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COMMISSION STAFF WORKING PAPER

Annex to the

Report on the application of the Postal Directive
(Directive 97/67/EC as amended by Directive 2002/39/EC)

{COM(2005) 102 final}

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1. INTRODUCTION AND BACKGROUND

1.1. The importance of postal services and their changing role

In 2002, EU postal revenues were about €88 billion or about 0.9% of EU GDP. A study undertaken for the Commission by an independent consultant estimated that, in 2000, over 5 million jobs were directly dependent on, closely related to, or induced by the postal sector[1]. Direct employment is still mainly in Universal Service Providers (USPs) and according to the more recent study by Wik-Consult[2], amounted to about 1.85 millions in 2002.

Postal services provide vital infrastructural support for the commercial, governmental, intellectual, and social activities of the European Union. In addition, many of the USPs have an important role in the provision of financial services (post banks).

Postal services are evolving rapidly. This is due to internal pressures within the sector and to the influence of the closely related communications, advertising, and transportation sectors, each of which is open to competition and undergoing rapid evolution.

Postal services are essential for communication and trade and as such have an important role to play in the economic and social cohesion of the EU. They are also strategically important as part of the wider communications and distributions market. Many key sectors, such as e-commerce, publishing, mail order, insurance, banking and advertising depend on the postal infrastructure. The key role played by the postal sector places it at the heart of the Lisbon Agenda[3].

The recent Kok Report[4] emphasises that there is still enormous scope for further market integration and greater economic gains for both consumers and enterprises in the Internal Market. Postal services are a good example of where such gains can be made. The Commission communication on the Lisbon Midterm Review[5] recognizes that public services have a central role in an effective and dynamic single market. Providing high quality services of general interest to all citizens at affordable prices is also necessary. Postal services are a good example of where such gains can be achieved. In close cooperation with Member States, the Commission will look at effective and innovative means of removing barriers to competition in the postal sector so as to boost innovation and efficiency which in turn should benefit consumers, while preserving the universal service.

These efforts are all the more important as the image of the traditional postal services is now changing. Postal services providers have evolved into complex modern industrial organisations, benefiting from technology developments that create new opportunities for more innovative, tailored, value added services in the interest of both commercial customers and end consumers.

One example of this change is the key role played by postal operators in the fast growing home shopping business. Post, together with other communication media, is now a vital

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1 "Employment trends in the EU postal sector" by Pls Rambøll, October 2002.
2 "The Study of the Main Developments in the Postal Sector' by WIK-Consult, July 2004.
3 Lisbon European Council, Presidency Conclusions, March 2000.
4 Facing the challenge, Report from the High Level Group chaired by Wim Kok, November 2004.
5 COM (2005) 24 – Working Together for Growth and Jobs – A new Start for the Lisbon Strategy, p17.

player when it comes to channelling information and goods to the consumer. The image of mail as a dying media is no longer a valid one in this new environment where market forces and regulatory incentives create the conditions for developing the value and future prospects of the mail media.

1.2. Purpose and scope of the Document

The Community framework for EU postal services is set out by Directive 97/67/EC as amended by Directive 2002/39/EC (hereafter referred as "the Postal Directive")[6]. Article 23 of Directive 2002/39 requires the Commission to report on the application of the Postal Directive to the European Parliament and Council "every two years". It also requires that this report should include "appropriate information" on market developments including technical, social, employment and quality of service aspects.

This Commission Staff Working Paper assesses in detail the overall transposition of the Postal Directive in Member States, the application of key elements of the Directive as well as general market trends (including economic, technical, social, employment and quality of services aspects).

An important role of this Commission Staff Working Paper is also to assess the achievements of the objectives of the Directive, and, as such, it serves as a general evaluation of the Directive. The regular evaluation of activities and results[7] in achieving policy objectives is an essential element of the new policy-driven decision –taking mechanism.

The summary of the main conclusions drawn from this analysis, as well as the outline of perspective and recommendations for future policy developments are presented in the Report from the Commission to the Council and the European Parliament on the application of the Postal Directive (Directive 97/67/EC as amended by Directive 2002/39/EC), which is a follow-up to the first Commission Report on the Application of Postal Directive 97/67 which was submitted at the end of 2002[8].

It is being presented against the background of continuing dynamic regulatory and market development in the postal sector and the timetable set out in the Postal Directive for the Commission to make a proposal by the end of 2006, "confirming if appropriate the date of 2009 for the full accomplishment of the postal internal market or determining any other step".

Such a proposal would be based on the findings of a prospective study assessing, for each Member State, "the impact on universal service of the full accomplishment of the postal internal market in 2009".

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6 Directive 97/67/EC of the European Parliament and the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service; Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services.

7 Communication to the Commission from Mrs. Schreyer "Focus on results: Strengthening evaluation of Commission activites", SEC (2000)1051 of 26.07.2000.

8 Report on the application of the Postal Directive (97/67/ EC), COM (2002) 632 final of 25.11.2002.

1.3. Context of Document

The context of this document is shaped by two major developments at the regulatory level: the enlargement process (with new Member States facing the challenge posed by the acquis and its successful application), and the development of detailed regulatory approaches in Member States.

The market context has also evolved significantly. It is characterised by a changing environment which is transforming the role of postal services and bringing new opportunities to the sector.

In such a quickly evolving environment, appropriate regulation at Community and Member States' level is crucial in order to create the right incentives for the development of the sector and to protect universal service whilst avoiding market distortion.

Developments in relation to other Community measures relevant to the postal sector have continued, for example, the proposed Directive on VAT[9], the White Paper on Services of General Interest[10], the proposed Directive on services in the internal market[11], the Directive on Public Procurement[12] and are included where appropriate.

1.4. Approach

The analysis contained in this Commission Staff Working Paper draws on two studies recently undertaken for the Commission by independent consultants, and on a series of studies completed in 2003[13]. The approach of the document largely follows from the requirements of the Directive and is broadly similar to that taken in the 2002 Report.

The 2002 Report highlighted the risk of growing regulatory asymmetry. This report analyses further this phenomenon with regard to the general framework nature of the Directive, and examines the link between regulatory and market developments.

Since the 2002 Report, two main events have occurred which have had an impact on the application of the Postal Directive. The first was the entry into force of the amendments introduced by Directive 2002/39, and the second was the enlargement of the EU to include ten new countries. The document will focus on these two events, substantiate the conclusions set out in the 2002 Report, and provide further analysis on how the sector is evolving.

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9 Proposal for a Council Directive amending Directive 77/388/EEC as regards value added tax on services provided in the postal sector, COM (2003) 234(01).

10 White Paper on services of general interest COM (2004) 374, 12.05.2004; Green Paper on services of general interest, COM (2003) 270, 21.5.2003.

11 Proposal for a Directive of the European Parliament and of the Council on services in the internal market,[SEC(2004) 21] COM (2004) 2 final/3.

12 Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.

13 "The Study of the Main Developments in the Postal Sector' by WIK-Consult, July 2004; "The Study of the Economics of Postal Services", N.E.R.A. July 2004; "the study on quality of service objectives, performance and measurement in relation to Community universal postal service" and Study on some main aspects of postal networks in EU adhesion countries", WIK August 2003. All studies available at http://www.europa.eu.int/comm/internal_market/post.

2. THE TRANSPOSITION OF THE POSTAL DIRECTIVE

2.1. Aims of the Community regulatory system

The aims of Community rules, as set out in the Green Paper of 1992[14] and the Postal Directive, can be summarised as the maintenance and positive evolution of the universal postal service, the improvement in the quality of service and the completion of the internal market for postal services.

By combining the discipline of harmonised regulation with the stimulus of competition, the Directive seeks to promote regulatory reforms in the Member States that will result in a better, more efficient provision of universal postal services.

