

# Newsletter

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Free & Fair Post

EDITORIAL

## ■ CANCUN:

### *A turning point in the Doha round?*



Philippe Bodson

#### **Why are postal users being overcharged?**

*The FFPI a couple of years ago began to monitor and compare consumer stamp prices and price structures in the EU. We did so because we felt that it was a simple but revealing tool to better understand where there was a risk that consumers were being overcharged for postal services. We have been pleased to see that these surveys have received as much attention as they actually did. Some national Regulators were particularly interested in the FFPI's analysis and its results.*

*As long as consumers are prevented from choosing from more than one operator in their market, it will be relevant for the FFPI to continue monitoring prices developments in Europe. More importantly, it will become more and more important for the EC Commission and for the national Regulators to accelerate their efforts to ensure that the provisions of the Postal Directive as regards pricing are respected. As the EU rules clearly set, stamp prices (in the reserved area) should be geared to costs and should be affordable for users and consumers.*

*We all know that the proof of the pudding always is in the eating. Translated into EU stamp pricing policy, these words of wisdom mean that the fundamental principle in the Postal Directive is meaningless unless strictly applied, which is easier said than done.*

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As announced in the previous edition of this newsletter, the FFPI will participate as a Non-Governmental Organisation (NGO) in the 5th World Trade Organisation (WTO) Ministerial Conference that will take place in Cancun on 10-14 September 2003.

In the framework of the Doha Development Agenda (DDA), the Cancun Ministerial meeting is a key step in the WTO Round. It is about taking stock of progress made in the DDA negotiations at mid-term, including the negotiations on services under the GATS, which began in January 2000. But Cancun is also a decisive moment for the future of international trade.

The EU tabled its initial services (GATS) offer on 29 April 2003 ([http://trade-info.cec.eu.int/doclib/docs/2003/april/tradoc\\_113003](http://trade-info.cec.eu.int/doclib/docs/2003/april/tradoc_113003)). As regards the postal and courier sector, the EU offer covers those sectors that are already opened in the EU since 1997. Thus, the EU offers market access and national treatment in express delivery services and parcels, and for the handling of letters of more than 350 grams.

Although the GATS negotiations are considered as the most advanced ones of the Doha Round, much remains to be done as few Member States have taken an active part in the talks so far. The 5th Ministerial Conference will be the opportunity not to be missed to give a boost to the Round and to make tangible progress in liberalisation. Cancun will also be particularly important since negotiations on Trade Facilitation should be finally initiated. Trade Facilitation, i.e. the simplification of trade procedures, is one of the four "Singapore issues" along with competition, investment and government procurement, which have not been covered by the WTO yet. The purpose of the Trade Facilitation negotiations is to ease the movement of goods and services. This covers mainly easing customs procedures (cutting red-tape at the point where goods enter a country), but also accessibility to information on importing and exporting regulations for instance.

An Agreement on Trade Facilitation could include commitments and measures to tackle problems such as the lack of transparency of customs procedures and other import and export requirements; the lack of coordination between different agencies; excessive clearance times; insufficient use of technology by customs; etc.

Postal users, and therefore the FFPI, consider getting speedy and easy access to third countries for their goods and services as a priority. For this reason advancing discussions on Trade Facilitation is at the top of the FFPI's list of objectives ■

#### **THE FFPI WISHLIST FOR THE CANCUN MINISTERIAL CONFERENCE**

GATS negotiations should focus on:

- Improving access to quality postal services around the world at an affordable price without jeopardizing the universal service obligations;
- Starting negotiations on Trade Facilitation;
- Including pro-competitive safeguards;
- Eliminating price fixing agreements in the postal sector;
- Improving downstream access to existing postal networks to improve the quality of service;
- Providing differential treatment to developing countries with a view to help them to build an efficient and cost effective postal sector.

