU matters too.

CERP has recently restructured its organization in order to enable the organization to rise more effectively to the challenges arising from the liberalization of the European postal market. The new structure will allow a more result-orientated approach to be taken within the different project teams (PTs) and working groups (WGs). This will lead to guidelines and best practice solutions which will stipulate harmonized and non-discriminatory application of the Postal Directives throughout the European Union. Reports that have been approved until now can be downloaded from CERP's website www.cept-cerp.org (General Information – History – Documentation).

The new structure provides three levels:

- The Plenary is still the body where documents have to be approved.
- Two WGs have been set up: WG "Policy" will check the reports by the PTs from the angle of legislation, whereas WG "Application" is responsible for the aspect of application within the regular work of the National Regulators Authorities (NRAs).
- The basic work is performed in nine PTs: Cost Accounting and Price Regulation, Financing of the USO, Consumer Issues, Statistics, National Regulatory Authorities, Sustainable Development, Market Supervision, Policy, Universal Service.

The majority of projects are directly linked to provisions set forth in the Postal Directive. Recently the "Guidelines for Calculating the Net Cost of the Universal Service Obligations" and the third report on NRAs dealing with licensing, competition and the implementation of the Third Postal Directive were approved. In May 2009 the second revision of "CERP Recommendation on best Practices for Cost Accounting Rules" will be finalized, which highlights the importance of providing NRAs with transparent systems and comprehensive information.

Next steps are the development of reports aimed at highlighting the importance of achieving harmonized and fair application of the third Postal Directive within the European Union. In the area of access infrastructure, a survey on current and required access channels with reference to Article 11a of the Third Postal Directive will be undertaken. Furthermore, the access models in different countries will be subject to investigation in order to define best practices. The applied and foreseen licensing models will be analyzed and a comparison of quality of service levels will be drawn up. Another project deals with the methods of implementing and managing a compensation fund. Furthermore, a best practice for consumer relations including complaints management as well as a questionnaire on consumer needs will be developed.

CERP is in regular contact with the relevant stakeholders in the postal market. These contacts take place regularly on contact committees (European Commission, PostEurop, European Express Association) and during the CERP Plenary Session that is held twice a year, where external stakeholders are invited to share their views on the postal market, their needs and the developments achieved so far.

Furthermore CERP will start to publish a newsletter in the autumn of this year, reporting on recent activities, results and information on envisaged projects. The mailing list will include stakeholders in Europe as well as organizations outside Europe, which may inform parties in the rest of the world in detail about "what's going on" in Europe and help to create a better understanding. Anyone interested in receiving this newsletter in the future is welcome to register at cerp@bnetza.de.

CERP will continue to underline the need for transparent, equal, fair and harmonised postal regulation throughout Europe for the benefit of the whole postal industry as well as for customers and consumers and will continue to devote its efforts to accomplishing these goals. ■

EU REPORT ON THE APPLICATION OF THE POSTAL DIRECTIVE

Commission report notes slow development of competition in the postal sector

At the beginning of January, the Commission issued its report on the application of the postal Directive. The purpose of this report was to provide a comprehensive assessment of the overall transposition of the Postal Directive in the Member States. The Commission regrets that the development of competition remains very slow even though a deadline has been set for the full market opening by 31 December 2010 for most of the Member States. However, it welcomes that all the member States have transposed the Postal Directive 97/67/EC as amended by Directive 2002/39/EC into their national legislation.

The Commission highlights the importance of the postal industry in the European economy despite the threats that it is currently facing. It notes that in response to the development of competition in the postal sector, postal operators have substantially improved their efficiency by restructuring their operations thus resulting in cost controls and better quality of service. This statement confirms that free and fair competition in the postal market will improve choice and quality of service for users and consumers, and will encourage innovation and dynamism in the sector.

However, according to this report, the development of competition in the postal sector remains very slow. Even in Member States which have already fully opened their market, barriers to enter the market persist. The Commission notes that progress towards reducing legal barriers to entry and leveling the playing field has been mixed.

VAT postal exemption, lack of access to letter boxes, definition and financing of the Universal Service obligation as well as authorisation and licensing procedures could be considered as obstacles to the development of free and fair competition in the postal sector.

Postal regulators play a key role in the opening of the market. According to the Commission report, well-functioning National Regulatory Authorities (NRAs) are crucial for the accomplishment of an internal market for postal services. The report states that currently the mandate, resources and powers of the NRAs vary significantly among Member States. The Commission doubts that some of them are sufficiently equipped to fulfill their tasks correctly.

National regulators will even have to play a more important role in the new legal framework instituted by the Third Postal Directive. It is therefore key that Member States allocate the necessary resources to these independent sectoral regulators in order to preserve benefits of the full market opening and at the same time safeguard the provision of the universal postal service. Member States should further strengthen the position of NRAs and encourage administrative cooperation among NRAs to allow exchange of best practices and benchmarking.