With the aim of achieving these objectives, and in line with the principle of subsidiarity, the first Postal Directive provided for a limited harmonisation of EU postal services[15]. It established regulatory provisions including the definition of a minimum universal service, a maximum reservable area, the conditions governing the provision of non-reserved services and access to the network, tariff principles and the transparency of accounts, quality of service requirements and the harmonisation of technical standards.

These provisions, mainly focusing on principles and boundaries, established a Community framework which Member States could adapt to their national context.

The second Postal Directive's measured reduction of the maximum reservable area also pursues the original key Community objective of introducing a gradual and controlled opening of the postal market to competition[16].

The framework harmonisation nature of the Directive has provided possibilities for differing developments in Member States. These in turn have generated further clarification of Community principles.

2.2. The requirements of the Postal Directive

The Community framework for the regulation of the postal sector is set out in the Postal Directive (as amended). As noted above this is a framework directive which gives a considerable degree of flexibility to the Member States[17] and includes the following elements:

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14 Green Paper on the development of the single market for postal services, 11.06.1992, COM(91) 476 final.

15 Directive 97/67/EC of the European Parliament and the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service.

16 Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services

17 Recital 10 of Directive 97/67.

The Postal Directive- Description of key terms and requirements

- All Member States provide a universal postal service for all users[18] comprising of at least one delivery and collection five days a week;
- Maximum part of the market reservable for the Universal Service Provider in each Member State: 100g in weight or three times the basic tariff of an item of correspondence (and 50g/ 2.5 *basic tariff as of 2006).
- Member States may establish authorisation procedures, which may include individual licences and a compensation fund in the universal service area;
- Member States should ensure that all users have a reasonable and good access to the postal network, and that this access should be transparent and non discriminatory;
- Member States must ensure that tariffs, including special tariffs, for universal services are cost-based, transparent and non –discriminatory and that cross-subsidies from the reserved area to the competitive area are limited to the fulfilment of universal service obligations.
- Member States must ensure that USPs should consistently apply transparent and separated cost accounting principles, and provide separate accounts for reserved and non-reserved universal services and non-universal services;
- The Postal Directive sets quality of service targets for cross-border mail (85% for D+3, 97% for D+5 for the fastest standard category of service) and required Member States to define and enforce compatible national targets;
- Member States are to ensure that adequate consumer protection measures were in place, particularly with regard to complaints and redress procedures;
- The Postal Directive aims to promote greater inter-connectivity between postal networks through greater technical standardisation;
- Member States have to establish National Regulatory Authorities independent from the postal operators.

2.3. Transposition by Member States

The transposition process has been influenced by two major events since the 2002 Report: the amendments introduced by Directive 2002/39, which needed to be transposed by 31/12/2002 and the enlargement of the European Union on 1st of May 2004.

The transposition of Directive 2002/39 by the then 15 Member States was delayed in a number of Member States. This was possibly due to the short transposition period. The Commission opened infringement procedures whenever transposition was delayed, and all these Member States achieved their transposition targets during 2003, with the exception of France which has, however, adopted some administrative provisions to allow competition in those segments of postal services which have recently been opened to competition.

Partly in response to the Postal Directive, but also in order to adapt to the new market environment, Member States have significantly modernised their postal laws in recent years. The following table summarises when transposition has taken place.

18 Users: any natural or legal person benefiting from universal service provision as a sender or an addressee (Art. 2 of the 97/67/EC Directive).

Transposition and evolution of Member State postal laws (as of June 2004)

	Date of current law or amend	Transpose 1997/67	Transpose 2002/39	Conformity with Directive
AT	2003	Y	Y	Y
BE	2002	Y	Y	Y
CY	2002	Y	N	*
CZ	2000	N	N	*
DE	2002	Y	Y	Y
DK	2002	Y	Y	Y
EE	2001	N	N	*
ES	2002	Y	Y	*
FI	2001	Y	Y	Y
FR	1999	Y	N	*
GR	2003	Y	Y	Y
HU	2003	Y	Y	*
IE	2002	Y	Y	Y
IT	2003	Y	Y	Y
LT	2004	Y	Y	*
LU	2002	Y	Y	Y
LV	2004	Y	Y	*
MT	2004	Y	Y	*
NL	2000	Y	Y	Y
PL	2004	Y	Y	*
PT	2003	Y	Y	Y
SE	1993	Y	Y	Y
SI	2004	Y	Y	*
SK	2003	Y	Y	*
UK	2002	Y	Y	Y

Source: Wik 2004 + DG Markt

** Conformity issues preliminary identified by the Commission are being discussed with Member States.*

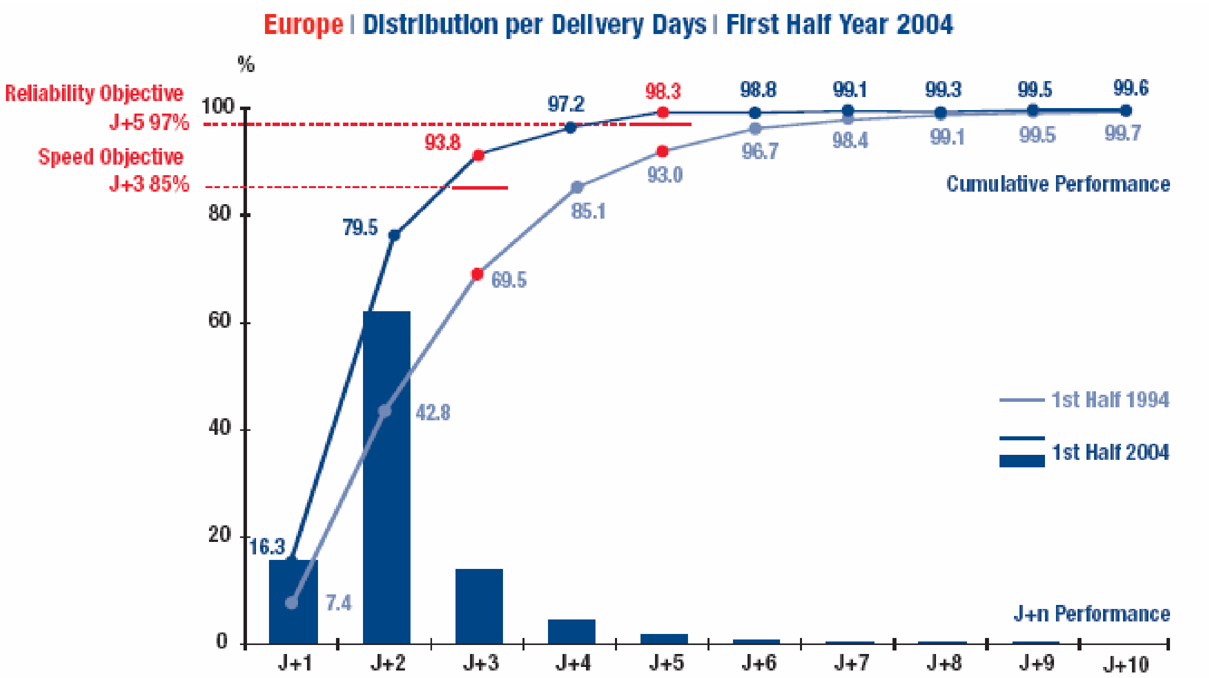
In evaluating the transposition process, it is worth noting that the shorter period (6 months – compared to 12 months for the first Postal Directive) gave the necessary momentum to push Member States to adopt quickly corresponding laws, with regards to the first step to reduce the reserved area (1st of January 2003- the amended Directive was published in June 2002). Additional interactions with the Commission were successful in most Member States to find a rapid solution19. As pointed out in the 2002 Report, the transposition of Directive 97/67/EC was a more lengthy process although it is also fair to point out that this Directive required more extensive transposition measures than the second Postal Directive.