## ■ WHAT'S NEW ON SGEI?

### *The debate on services of general interest progresses*

- On 21 May, the European Commission issued the Green Paper on Services of General Economic Interest (SGEI) and launched a consultation to stimulate a debate on “the role of the EU in promoting the provision of high quality public services” ([http://europa.eu.int/eur-lex/en/com/gpr/2003/com2003\\_0270en01.pdf](http://europa.eu.int/eur-lex/en/com/gpr/2003/com2003_0270en01.pdf)). The Green paper will constitute the framework to define the objectives of public services as well as the way they are organized and financed. Comments can be sent to the Commission until 15 September.
- On 11 June a public hearing was organized by the Economic and Monetary Affairs Committee of the European Parliament on SGEI. Promoted by the Rapporteur on the Green Paper, MEP Herzog, the hearing provided for a good opportunity for the stakeholders involved to express their positions and ask key questions related to the Green Paper. Among the speakers were representatives of CEEP, the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest; ETUC, the European Trade Union Confederation; the Social Platform; UNICE, the Union of Industrial and Employers' Confederations of Europe; UEAPME, the European Confederation of SMEs; as well as a number of economic and legal experts. The main issues debated at the hearing, some particularly controversial, included the legal basis for regulating SGEI and the possibility of adopting a Framework Directive, financing of SGEIs, evaluation of the provision and quality of public services.
- The FFPI fully supports the views expressed by UNICE and UEAPME at the hearing as regards the conviction that there is no need for adopting a Framework Directive on SGEI, since it is impossible to establish common objectives for different types of services and sectors. In addition, existing sector-specific legislation in the network industries is solid enough to regulate public services and guarantee the provision of the universal service. In particular, as regards the postal sector, the FFPI believes that the provisions set in the Postal Directives, as well as the existing EU competition rules, constitute a satisfactory set of norms that need to be strictly applied all over the EU.
- The FFPI, also concerned about the proposal submitted by the European Convention as regards regulating SGEI in the EU, will be following closely the development of the debate on postal services and will contribute to the Green Paper consultation.

## ■ THE FFPI MEETS THE POSTAL REGULATORS

### *Exchanging views on the USO with the national authorities*

FFPI President, Philippe Bodson, was invited by the Committee of European Postal Regulators (CERP) to speak at the Forum that took place in Vienna on 22 May. The theme of the meeting was “The Universal Service Obligation, a burden or a privilege? How to finance it in the future?”.

Mr Bodson expressed the FFPI's conviction that the incompatibility between the universal service and the liberalisation of the postal sector is just a myth. He highlighted some examples of markets, such as the Swedish one, that have been opened up to competition without harming the provision of the universal service. In addition to the analysis undertaken by the Swedish Regulator, he referred to recent studies carried out by the European Commission that demonstrate that liberalisation in Europe has led to an increase in the quality of services and that employment in the sector has increased in the past years, despite of the fears that the introduction of competition would have led to a reduction of the workforce.

Answering the core question of the CERP Forum, Mr Bodson pointed out that in the FFPI's view, the USO is not a burden, rather, a privilege and even an asset. In fact, the USO offers the Universal Service Providers (USPs) the unique opportunity to develop a priceless network, as well as a trademark and special links with the postal users. Moreover, USPs charge rather high prices, sometimes-excessive prices, for rather basic and low-cost services. They also enjoy favoured access to foreign networks through terminal dues and agreements and special customs and excise duties exemptions. Another privilege, not to be overlooked, is the close link that USPs have with national Regulators, which puts them in a better position compared to small competitors. Furthermore, Mr Bodson stressed the importance of the role of the National Regulatory Authorities (NRAs) “in making sure that the USO is fully accomplished by the entrusted provider, which is crucial for the good functioning of the postal markets”. “The Regulators”, added FFPI President, “are entrusted with the responsibility to understand the cost of the USO and the financial instruments needed to finance it”. As regards the financing aspects of the universal service, it was pointed out that existing EU rules allow the Member States to choose the most adequate way to fund the USO, other than keeping monopolies.

The FFPI's intervention was concluded by underlining the fact that the EU views liberalisation as a means to improve the universal service, as well as to improved efficiency, cost reduction and lower prices, and that, therefore, the USO can be guaranteed in a liberalized market. A view that was supported by John Hearn, Chairman of the Irish Regulator, in his presentation.

