



CREATING AN INTERNAL MARKET FOR POSTAL SERVICES AT THE HEART OF THE LISBON CHALLENGE.

The European Council's meeting in Lisbon in March 2000 set the reference point against which the EU's ability to become the most competitive economy in the world in a decade will be measured. The Commission has demonstrated its understanding of the complexity of the challenge ahead and has sought to initiate the necessary reforms that its mandate permits.

In the Commission's Communication "Realising the European Union's Potential: Consolidating and Extending the Lisbon Strategy" it is pointed out in a clear manner that the "Union must seize the window of opportunity". It is also stressed that "without a continued commitment to structural and social change, the prospect of sustainable growth, further falls in unemployment and greater cohesion will be seriously undermined".

The European Council and the Commission have both put the completion of an Internal Market for Postal Services at the centre of the on-going Lisbon process. The FFPI fully supports this development. However, the FFPI must raise serious concerns regarding developments in a number of key areas. The magnitude of the problems before us is such that they, put together, seriously risk to undermine the EU's ability to complete a true Internal Market for postal services.

This note outlines the questions, which the FFPI believes need to be addressed with a sharper focus. It also suggests political and legal measures necessary to curb the current negative trend and to create an overall environment that would allow the Lisbon goals to be met.

1. Real market openings are needed – not a directive that in practice allows Member States to maintain national monopolies.

Speed up market openings

The Lisbon conclusions gave a clear message with regard to the direction to take: the speeding up of market openings in the postal sector. In this regard, it is important to recognise that the postal sector is the laggard among industries when it comes to reform and market openings. In fact, the area that currently is open to competition is insignificant.

The current low degree of market opening in the postal sector indicates that plans for significant steps towards market openings, and supporting legal and political measures, are needed more than in other comparable industries.

The market potential exists

It is encouraging to see that some companies, in spite of the low level of market openings in most Member States, are prepared to make the necessary investments to enter the postal market. In Germany, for instance, a number of publishers recently announced that they have

decided to start competing with Deutsche Post on the market for letter services. This step has been taken despite the German Government's decision to postpone national liberalisation on the grounds that there is lack of progress at EU level.

Market developments show that there exists a considerable underlying potential for investment in the postal sector that could result in new jobs and improved services. However, this potential can only be explored fully if the EC adopts a directive that contains provisions on considerable market openings.

A final date

The Commission, and indeed most Member States, ahead of the European Council's meeting in Stockholm agreed that clear deadlines are needed to drive further structural reforms in the energy and transport sectors. The FFPI supports the Commission's efforts in seeking to achieve necessary political support from the Member States for the adoption of final dates for market openings. The FFPI believes that without final dates, stakeholders will not have sufficient incentives to invest, re-organise, innovate etc.

A final date for full liberalisation of the postal sector must be adopted. If not, the FFPI believes that it will not be possible to create the necessary dynamics to turn the postal sector into the viable industry of the future that the Lisbon European Council agreed that it wants it to become.

The Barcelona test

The European Council's meeting in Barcelona is widely regarded as a test of the EU's resolve to undertake the necessary actions to become the most competitive economy in the world in the next decade. Unfortunately, the Conclusions from the European Council's meeting in Stockholm merely set out the aim that a directive on postal services should be adopted by the Council and the European Parliament before the end of 2001. Since no reference was made to the contents of the directive, the Conclusions fall short of what is necessary to achieve the overall aims.

The FFPI encourages the Commission to reassess the situation with regard to the pending proposal for a directive.

The FFPI believes that the Commission, in order to ensure the aims set out in Lisbon and in the Treaties, should inform the Member States of its preparedness to withdraw the proposed directive and to make use of its powers to adopt itself a directive on postal services if necessary. The Commission has already indicated that it is prepared to use its prerogative to legislate independently in order to further liberalise the energy markets. It should take a similar approach with regard to the postal sector.

2. Urgent action needed to combat acute market distortions.

Urgency

Recent developments in the European energy sector have attracted the Commission's and the European Council's attention. Although the postal sector faces similar acute challenges as regards distortions of competition, attention to the postal sector by the Commission and the Member States has so far been lagging behind.

The FFPI encourages the Commission to acknowledge the urgency with which distortions of competition in the postal sector need to be addressed and to take the appropriate measures, for instance as suggested in this note by the FFPI.

The Commission's challenge – to meet the expectations

The Conclusions from the European Council's meeting in Stockholm are revealing. They underline the need to have the relevant Internal Market rules in place in order to create the necessary preconditions for level playing fields in key industries. It is also revealing that the European Council highlighted the Commission's role in ensuring that the EC Competition rules are complied with. In addition, the European Council pointed out that the Commission "will also ensure that those enterprises which still benefit from a monopoly situation on their national market will not unduly benefit from that situation".

All the above-mentioned considerations raised by the European Council in Stockholm regarding the energy sector equally apply to the postal sector. It is a known fact that many postal operators in the Member States rather frequently are accused of benefiting unduly from the market power that their monopolies grant them. The distortions of competition obviously affect the postal sector as such. In addition, however, they also hamper competition on neighbouring markets on which the postal operators are active through cross-subsidies.

The FFPI encourages the Commission to highlight the severe impact that the distortions of competition rules have on the functioning on the postal sector in its report to the European Council in Barcelona and, in doing so, demonstrate the same degree of resolve to tackle the problems in the postal sector as shown with regard to the energy sector.

Acute market distortions

The Commission, at its meeting on 20 June, outlined its approach to the situation in the energy sector against the backdrop of increased tension triggered by fears of market abuses in the absence of a clear EC regulatory framework. Although not identical, the postal sector is facing similar situations. The FFPI believes that the Commission should use a similar approach to that used in the energy sector, namely to:

A. Monitor Member States to ensure timely and proper implementation of the existing directive.

A number of Member States have not implemented Directive 97/67/EC correctly, in particular with regard to the creation of and/or the status of the independent national regulators that are mandatory according to Directive 97/67/EC. It is particularly disturbing that certain key Member States have omitted to comply with this obligation in the Directive that is essential for maintaining a level playing field.

The FFPI supports the Commission's pursuit of infringement proceedings against the Member States concerned. The FFPI suggests that the Commission ensures that all cases of failures to comply with the Internal Market rules in the Postal sector are pursued vigorously and swiftly.

B. Ensure that the Treaty's competition rules are applied fully in the postal sector.

The Commission is currently investigating a considerable number of alleged infringements of the EC Competition rules in the postal sector, including cases of abuses of dominant position and state aid [see annex on pending Internal Market and Competition cases]. A number of the pending investigations concern issues that are of principal importance and consequently affect not only the parties directly involved in the cases. These cases are important to the Industry as a whole. A good illustration of this fact is the Commission's decision to fine Deutsche Post AG earlier this year for abuse of dominant position. The Commission's decision contains significant clarifications as to how the Competition rules shall be applied in the postal sector. However, it is unsatisfactory that the parties to the case, and other concerned stakeholders in the EC, had to wait for 6 years for the Commission to take a decision. Similarly, the initial complaint concerning State aid to Chronopost in France was made in 1990 and the matter has not yet been finally resolved. Another example is the 1994 complaint regarding alleged State aid to Deutsche Post AG. Although the complaints concern matters that seem to be of considerable interest to the sector as a whole, the Commission has been unable to finalise its investigations.

The FFPI encourages the Commission to allocate the necessary resources to bring as many pending competition cases as possible to their conclusion without unnecessary delay. The EC's ability to conclude these investigations soon is key in maintaining the citizens' confidence in the Commission's commitment to contribute to the fulfilment of the Lisbon challenge.