Regarding the new Member States that joined the EU in 2004, there has been a delay in particular in respect of the transposition of Directive 2002/39. This may be explained, although not justified, by the fact that the Directive was adopted at a relatively late stage in

[19] The Commission sent letters of formal notice -the first stage of the infringement procedure- to the eight Member States that had not implemented or communicated the Directive by the agreed date, five of these quickly complied (Denmark, Spain, Ireland, Luxembourg and Portugal) and Austria while France and Greece introduced some administrative measures to partially remedy the effects of the delay.

the enlargement process and just after the new (national) laws to transpose Directive 97/67 had been adopted.

In summary, almost all Member States have transposed (and the few remaining ones are in the process of doing so) the Postal Directive and introduced/amended primary and secondary postal legislation, so that overall the Community postal framework has now been implemented. This has had a positive impact particularly towards the achievement of the original aims of the Directive, such as improving the quality of postal services[20] (see figure below), establishing a harmonised minimum level of universal service, and introducing a gradual and controlled opening of the postal market to competition. **Nevertheless, there are still some conformity issues which need to be tackled in the near future. These are mainly in the areas of licensing and authorisation, complaint and redress procedures, price control and the separation of accounts. These deficiencies represent major constraints on the attainment of the internal market for postal services despite the solid foundation laid down in the Directive.**



Source: IPC

Infringement Proceedings Opened

A number of infringement procedures have been pursued in the last two years and the Commission has initiated the following infringement procedures to ensure correct transposition:

Infringement procedures regarding the Postal Directive (Directives 97/67 and 2002/39) since 2002.

20 The regulatory pressure to improve quality of postal service is crucial for the success of the internal market for postal services, and it has proven successful as shown notably by the UNEX results published twice a year by IPC.

Member State	Conformity issue	Status as of Nov 2004
BE, ES, IT	independence of the NRA	Closed
GR	licensing, independence of the NRA	Closed
BE, DE, ES, GR, IE, LUX, NL, A, PT, FIN, SW, UK	non communication of Directive 2002/39	Closed
FR	independence of the NRA, /Non communication of Directive 2002/39	Referred to the European Court of Justice.

Source: DG Markt

Some other concerns regarding different aspects of the Postal Directive have also been discussed with Member States in recent years. These have however been solved without recourse to formal procedures.

As regards the transposition by some of the new Member States, the Commission is closely monitoring the situation in co-ordination with these States in order to solve the remaining difficulties as soon as possible.

As for the three Candidate Countries (Bulgaria, Romania and Turkey), substantial work remains to be done, although the positive efforts undertaken by Romania should be noted. Candidate countries are closely associated with the transposition and implementation of the Directives (namely through their participation in the Committee established by the Postal Directive) and are benchmarking with Member States so that where appropriate, they can benefit from best practices.

As a general conclusion, the Community framework for the postal services has been largely transposed. Nevertheless, there are still some remaining deficiencies. These are mainly in the areas of licensing and authorisation, complaint and redress procedures, price control and the separation of accounts. As regards the independence of national regulators, even if the situation is generally acceptable in transposition terms, further institutional independence may need to be considered in some Member States (AT, CZ, DK, EE, ES, FIN, FR, IT). These deficiencies, as well as the absence of regulatory harmonisation represent major constraints on the attainment of the internal market for postal services despite the solid foundation laid down in the Directive.

2.4. Transposition of the Postal Directive by the EFTA -EEA States

The Postal Directive is part of the acquis of the European Economic Area (EEA) and is referred to in point 5d of Annex XI to the Agreement. The 97/67 Directive was incorporated into the EEA Agreement on 25 September 1998[21]. Directive 2002/39/EC, amending the Postal Directive, has also been incorporated into the EEA Agreement[22] . This Decision contains a

[21] Decision 91/98 of EEA Joint Committee. The Decision entered into force on 1 May 1999.

[22] Decision No 168/2002 (OJ L 38, 13.2.2003, p. 30 and EEA Supplement No 9, 13.2.2003, p. 21.

compliance date - 1 August 2003, i.e., by then, all the three EFTA EEA States, Norway, Iceland and Liechtenstein had to have Directive 2002/39 incorporated into their internal legal order.

The EFTA Surveillance Authority, which has a role corresponding to the Commission's for those countries, had initiated infringement proceedings against Iceland and Norway and sent a letter of formal notice in September 1999 to both because of non-implementation of Directive 97/67. Similar steps were taken against Liechtenstein in December 2003 because of non-implementation of Directive 2002/39.

The EFTA EEA States have now transposed both Directives following requests by the EFTA Surveillance Authority to do so. In Norway, the two Directives were implemented by amendments to the Postal Services Act of 1996[23]. In Iceland, the two Directives were implemented by the Postal Services Act No 19/2002 amended by Law No 136/2002 and in Liechtenstein they have been implemented by the Postal Act as amended by Act No 106 of 10 March 2004.

With reference to Article 23 of the Postal Directive, the Standing Committee of the EFTA States will also, with a contribution received from the EFTA Surveillance Authority on questions within its field of competence, adopt a parallel application report before end of 2004.

3. THE APPLICATION OF THE POSTAL DIRECTIVE

3.1. A quality Universal Service for EU citizens

Specific objectives set by the Directive

"All Member States shall ensure that users enjoy the right to a universal service involving the permanent provision of a postal service of specified quality at all points in their territory at affordable prices for all users." (Chapter 2, Article 3)
Scope of universal services (postal items up to 10/20kg for national and 20kg for cross-border postal items, registered and insured items):

– One delivery and one clearance per working day at least 5 days a week

– Density of access points taking account of the needs of users

– Specified quality of service requirements (Chapter 6)

– Implementation of simple and transparent complaints and redress procedures for services within and outside of postal universal services (Chapter 6)

An important objective of the Directive is to ensure the provision of a minimum universal postal service across all Member States. Whilst the Directive defines the minimum requirements to be met in all Member States in certain exceptional locations and

23 Act No 73 of 29 November 1996 relating to the provision of universal postal services as amended by Act No 5 of 9 January 1998, Act No 24 of 30 April 1999 and Act No 51 of 20 June 2003.

circumstances, national regulatory authorities (NRAs) may allow derogations from these requirements.

Progress to date

At present, all Member States' Universal Service Provider's (USP) provide a universal postal service that is consistent with or exceeds minimum EU requirements. Therefore the objective of establishing a minimum EU universal service has been achieved. As noted in the 2002 Report, the Postal Directive has not so much increased the universal service obligations, but rather codified pre-existing arrangements. However, it is interesting to note that since the 2002 Report, there has been some substantial changes (or plans to do so) in the scope and definition of USO, notably by some key Member States (NL, UK, SE) as detailed further. It should also be emphasised that the quality of universal postal services provided in Europe is high and that the level is even higher than what had been originally foreseen in the Postal Directive. As explained in detail below, targets for quality of service (routing time) and access to universal service are being achieved across the EU and in many cases, exceeded. Some operators are also innovating to propose new ways of providing postal services, in order to enhance customer access possibilities.

On the demand side, consumer satisfaction as regards postal services ranks first compared to other services of general interest. Overall, the majority of European consumers (74 %) are satisfied with the postal services that are provided to them. However, end consumers in some Member States express concerns and, rightly or wrongly, perceive the current evolution of postal services rather negatively[24].

Furthermore, a growing number of Member States (such as FIN, SP, SE, UK, NL…) are considering the need to review the Universal Service Obligations (USO). The Netherlands have taken a decision to exempt non-reserved bulk mail from their universal service definition, and the United Kingdom intends to introduce a definition of universal service based on the findings of a detailed survey of customers' needs, while Sweden is undertaking an investigation on USO and other postal issues. Spain is also considering the extension of the universal service to certain services.

[24] At EU level, see Eurobarometer (2002) in EU 15, Eurobarometer (2003) in the most recent Member States and Qualitative study on European consumers and services of general interest (EU-25) (Optem - 2003).

