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THE EUROPEAN UNION**

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NOTE

from :	The Presidency
to :	WORKING GROUP ON POSTAL SERVICES
N° prev. doc.:	9303/01 ECO 144 CODEC 483
N° Cion prop.:	10544/00 ECO 219 CODEC 572
Subject :	Proposal for a European Parliament and Council Directive amending Directive 97/67/EC with regard to the further opening to competition of Community postal services

By way of preparation for the Working Group meeting on 10 September 2001 (afternoon) and the Coreper discussion planned for 19 September 2001, delegations will find attached new Presidency proposals prepared in the light of comments made at the Working Group of 20th July 2001.

Scenario for liberalisation

	I. <u>Ordinary</u>	II. <u>Direct Mail</u>	III. <u>Outgoing Cross-border mail</u>
01/01/2003	100 g.	100 g.	PRINCIPLE : 0 g. EXCEPTION : Derogation (*) (maximum 100 g.)
01/01/2006	50 g.	50 g.	PRINCIPLE : 0 g. EXCEPTION : Derogation (*) (maximum 50 g.)
30/06/2006	Prospective study by the Commission (evaluation of the possible impact on universal service of the full accomplishment of the postal internal market in each MS)		
	<p>If the results of the study indicate that:</p> <p>a) full accomplishment of internal market is possible in 2009, then:</p> <ul style="list-style-type: none"> - no confirmation is needed <p>b) full accomplishment of postal internal market is not possible in 2009:</p> <ul style="list-style-type: none"> - new proposal from the Commission to be accepted by EP + Council by 31/12/2007 at the latest: - postponing the date of final liberalisation and/or - establishing a further more gradual liberalisation step (e.g. 35g or 20g) 		
[01/01/2009]	Decisive step		

(*) Derogation for countries in which the out-going cross border mail represent more than x% of the revenue of the postal operator.

Proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

amending Directive 97/67/EC with regard to the further opening to competition of Community postal services

Article 1

Directive 97/67/EC is hereby amended as follows:

(1) In Article 2, point 20, the following is added:

"20. Specific services : services clearly distinct from services offered in the context of the universal service, which meet particular customer requirements and which offer additional service features with added value **as an integral part of the service and** not provided as part of the corresponding universal service [...].¹

~~[A determining feature of the added value of such a service is the fact that the customer is willing to pay for the service offered a price higher than the price limit of the reserved area referred to in Article 7(1).]~~

The following are not additional service features with added value:

- a) home collection in the absence of other such features;
- b) electronic transmission to and/or electronic receipt by the operator for sorting, printing and/or preparation of the mail.

Express mail is a specific service, which, in addition to faster and more reliable collection, sorting, transportation and delivery, is characterised by the provision of ~~[some][most] or all~~ **at least three** of the following additional service features:

- a) collection from the sender's address,
- b) delivery to the addressee in person or to his authorised representative,
- c) ~~guarantee of delivery by a given date,~~ **pre-established time or date of delivery**,
- d) possibility of a change of destination and addressee in transit,
- e) confirmation to the sender of delivery,
- f) end-to-end tracking and tracing,
- g) personalised treatment for customers and the offer of a range of services according to requirements.

¹ New recital: "Examples of additional service features with added value could include delivery on appointment, same day delivery, the option to effect a change of destination or addressee in transit or if delivery to the primary destinations fails, tracking and tracing, **pre-established time or date of delivery**, more than one attempt at delivery, or delivery according to the priority or sequence specified by the customer."

- (2) Article 7 is replaced by the following:

"Article 7

1. To the extent necessary to ensure the provision of universal service, Member States may continue to reserve certain standard mail services to the universal service provider(s). Those services shall be limited to the clearance, sorting, transport and delivery of ordinary items of domestic correspondence and incoming cross border correspondence within both of the following weight and price limits. The weight limit shall be **[100 grams from date A-01/01/2003; 50 grams from 01/01/2006 date B and 0 grams from date C]**. ~~This weight limit does not apply if the price is equal or more than [two and a half times] the public tariff for an item of correspondence in the first weight step of the fastest category.~~ **These weight limits do not apply if the price is equal or more than [G times the price at 01/01/2003 date A, F times the price at 01/01/2006 date B, E times the price at date C]**

In the case of the free postal service for blind and partially sighted persons, exceptions to the weight **and price** restrictions may be permitted.