2009 will be a crucial year for the implementation of the Third Postal Directive which foresees the full liberalisation of the European postal market. Member States will have to adapt their national legislation foreseeing the full opening of the postal market. NRAs will play a key role in the implementation of this Directive provisions and the development of free and fair level playing field. They should therefore get the adequate resources from the Member States. ■

USERS CALL FOR MORE TRANSPARENCY AND CONTROL ON TARIFF SETTING

Annual survey shows that postal liberalisation outlook helps reducing stamp price increases in 2008

Earlier this year, the Free and Fair Post Initiative (FFPI) issued its 8th survey on stamp prices in the European Union (EU). The analysis shows that in 2008 stamp prices for basic domestic letters have increased at a lower pace and in less countries than in the past years. Although the number of member States in which tariffs have been augmented is still high, postal users welcome the positive signal given by the fixation of a final date for full postal liberalisation at EU level.

The annual survey reveals that an increase in the price of stamps for basic domestic letters took place in 10 member States: Portugal, Spain, Slovenia, Belgium, Hungary, Greece, France, Denmark, UK and Bulgaria. The biggest growth was registered in Denmark, France and Greece, all countries where postal markets are still not fully opened to competition.

The FFPI also noted that prices did not change during the course of this year in member States where postal services markets are already liberalised: Sweden, Finland, Estonia and Germany. In addition, in these markets stamps cost less than in non-liberalised markets, such as Denmark and Italy, where prices remain the highest in the EU.

In the UK, where the cost of a stamp slightly increased in April 2008, the raise is justified by the need to gear price to costs and the price structure applied (letters up to 100 grams compared with the other EU countries where the maximum weight for the basic price is normally 20 grams). The FFPI was pleased to see that Postcomm, the UK regulator, carefully analysed the request for Royal Mail's price increase to ensure that customers' needs and wishes are not ignored.

National regulators have to play a key role in ensuring the maintenance of the universal service and adequate cost-based tariff setting. Postal users are deeply concerned that, as signaled in the ECORYS study on the main developments in the postal sector, in some member States the authorities responsible to control postal markets are not independent, do not apply adequate cost analysis for the universal service and do not review or approve price changes, as required by the postal Directives.

Philippe Bodson, President of the FFPI, commented: "The 2008 survey confirms the FFPI's belief that full market opening, accompanied by the attentive and responsible activity of National Regulatory Authorities, is the only way to guarantee that prices are affordable, cost-oriented, transparent and non-discriminatory". He also added: "We have to remain vigilant and ensure that consumers do not pay the bill for delayed or incomplete implementation of the Postal Directives. The sooner member States will open their market, the sooner consumer will benefit of fairer prices". ■

Countries	2007 Price	2008 Price	2008 Price in EUR	Letter Weight
Denmark	4.5 DKK	5 DKK	0.67	50 g
Italy	0.6 EUR	0.6 EUR	0.60	50 g
Austria	0.55 EUR	0.55 EUR	0.55	20 g
Germany	0.55 EUR	0.55 EUR	0.55	20 g
France	0.49 EUR	0.55 EUR	0.55	50 g
Ireland	0.55 EUR	0.55 EUR	0.55	20 g
Belgium	0.52 EUR	0.54 EUR	0.54	50 g
Finland	0.53 EUR	0.53 EUR	0.53	50 g
Greece	0.47 EUR	0.51 EUR	0.51	20 g
Luxembourg	0.50 EUR	0.50 EUR	0.50	20 g
Netherlands	0.44 EUR	0.44 EUR	0.44	20 g
Bulgaria	0.55 BGN	0.80 BGN	0.41	20 g
Poland	1.45 PLN	1.45 PLN	0.40	50 g
Lithuania	1.35 LTL	1.35 LTL	0.39	20 g
Czech Republic	10 CZK	10 CZK	0.38	50 g
Sweden	4 SEK	4 SEK	0.36	20 g
Estonia	5.50 EEK	5.50 EEK	0.35	50 g
Cyprus	0.34 EUR	0.34 EUR	0.34	20 g
Slovakia	10 SKK	10 SKK	0.33	20 g
Latvia	0.22 LVL	0.22 LVL	0.31	20 g
Portugal	0.30 EUR	0.31 EUR	0.31	20 g
Spain	0.30 EUR	0.31 EUR	0.31	100 g
United Kingdom*	0.24 £	0.27 £	0.31	20 g
Romania	1 RON	1 RON	0.27	20 g
Hungary	60 HUF	70 HUF	0.27	30 g
Slovenia	0.17 EUR	0.19 EUR	0.19	20 g
Malta	0.19 EUR	0.19 EUR	0.19	50 g

Countries in Green = Countries where postal market is fully liberalised

Countries in Red = Countries where stamp prices increased

Prices do not include VAT

Exchangerates calculated on 2 December 2008 at 12.03 GMT for 2008 prices.

<http://finance.yahoo.com/currency>

- **27 April 2009** New Business Models in a Changing Industry
- **6 May 2009**, 3rd World Postal Retail Networks Conference
- **6 May 2009**, 10th World Mail Awards
- **7-8 May**, World Mail and Express Europe