Compliance with delivery requirements

	Deliveries per week required	Deliveries per week in practice	Exceptions	Parcel delivery (*)
AT	5	5	N	Yes
BE	5	5	N	Yes
CY	5	5	N	Subject to charge
CZ	5	5	N	Yes
DE	6	6	N	Yes
DK	6	6	Y	Yes
EE	5	6	Y	Subject to charge
ES	5	6	N	No
FIN	5	5	Y	Subject to charge
FR	6	6	N	Yes
GR	5	5	Y**	Subject to Charge
HU	5	5	N	Yes
IE	5	5	Y	Yes
IT	5	6	N	Yes
LT	5	6	N	Subject to Charge
LU	5	5	N	Yes
LV	5	5	N	Subject to Charge
MT	5	6	N	Yes
NL	6	6	N	Yes
PL	5	5	N	Yes

PT	5	5	N	Subject to Charge
SE	5	5	Y	Subject to Charge
SI	5	6	Y	Yes
SK	5	5	Y	Yes
UK	6	6	Y	Subject to Charge

Source: Wik 2004

** This column indicates whether the delivery of parcels takes place at the home address: within the standard rate (Y/N) or at an additional charge (charge)*

***As in 2002, only Greece reports an exception to the delivery and collection of postal items of some significance which affects some 3% of the population.*

Interim conclusions on universal service

Even if universal service requirements are broadly complied with, national provisions for their implementation vary widely within the framework set by the Directive from clearly to imprecisely defined requirements. This deviation has been made possible by the general nature of the definitions in the Directive. **Against this background, a clearer definition of the universal postal service is one of the elements that may require further attention in the coming years.**

3.2. Reserved area

Specific requirements set by the Directive

Article 7 of the Postal Directive allows MSs to reserve domestic and incoming cross border correspondence for the USP if the correspondence is :

- Less than 100 grams and 3 x rate for lowest weight step(*) (as of 2006, the threshold will be 50 g, 2.5 * basic rate) and if it is
- Necessary to ensure universal service.

Two extensions of reserved area are permitted:

- Direct mail (to the extent necessary to ensure US).
- Outgoing cross border (to the extent necessary to ensure the provision of universal service, “for example when certain sectors of postal activity have already been liberalised or because of the specific characteristics particular to the postal services in a Member State”)

* Under the Accession Treaty, Poland is allowed to maintain a reserved area over items of correspondence weighting up to 350 grams until the end of 2005.

Directive 2002/39/EC provided the further opening of the European Community postal services markets to competition by reducing, from 1 January 2003, the maximum reserved area for items of correspondence to 100g and limited the transportation charge to less than 3 times the basic tariff for an item in the lowest weight step of the fastest standard category. The Directive further reduces the weight and price limits, from 1 January 2006, to 50g and limits the transportation charge to less than 2.5 times the basic tariff.

Progress to date

With some minor exceptions that are being addressed, at present all Member States have limited their reserved areas to the limits set by the Postal Directive. The reserved area has now become minimal or substantially narrower (primarily due to exclusion of direct mail) than the upper limits fixed by the Directive in 11 Member States which represents about half of the Community in terms of population.-,The notion of a reserved area is progressively losing its importance and, as the example given by these Member States show, there is room for more opening to competitive postal services. The current situation is summarised in the following table which shows inter alia encouraging instances of greater competition among new Member States (EE,CZ,SI).

Services reserved for the USP in Member States

Member states	Domestic and incoming cross-border	Direct mail	Outgoing cross-border
EE, FIN, SE, UK	No or relatively minor reserved area		
CZ, NL, SI	X		
ES (*), IT,	X		X
AT, BE, DE, DK, FR, IE,	X	X	
CY, GR, HU, LT, LU, LV, MT, PT, SK	X	X	X
, PL (*)	Reserved area still exceeds limits of Directive		

Source: Wik 2004+DG Markt

(*) in Spain, local mail is excluded from the reserved area

(**) Poland obtained an exception in the Accession Treaty which allows it to maintain the original reserved area limits set by Directive 97/67 until 2006.

. As suggested by the recent study of Wik-Consult, this does not appear to have affected the quality or quantity dimensions of universal service provision. Furthermore, according to the study, increased competition has had a rather positive effect on universal service provision when the incumbent has the flexibility to respond to competitive challenges.

The situation can however lead to an uneven playing field, as the efforts in terms of opening up of markets to competition undertaken by these Member States have not always been matched by the remaining Member States. For example, a significant number of Member

States (IT, LT, LV CY, GR, HU, LU, PT, SK) have made extensive use of the possibility of reserving outgoing cross-border mail, which was contemplated as an exception in Directive 2002/39.

Moreover, no Member State seems to have developed an economic study demonstrating the need for a reserved area to sustain universal service while on the contrary, two Member States, (UK and SW) have produced studies[25] that come to the opposite conclusion.

In this context, it is worth noting that the United Kingdom, the Netherlands, Germany and Norway are all contemplating the possibility of abolishing the reserved area well in advance of the date foreseen in the Postal Directive. Germany, the Netherlands, and the United Kingdom account for about 48 percent of the Community letter post. If these three countries go ahead before the end of 2007, and if including those Member States with no or minimal postal monopoly, one could expect to see complete liberalisation of about 60 percent of the EU letter post by the end of 2007.

Interim conclusions on the reserved area

These trends suggest that Member States should intensify their efforts to go beyond the minimum requirements of the Directive.

3.3. Licensing and authorization

Specific objective set by the Directive

Article 9 of the Postal Directive permits Member States to introduce authorisations for "postal services" provided by public and private operators (postal services refer to the collection, transport, and delivery of correspondence, printed matter, and packages).

Two types of authorisations can be granted:

* Individual license: approval before starting activity.

* General authorisation: no approval before starting activity

Obligations that may be required:

* Within the universal service area: (1) Essential requirements (i.e. confidentiality of correspondence, security of the network as regards the transport of dangerous goods and, where justified, data protection, environmental protection and regional planning); (2) Universal service obligations; (3) Service conditions; (4) Respect for reserved area; (5) Contribution to compensation fund

* Outside the universal service area: Essential requirements only

The Directive allows two different levels of regulatory controls depending on whether the postal activities fall outside or within the scope of the universal service. For postal activities

25 ''An assessment of the cost and benefits of Consignia's current Universal Service Provision", Postcomm – June 2001, "Analysis of costs of universal services in the postal sector", Öhrlings, Coopers & Lybrand - October 1996.

outside the scope of the universal service, general authorisations may be introduced to the extent necessary to guarantee the “essential requirements”. For postal activities within the scope of the universal service, but outside the reserved area, authorisations or individual licences may be introduced to the extent necessary to guarantee the “essential requirements and to safeguard the universal service”.

Progress to date

With the exception of Austria and The Netherlands, all Member States operate an authorisation regime, a licensing system or both. Although France did not previously operate either system, new legislation has being introduced requiring the creation of a permit system.

As shown in the table below, some Member States have used licensing procedures, either to ensure universal service provision or as a means of monitoring market entry.

Authorization regimes inside universal service area

Type of Authorization	Member state
None needed	AT, FR, NL
General Authorization	DK
General Authorization requiring approval before starting operations	IE, LU, SI, SK
Licence required for some or all letter post services only	DE, PL, SE, UK
Licence required for all universal services	BE, CY, CZ, EE, ES, FIN, GR, HU, IT, LT, LV, MT, PT

Source: Wik 2004

Authorisation regimes differ substantially among Member States and in practice there appears to be a good deal of confusion and misunderstanding about their operational scope, the approval process, and obligatory conditions governing authorisations permitted by the Postal Directive for the regulation of competitive postal operators both within and outside the universal service area. This may be partly due to the Directive’s lack of clarity in this respect**.** For these reasons the provisions of the Directive and national practices should be reviewed in the years ahead and discussed with Member States, in order to introduce greater clarity.