To the extent necessary to ensure the provision of universal service, direct mail may continue to be reserved within **the same following weight limits: T or X grams from date A; U or Y grams from date B and O grams from date C.** ~~the weight and price limits [referred to in the first subparagraph].~~

2. Document exchange ~~{and specific services (including express mail) }~~ may not be reserved. [...]The sending of mail electronically shall not be sufficient to [...] exclude it from the area of incoming cross-border mail which may be reserved, in accordance with paragraph 1. **Items of outgoing cross-border correspondence may not be reserved except in case of derogation. The Commission shall grant a derogation where requested by a Member State that is able to demonstrate adequately that outgoing cross-border mail represents at least x% of the revenue of the universal service provider.**

3. ~~As a further step towards the completion of the internal market in postal services, the European Parliament and the Council shall decide, not later than 31 December 2005, on a further opening of the postal market with effect from 1 January 2007.~~

~~To that end, the Commission shall present a proposal by 31 December 2004, following a review of the sector which shall focus on the need to ensure the provision of universal service in an appropriate manner in a competitive market environment.~~

~~Upon request by the Commission, Member States shall provide all the information necessary for completion of this review.”~~

3. **The weight and price limits referred to in paragraph 1 and the derogations referred to in paragraph 2 shall no longer apply from 1 January 2009.**
4. **The Commission shall finalise a prospective study which will assess, for each Member State, the impact on universal service of the full accomplishment of the postal internal market in 2009. Based on the study's conclusions, the Commission shall submit by 31 December 2006 a report to the European Parliament and the Council accompanied, if necessary, by appropriate proposals aiming to ensure that a universal service of quality for all citizens is maintained.²**

- (3) In Article 12, the following indent is added:

“- whenever universal service providers apply special tariffs, for example for services for businesses, bulk mailers or consolidators of mail from different customers, they shall apply the principles of transparency and non-discrimination with regard both to the tariffs and to the associated conditions. The tariffs shall take account of the avoided costs, as compared to the standard service covering the complete range of features offered for the clearance, transport, sorting and delivery of individual postal items and, together with the associated conditions, shall apply equally both as between different third parties and as between third parties and universal service providers supplying equivalent services. Any such tariffs shall also be available to residential customers who post under similar conditions. ”

² New recital: **"If the results of the study indicate that the full accomplishment of the postal internal market would endanger the provision of universal service in one or more of the Member States, it would be appropriate to examine, on the basis of a possible proposal from the Commission, the possibility of postponing the date of final liberalisation and/or of adding a further more gradual liberalisation step to be applied from 2009".**

(4) In Article 12, the following indent is added:

“- cross-subsidisation of universal services outside the reserved area out of revenues from services in the reserved area shall be prohibited except to the extent to which it is shown to be strictly necessary to fulfil specific universal service obligations imposed in the competitive area; rules shall be adopted to this effect by the national regulatory authorities who shall inform the Commission of such measures.”

(5) In Article 19, first paragraph is amended as follows:

"Member States shall ensure that transparent, simple and inexpensive procedures are drawn up for dealing with users' complaints, particularly in cases involving loss, theft, damage or non-compliance with service quality standards (including procedures for determining where responsibility lies in cases where more than one operator is involved).

Member States may provide that this principle is also applied to beneficiaries of services which are:

- outside the scope of the universal service as defined in Article 3, on the one hand,
- within the scope of the universal service as defined in Article 3, but which are not provided by the universal service provider, on the other hand."

(5a) In Article 22 the following addition is made to the third sentence:

"The national regulatory authorities shall have as a particular task ensuring compliance with the obligations arising from this Directive, in particular to ensure that the reserved area is respected, where applicable."

(6) ~~In Article 27, the date "31 December 2004" is replaced by the date "31 December 2006"~~

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than [31 December 2002]. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President