Finally, Mr Bodson called on the regulators to stay vigilant in order to ensure that Postal Operators do not abuse their positions and that a level-playing field is maintained in the markets ■

## THE EU VAT DIRECTIVE

### More uniformity for EU Post Offices

On 5 May, the European Commission adopted a proposal for a Directive on the introduction of Value Added Tax (VAT) on postal services.

The FFPI welcomed the Commission initiative. "By imposing the same rule on all postal operators users and consumers will ultimately enjoy more choice, better quality and better services," FFPI President Philippe Bodson said to [European Report](#).

The aim of the proposed Directive is to redress the exemption for VAT currently enjoyed by the national postal operators. This exemption, now out of tune with reality, created distortions in the market, where Post Offices and smaller private operators are not competing on an equal footing. "Far from being fully liberalised, the European postal market is increasingly opened to competition and distinctions between public and private operators cannot be sustained further", commented the FFPI.

The FFPI also highlighted the importance of the proposal for a reduced VAT rate to be applied as a means to counterbalance the risk of price increases that might follow the introduction of the tax. The FFPI is also convinced that once public operators will be allowed to deduct VAT on their expenses such as for fuel, vehicles, equipment, etc.,

they will be able to pass on this benefit to their customers leading to possible cost reductions, to the advantage of postal users ■

#### THE VAT DIRECTIVE IN A NUTSHELL

The [proposal for a Directive on VAT](#) to be charged on postal services:

- Removes the current VAT exemption for postal services and postage stamps supplied by traditional national operators;
- Brings uniformity between public and private providers and among different member States;
- National operators can for the first time deduct the VAT incurred on their costs;
- Eliminates "hidden VAT"
- For items up to 2 kg, Member States can apply a reduced VAT rate;
- For items over 2 kg, and nonstandard services (such as express mail and courier services) the VAT rate will be the standard one.

➡ For the press reports on the VAT Directive and the FFPI's comments please visit <http://www.freefairpost.com/others/press.htm>

## THE REIMS II AGREEMENT

### The users' views on the European price fixing regime

In June 2003, the FFPI sent its comments to the European Commission's DG Competition, as regards the Commission notification on the REIMS II Agreement, the system that regulates the remuneration that public postal operators (PPOs) pay each other for the delivery of incoming cross-border mail.

In its submission, the FFPI highlighted its belief that the REIMS II Agreement is in conflict with the normal application of competition rules, as it constitutes, in effect, a price fixing regime. The price is set by the PPOs as a percentage of their published domestic tariff. However, given the special character of the services provided, the Commission has allowed this Agreement to remain in force as an exemption limited in time, that should expire at the end of 2004. In view of this upcoming deadline, the Commission has recently proposed to continue to allow for the exemption. The FFPI is convinced that:

- PPOs should be encouraged to work towards using a model of clear and transparent cost-based pricing.
- Further exemption would be counterproductive to the introduction of competition in the area of cross border mail.
- Allowing for price agreements between the dominant players in the market on inbound prices will not encourage new entrants to participate in the market.
- There is no need for continuing the transitional phase.

The FFPI encouraged the Commission to provide indications on how it intends to reconcile a continued exemption with its purposes of liberalising further the EU postal market, and asked why the PPOs are allowed to continue their pricing policy without users having a clear insight and understanding to what extend the prices charged are geared to cost. Regulatory authorities in the postal sector continue to fail in producing reports and data that would allow users to understand to what extend they receive quality services for the best possible prices. Postal operators continue to achieve significant profits on many of their monopoly services without justification of the tariff levels.

The FFPI also encouraged the Commission to stop or to cease granting an exception and to look for solutions that are more geared on a commercial approach, introducing competition in the postal market.