Compensation Funds

Article 9(4) of Postal Directive 97/67/EC declares *“where a Member State determines that the universal service obligations (...) represent an unfair financial burden for the universal service provider, it may provide a compensation fund.”* The purpose therefore for such a fund is to compensate the USP for any undue financial burden which arises as a result of the Universal Service Obligations.

The Directive states that any compensation fund for this purpose is to be administered by a body independent of the beneficiary or beneficiaries. An authorisation or licence, for services within the scope of the universal service, may therefore be granted to an operator subject to an obligation to contribute to a universal service compensation fund. A compensation fund may only be used to finance those activities falling within the scope of the universal service.

Some Member States (see table below) have made provision for setting up compensation funding arrangements to ensure universal service provision but thus far, only Italy has actually established one.

Compensation funding in the Member States: mechanism and practice.

Member state	Authorized to establish fund	Fund established
BE	Parl	
CY	NRA	
DE	NRA	
ES	NRA	
GR	MinPost	
IT	MinPost	X
LV	Council	
PT	NRA	
SI	NRA	

Source: Wik 2004

<u>**Interim conclusions on licensing**</u>

The provisions of the Directive and national practices regarding licensing should be reviewed in the coming years and discussed with Member States, in order to introduce greater clarity.

Given the limited experience in introducing and managing compensation funds, it is difficult to draw any definite conclusions. It may be the case that to date it has been not financially necessary to establish such a fund, but there are also claims that such funds would be costly and difficult to administer. Further consideration will be needed in the future to see how to make this optional tool more practical.

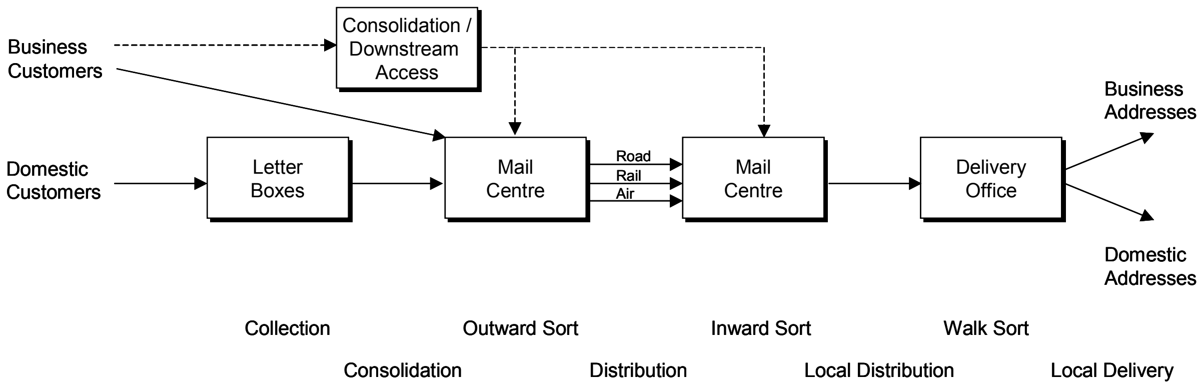
3.4. Downstream access

<u>**Specific objective set by the Directive**</u>

The Postal Directive does not impose specific access rules, although it empowers Parliament and Council, acting on a proposal from the Commission, to adopt harmonisation measures in the field of access to the public postal network, whenever necessary.

Access can help facilitate market entry for upstream consolidators (see figure below). New competitors who want to establish a delivery network can also use access for a transitional period to build up customer relationships and volumes, before being able to compete end to end with the incumbent. Using this model, consolidators and competitors, as well as major business customers can already carry out part of the value chain process before handing mail over to the incumbent.

Access to the postal value chain



Source: DG Markt

Progress to date

To date, the regulation of access, and more in particular downstream access, has only been introduced in a small number of Member States. Providing access raises a number of important policy considerations e.g. how the economy of the postal network should be treated and the desirable level and form of competition (competing networks vs. access competition). Access also affects the investments or market entry plans of potential competitors. Some Member States are now moving towards defining the regulation of downstream access (e.g. United Kingdom), while others appear to be promoting a non discriminatory obligation with transparent prices and conditions (e.g. The Netherlands).

A recent study undertaken for the Commission[26] highlights different market situations where access to the public network could be an important requirement for the development of competition, and in particular for bulk mailings

Interim conclusions on access

Even if it appears to be premature to draw any conclusion at this stage, the above findings and diverging developments in Member States suggest that access is an important issue which merits further analysis and discussion with Member States in the coming years.

26 "The Study of the Economics of Postal Services". by N.E.R.A. July 2004.

3.5. Tariff principles

Specific objectives set by the Directive

Article 12 of the Postal Directive requires each tariff for universal service to be affordable, geared to costs, transparent, and non-discriminatory.
Special tariffs with individual customers are permitted but should conform to the same principles. In particular, specials tariffs must:
* "take account of the avoided costs" and
* apply equally between third parties and be open to private customers who post under similar conditions.

Cross-subsidisation of universal services outside the reserved sector using revenues from services in the reserved sector shall be prohibited except to the extent to which it is shown to be strictly necessary in order to fulfil specific universal service obligations imposed in the competitive area.

Article 13 requires that MS encourage their USPs to arrange that in their agreements on terminal dues for intra-Community cross-border mail, that the following principles are respected: (1) terminal dues shall be fixed in relation to the costs of processing and delivering incoming cross-border mail; (2) levels of remuneration shall be related to the quality of service achieved; (3) terminal dues shall be transparent and non-discriminatory.

Progress to date

Almost all Member States have adopted procedures and standards for regulating the prices of key universal services so that they comply with the general standards of the Directive.

Under the Postal Directive, Member States are free to choose the appropriate forms and methods to ensure compliance with tariff rules. These are set out in the table below.

Price controls in the Member States

	Regulator	*Scope of price regulation*	*Ex ante*	*Price cap*	*Ex post*	*Cost basis*
AT	*MinPost*	*Reserved single corr.*	*X*			*Actual costs*
BE	*NRA*	*Universal services*	*X*			*NA*
CY	*NRA*	*Universal services*	*X*			*NA*
CZ	*MinPost*	*Single corr. & parcels*	*X*			*Actual costs*
DE	*NRA*	*Corr. & direct mail*	*X*	*X*	*X*	*Efficient costs*
DK	*MinPost*	*Reserved services*		*X*		*NA*
EE	*NRA*	*Universal services*	*X*			*Actual costs*

ES	*Council*	*Single correspondence*	*X*	*X*		*Actual costs*
FIN	*NRA*	*Universal services*			*X*	*Actual costs*
FR	*MinPost*	*Universal services*		*X*		*Actual costs*
GR	*NRA*	*Universal services*	*X*			*Actual costs*
HU	*Parl*	*Universal services*	*X*		*X*	*NA*
IE	*NRA*	*Universal services*	*X*		*X*	*NA*
IT	*MinPost*	*Universal services*	*X*			*NA*
LT	*NRA*	*Single corr. & parcels*	*X*			*Actual costs*
LU	*NRA*	*Single correspondence*	*X*		*X*	*Actual costs*
LV	*Parl*	*Single corr. & parcels*	*X*			*Actual costs*
MT	*NRA*	*Universal services*	*X*			*NA*
NL	*MinPost*	*Universal services*	*X*			*NA*
PL	*NRA*	*None*				*Actual costs*
PT	*NRA*	*Universal services*	*X*			*Actual costs*
SE	*NRA*	*Single correspondence*		*X*		*Actual costs*
SI	*NRA*	*Universal services*	*X*			*Efficient costs*
UK	*NRA*	*Universal services*	*X*			*NA*

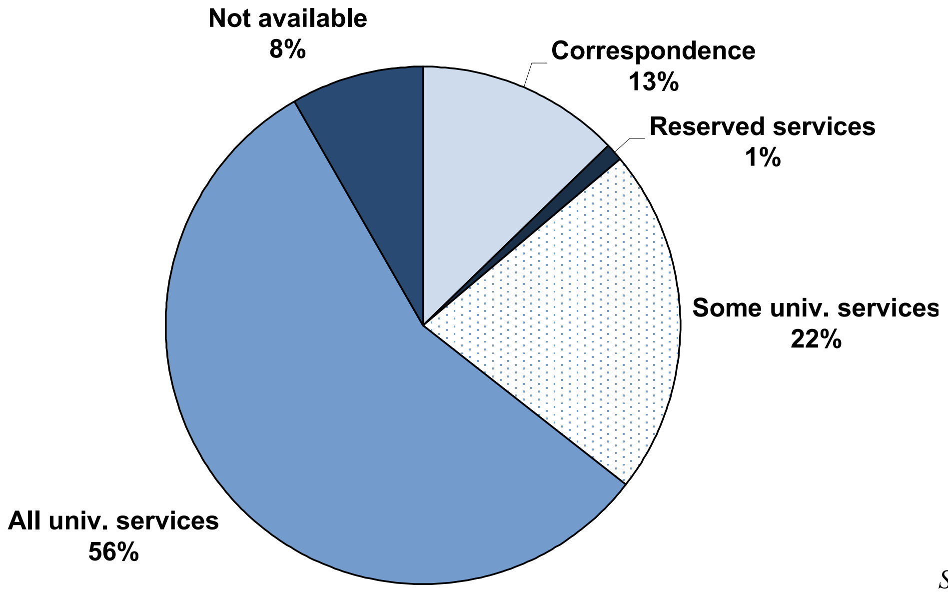
Source: Wik 2004

The table shows that some Member States undertake occasional ex post control but little direct reviewing of the costs incurred by the incumbent operator while others conduct such reviews and enforce annual price reviews including incentives for efficiency gains which are especially important in a market situation with a dominant supplier.

While both mechanisms can be said to comply with the principles of the Postal Directive, their practical implementation leads to a very fragmented picture in terms of the actual degree of price control undertaken by every Member State.

Furthermore, it appears that a significant minority of Member States (AT, ES, LU, SE, CZ, LT, LV, DE) only regulate the prices of a portion of all universal services, rather than the entire range of universal services as foreseen by the Postal Directive -see chart below-.

Scope of price regulation in the EU (Member States weighted by population)



Source: Wik 2004

Overall it can be said that all Member States have adopted procedures and standards for regulating the prices of key universal services. However, as far as the practical effects are concerned, Member States have at best made a start towards achieving the Directive's goal of affordable, transparent prices geared to costs. This is an issue which could represent a serious limit to the achievement of the internal market for postal services and which will require greater attention from the Member States together with the Commission.

On the demand side, consumers are happier with the quality of service (82%) and information delivered (78%) than they are with prices (68 %). On average, 27% of European consumers are dissatisfied with postal services prices. Dissatisfaction regarding prices is high in Germany (44%), Austria (42%) and Sweden (38%)[27]. This data is confirmed by the recent Commission qualitative study that revealed that consumers distinguish between price for ordinary mail (seen as fair) and price for other services (seen as unfair). The express delivery market, with its comparatively high prices, is seen as a business and not a consumers market. Unfavourable views were expressed by German, Luxemburg and Austrian consumers (who had experienced recent important price increases)[28]. A closer monitoring of the development of prices will be needed in order to have a clearer picture.

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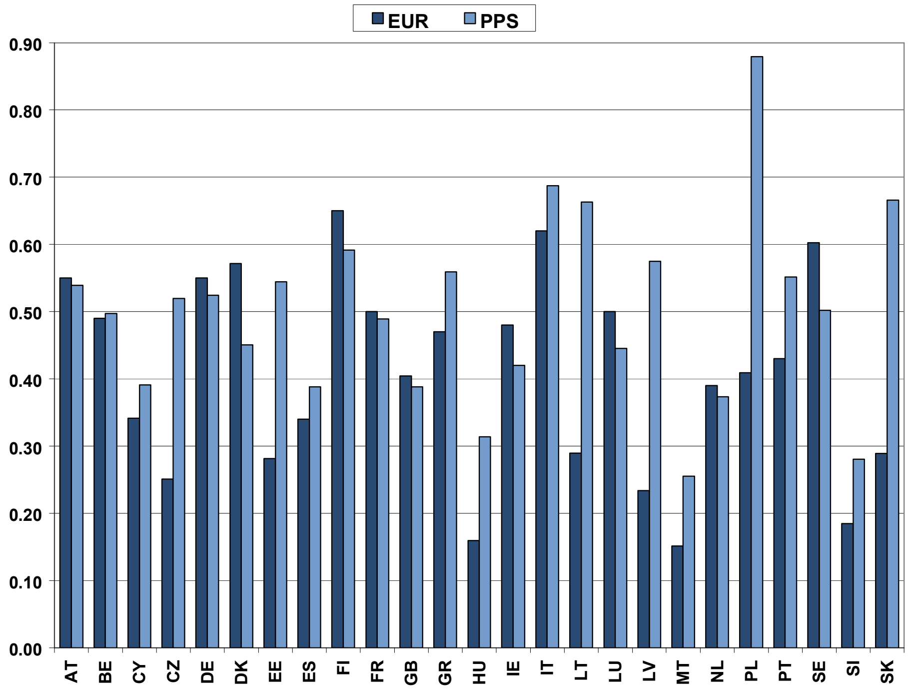
27 Eurobarometer 2003, cited supra. The survey did not distinguish among the various services that may be provided by postal operators (services supplied to fulfil the universal service obligation, falling in the reserved area, or other ones).

28 Commission qualitative study (OPTEM), cited supra.

USP tariffs for 20g letter of fastest standard category, 2003, in Euros and purchasing power standards



Public tariffs used for this figure include VAT for the following countries: FI (22%), Sweden (25%) and SI (20%).
For many USPs, public tariffs used in this figure are subject to different conditions regarding letter format.

Source: Wik 2004

The increases in public tariffs, however, may mask reductions in the average price of postal services, realized in the form of discounts for large users.

For parcels, public tariffs have increased more substantially than letter post tariffs. According to the recent Wik study, in the period 1998 to 2003, public parcel tariffs increased in 15 of 18 member states for which information is available. In 10 member states, public parcel tariffs increased by more than 5 percent per year on average in real terms. Here too, increases in public tariffs do not necessarily indicate increasing overall price levels since decreasing tariffs for business senders may have had an opposite effect.

Pricing flexibility, discounts, and cross-subsidies

Focusing on public tariffs –the price paid by the final consumers- is commonplace. However, this may mask an important characteristic of the current postal market which is the use of abundant discounts for large users (which represent more than 80 % of the volumes) while final consumers pay a substantially higher price. Competition law cases in the recent years have shown that unmonitored discounting can create problems of price discrimination and barriers to entry.

Likewise, cross-subsidies from the reserved area to universal services facing competition have proven to be a source of distortion of competition whenever the use of these subsidies is not limited to meet specific universal service obligations.

Directive 2002/39 requires Member States to ensure that special tariffs are not discriminatory and based on avoided cost and to monitor unjustified cross-subsidies.

Terminal Dues

The Postal Directive requires Member States to encourage their universal service providers to arrange that in their agreements on terminal dues[29] for intra-Community cross-border mail, three main principles are respected. The terminal dues are to be related to costs of processing and delivering incoming cross-border mail, are to be related to achieved quality of service, and that they shall be transparency and non-discriminatory.

On 23 October 2003, the Commission extended the exemption to the agreement between 17 European Public Postal Operators (REIMS II) until 2006[30]. This Decision took into account the application of the principles contained in the Postal Directive and was taken principally on the grounds of the significant improvement of quality of services (to the benefits of all customers), which is due to the strict penalty system provided for in the event of poor quality.