Please visit <http://www.freefairpost.com/pdf/reimsII.pdf> to read the full text of the FFPI's submission ■

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To learn more about the FFPI and to read the latest news on key topics for the postal sector, please visit: [www.freefairpost.com](http://www.freefairpost.com)

The need for an effective and uniform control of tariff levels is demonstrated by a number of developments that are taking place in some EU Member States. For instance, the Dutch Ministry of Economics has proposed to freeze stamp prices until 2005. This proposal has not yet been agreed by national Regulator that recommended a cut in tariffs because of the high financial returns TPG is receiving from the reserved area. Furthermore, the German Regulator has ordered Deutsche Post to reduce its stamp prices by an average of 4,2%, a reduction of one euro cent on the basic letters. It does not appear that, following this change, Deutsche Post will stop making significant profits from its reserved area business. But prices are also being increased in some Member States. This is the case of the UK, where PostComm has proposed an increase of 1p for Royal Mail services. In addition, as of a few weeks ago, French consumers now spend 4 euro cents more to send a basic domestic letter. What is worrying is that since France has not appointed an independent postal Regulator yet, thereby breaching EC Law, there was no real regulatory counterweight that could have acted against this decision in the interest of consumers.

Getting pricing right, until the market has been fully liberalised, will be crucial to prevent overcharging of consumers and would make it more difficult for the postal operators to engage in anti-competitive practises such as cross-subsidisation, for instance. Of course, not all postal operators abuse their position. But I believe that it is in the interest of the Public Service Providers to be forthcoming and work for transparent pricing in the EU, to ensure that stamp prices indeed are geared to costs. The role of the Regulators in this regard is key: they shall maintain checks and balances to ensure that the revenue generated via reserved services is only used for the purpose of financing the burden of the universal service obligation and that the incumbents' margins do not exceed what needed. Some Postal Operators claim that high stamp prices on reserved services are justified by the cost of the universal service obligation (USO). However, in some cases, as outlined in a recent analysis undertaken in the Netherlands by OPTA, the Dutch Regulator, it appears that even with the assumed cost of the USO included, there are still excessive returns in the mail activities whereas the monopoly returns are only supposed to cover the burden of the USO and not intended to help generate additional returns. Excessive pricing should, therefore, be considered as a broader issue including looking at the returns of capital employed (roce) generated in the mail sector. These returns should not be excessive.

To conclude, it is fundamental that, both at EU and national level, more attention is paid to this problem that affects the postal sector. I hope that drastic measures will not be necessary to ensure that the EU requirements on transparency and pricing are respected. An effective measure could be the mandatory separation of activities of the Post Offices.

**Philippe Bodson**

## ■ THE U.S. CONSUMER POSTAL COUNCIL

### A new postal users' voice

The U.S. Consumer Postal Council, a sister organisation to the FFPI, was founded in Washington DC May 2003.

The Council's mission is to advance the interests of users and consumers concerned about postal issues, and other organisations that share their concerns. It seeks to eliminate the government monopoly for postal services and to achieve a delivery marketplace free of distortions. Where and while that monopoly exists, the Council will strive to ensure that it is not abused by U.S. and other postal services who overcharge consumers, or fail to consider letter mail, express mail and parcel delivery separately. The Council's Chairman is Jim Courter, a former U.S. Congressman and current Chairman of the Board of the Lexington Institute think tank.

"It is important to have a well-informed and open debate about the future of postal services in the U.S. and the world," Courter said. "The Council aims at being the voice of

those users, consumers and others who believe that without a final date for liberalising the postal sector, there will be no improvement of postal services in terms of quality, choice and price. We therefore invite all those who share our views to join with us to counter-balance the influence of the pro-monopoly groups".

While engaged in public discourse on U.S. postal issues, the U.S. Consumer Postal Council maintains both a domestic and an international focus. In September, Courter will represent the group at the World Trade Organization (WTO) Ministerial Conference of Cancun, Mexico. Other scheduled Council activities planned include a working group session in July with U.S. Postal Service official who serves as the voice of consumers towards postal regulators ■

- **8 July 2003: Public Meeting on Postal Services organized by PostComm, Bristol, UK**
- **10-13 September 2003: WTO Ministerial Conference, Cancun, Mexico**
- **29-30 September 2003: Competitive Strategies for a Deregulated Postal Industry SMI Conference, London**
- **7-9 October 2003: Post-Expo 2003, Brussels**



**Upcoming events**