USPs from new Member States will have to adapt their remuneration system for intra-community mail to make it compatible with Directive requirements. As allowed by the Postal Directive, this may require a transition period so as not to disrupt the market and to minimise its impact on customers. The idea of a transition period could be acceptable if there are a clear commitment and strong incentives to adapt postal organisations so as to meet quality of service targets, and if remuneration is linked to their actual costs.

VAT

The Postal Directive does not address the applicability of value added tax (VAT) to postal services. Nonetheless, the applicability or non-applicability of VAT may affect the implementation of several provisions of the Directive. These include the affordability of universal services, the effect of the price limit imposed on services which may be reserved for the USP, and more generally the fairness of competition in the market. This is an issue of concern for competitors as some important and potentially attractive mailers are also exempt from VAT in some Member States (financial institutions, some governments departments and charities, etc).

The Commission is addressing this issue through a proposal for a Directive on the harmonisation of VAT in postal services[31].

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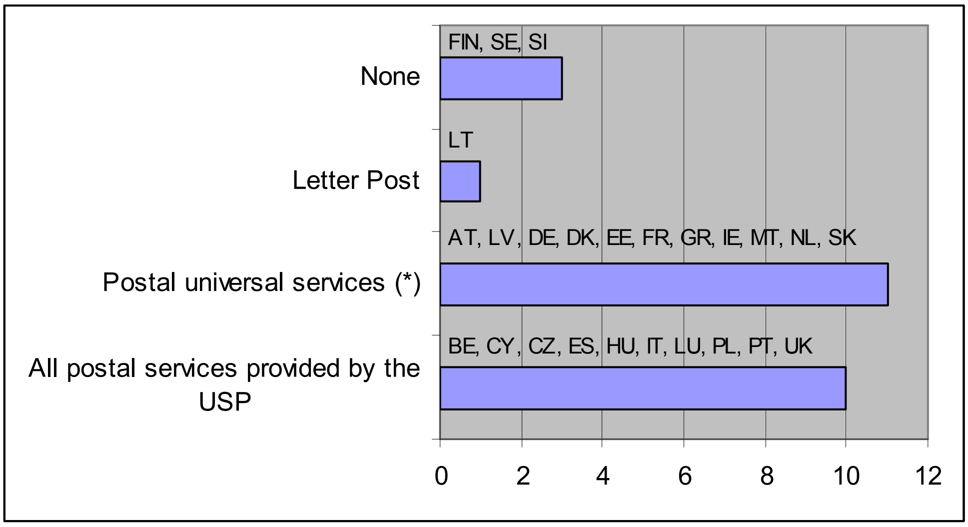
29 Terminal Dues represent the remuneration of delivery of cross boarder mail in the country of destination.

30 Commission decision of 23 October 2003 in Case COMP/C/38.170 — REIMS II renotification. OJ L 56 of 24.02.2004.

31 COM (2003) 234(01) as amended by COM (2004) 465 Proposal for a Council Directive amending Directive 77/388/EEC as regards value added tax on services provided in the postal sector.

Postal services exempted from VAT



(*)Services included services included in the USO and provided by the USP.

Source: DG Taxud +Wik 2004

<u>Interim conclusions on tariff principles</u>

Even if the Directive can be considered as having been largely transposed, its underlying principles in relation to tariffs are not yet fully applied in practice by all Member States. Member States should therefore reinforce their rules and practice in these areas. **Given its importance, the whole area of pricing –including terminal dues and VAT- will be the subject to further scrutiny by the Commission in the coming years, as it could create a threat to the achievement of the Internal Market for postal services.**

3.6. Transparency of accounts

<u>Specific objectives set by the Directive</u>

Article 14 of the Postal Directive requires:

– Separation of USP accounts (Reserved and non-reserved services, Universal services and non-universal services)

– Cost allocation system as defined in Directive.

– Statement of compliance by independent body

– USPs to disclose detailed accounting data to NRA and Commission on request.

Article 15 requires the publication of USP‘s financial accounts after these are reviewed by an independent auditor.

Progress to date

The 2002 Report looked at the operation of the separation of accounts requirements, and subsequently a specific study[32] was also undertaken on behalf of the Commission. On the basis of both of these, it is possible to conclude that, while the nature of implementation differed, the requirements of the Directive had been complied with by the 15 pre-enlargement Member States. A more recent study[33] has looked again at the situation of the enlarged Community and concluded that, while the obligations in Article 14 of the Postal Directive have been substantially transposed into national law, their implementation in practice remains uneven (See Table below). On the basis of this Table, one can conclude that the level of transparency of accounts required by the Postal Directive is provided for in national law. However, in practice, transparency of accounts is still only being partially implemented in most Member States.

Separation of accounts is meaningful only if costs have been fully distributed and allocated correctly. Since regulatory accounts showing the separation of costs and revenues and explaining the basis for allocating costs are generally not published, it is not possible to evaluate the correctness or completeness of cost allocation under the Directive.

Accounting and cost allocation regulation in the Member States.

	USP required to separate univ. & non-univ. servs.	**USP required to separate res. & non-res. servs.**	**USP allocates costs according to Art. 14**	**Cost allocation sys. complies with Art 14 verified by**	**USP cost allocation approved in**	**Compliance statement published regularly**
AT	Y	Y	Y	Auditor	2000	Y
BE	Y	Y	Y	NRA	2002	Y
CY	Y	Y	N	NRA	Never	N
CZ	Y	Y	Y	NRA	2002	N
DE	Y	Y	Y	NRA	2002	N
DK	Y	Y	Y	Auditor	2003	Y
EE	Y	NA	Y	Auditor	Never	N
ES	Y	Y	N	NRA	Never	N
FIN	Y	NA	Y	NRA	2002	Y

32 “Study on the cost accounting systems of providers of the universal postal service”, CTcon, July 2001, available at http://europa.eu.int/comm/internal_market/post.

33 “ Study of the Main Developments in the Postal Sector”, WIK-Consult, July 2004.

FR	Y	Y	Y	MinPost	2001	N
GR	Y	Y	Y	NRA	2001	N
HU	Y	Y	Y	NRA	2002	Y
IE	Y	Y	Y	Auditor		
IT	Y	Y	Y	Auditor	2002	Y
LT	Y	Y	N	NRA	Never	N
LU	Y	Y	Y	NRA	Never	Y
LV	Y	Y	N	NRA	Never	N
MT	Y	Y	*	NRA	Never	*
NL	Y	Y	Y	Auditor	2000	Y
PL	Y	Y	Y	NRA	Never	*
PT	Y	Y	Y	Auditor	2002	Y
SE	N	NA	*	NRA	2002	N
SI	Y	Y	Y	NRA	Pre-2000	N
SK	Y	Y	Y	Auditor	2002	N
UK	Y	Y	Y	NRA	2002	Y

(*) EE, IE, MT, SE: NRA is presently reviewing whether cost accounting by the USP complies with Article 14.

Source: Wik 2004

Interim conclusions on transparency of accounts

The Directive's goal of an open and transparent cost allocation system has yet to be fully reached and this will require greater attention from the Member States together with the Commission.

3.7. National Regulatory Authorities (NRAs)

Specific objectives set by the Directive

Article 2 (18) of the Postal Directive defines NRAs as "the body or bodies, in each Member State, to which the Member State entrusts, inter alia, the regulatory functions falling within the scope of this Directive."

Article 22 of the Postal Directive requires each MS to designate one or more NRAs for the postal sector that are "legally separate from and operationally independent of the postal operators".
NRAs "shall have as a particular task ensuring compliance with the obligations arising from this Directive and shall, where appropriate, establish controls and specific procedures to ensure that the reserved services are respected".

The independence of the NRAs is a key requirement of the Directive, although there are other issues of equal importance for effective national regulation, such as their functions, powers, and resources, which the Postal Directive has not addressed.

For these reasons, one of the Commission recommendations to Member States in the 2002 Report was "to ensure effective independence, adequate capacity and effectiveness of the (competition and) regulatory authorities" in the postal sector.

Progress to date

The level of independence enjoyed by NRAs has depended on national administrative traditions and the degree of postal liberalisation of Member States. In the initial years following the introduction of the first Directive, a number of Member States designated part of a Ministry as the NRA, while that same Ministry held ownership responsibilities in the public postal operator. This was considered by the Commission as being contrary to the spirit of the Directive, and infringement procedures were initiated against those Member States. At present, all Member states except France have complied with this requirement. France has prepared but not yet formally adopted legislation to ensure appropriate independence for its NRA.

Even if most NRAs appear to enjoy a reasonably level of independence and the criteria set by the Directive appear to be met for the most part, it would be appropriate to give consideration to how best to ensure greater institutional independence across all Member States.

National regulatory authorities

	National regulatory authority	**Non-postal sectors**	**Start of activity**	**Staff in 2003 (experts)**	**Budget 2003** EUR.000
AT	Ministry of Transport, Innovation. and Technology.- Dept for Postal Affairs	A	1999	NA	NA
BE	Belgian Institute for postal services and telecommunications	B	1991	11 (7)	1,250
CY	Commissioner for Telecommunication and Postal Regulation	B	2002	5 (3)	256
CZ	Ministry of Informatics - Postal Services Department	A	2000	12 (11)	NA
DE	RegTP (Regulatory Authority for Telecommunications and Post)	B	1998	25 (25)	NA
DK	Road Safety and Transport Agency, Postal Supervisory Department	G	1995	6 (3)	NA
EE	Estonian National Communications Board (ENCB)	B	2002	7 (6)	64
ES	Ministerio Fomento, Subd. Regulación Serv. Postales	A	1998	52 (52)	NA
FIN	Finnish Communications Regulatory Authority	B	1994	9 (2)	1,208
FR	Ministry of Industry				
GR	National Telecommunications and Post Commission.	BG	1998	7 (5)	642
HU	National Communication Authority	BG	1990	14 (13)	747
IE	Commission for Communications Regulation	BG	2002	5 (5)	614
IT	Ministry of Communications	A	1999	20 (6)	847

LT	Communications Regulatory Authority	B	2002	5 (5)	NA
LU	Institut National de Régulation (ILR)	BCE	2000	3 (1)	475
LV	Public Utilities Commission	BCEF	2001	8 (6)	1,876
MT	Malta Communications Authority	BG	2003	6 (3)	NA
NL	OPTA (Onafhankelijke Post en Telecom Autoriteit)	B	1997	4 (4)	895
PL	URTiP (Office for Telecommunications and Post Regulation)	BG	2002	26 (26)	NA
PT	ANACOM	B	1981	7 (7)	1,780
SE	National Post & Telecom Agency	B	1994	6 (6)	898
SI	Agencija za telekomunikacije, radiodifuzijo in pošto Republike Slovenije	BG	2002	2 (2)	NA
SK	Postovy urad	A	2002	19 (14)	241
UK	Postcomm	A	2000	37	12,998

Key : A = None; B = Telecomm; C = Energy; D = Water ; E = Gas; F = Railway; G = Other

IE, PT: Budget figure for 2002

DE: The German NRA is going to also start regulating energy and gas markets in the next months.

Source: Wik 2004 + DG Markt

Even though most NRAs appear to be vested with sufficient authority to collect data and enforce judgements, it may still be appropriate to consider how they could become more effective and active in enforcing these powers notably in implementing the transparency of accounts and tariffs principles of the Directive. Moreover, NRA's have also an important role in the collection of market information in order to bring more transparency into markets.

In light of the above analysis of key Directive requirements, it is clear that Member States are taking different approaches to domestic regulation within the Community framework. Some NRAs are more effective in regulating their markets than others, and some are charged specifically with the task of promoting a competitive market.

As competition develops in the market, it is likely that independent and effective regulation at national and Community level will play a more essential role. If this does not occur, there is a significant risk that inadequate regulation in some Member States will result in continuing market asymmetry and will block the emergence of a single market for postal services.

Interim conclusions on National Regulatory Authorities

In order to address these divergences in national regulation, the Commission will promote dialogue and exercise benchmarking between different NRAs in the coming years. These initiatives should contribute to promoting the internal market for postal services by ensuring a better level playing field for all market players.

3.8. Quality of services

Specific objectives set by the Directive

One of the key aims of the Directive is to improve the quality of Community postal services.

Article 16 of the Directive requires Member States to *"ensure that quality-of service standards are set and published in relation to universal service in order to guarantee a postal service of good quality"*.

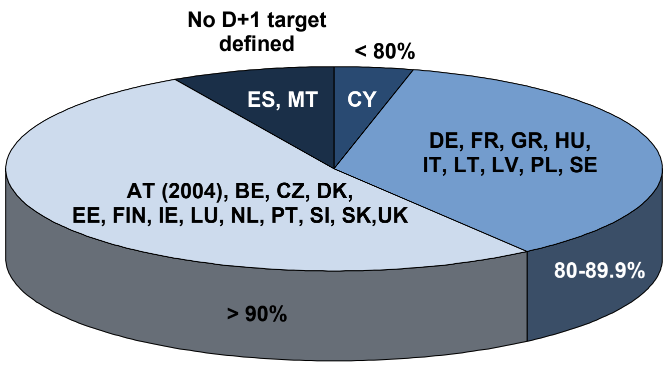
Each NRA is required to safeguard that performance complies with the set standards and that any independent monitoring is conducted in the appropriate manner and that the monitoring procedures employed are robust. Whilst the Directive does not prescribe penalties when quality targets are not met, each NRA is required to take corrective action. The action taken by NRAs varies widely between Member States and can range from discussions with USPs to highlighting the missed targets to the imposition of financial penalties as is the case at present in the UK and Ireland. In some cases there is provision for the revocation or termination of an operator's licence.

At the national level, the Directive requires Member States to set quality of service targets for all universal services, including services for correspondence, newspapers, magazines and parcels. In reality, however, the coverage of transit time targets varies widely across Member States. In more than half, only one target is set for letters in the fastest standard category without distinguishing between single-piece and bulk mail.

In terms of setting the quality standards, Article 16 of the Directive states that quality standards are to *"focus, in particular, on routing times and on the regularity and reliability of service"*. Each NRA has discretion under certain circumstances such as infrastructural difficulties or geography, to allow derogations from adopted quality standards. Whilst the Directive does not prescribe the method for measuring quality standards, it does require adequate measuring of quality, and that an evaluation procedures is put in place.

Progress to date

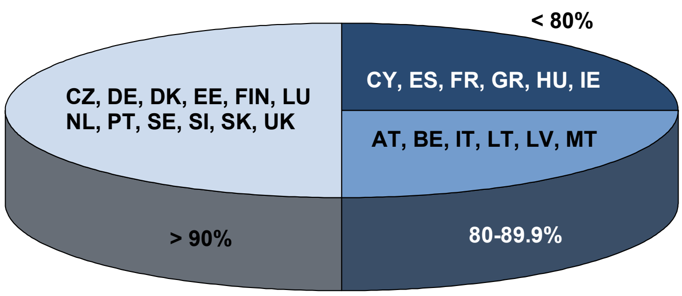
Transit time targets for domestic priority mail (D+1)



Source: Wik 2004

As indicated above, quality of service (transit time) targets have been set for the fastest standard category of service in all but two Member States (ES, MT). However, it should be noted that independent performance monitoring has not yet been introduced in five Member States (EE, LT, LV, MT, FIN), while performance results are not published in five (AT, CY, HU, LV, MT, FI). This situation can be explained by the fact that national authorities have been granted a good deal of discretion under the postal Directives. It is clear, however, that performance monitoring will need to be strengthened so as to deliver more effective and transparent quality measurement.

Transit time performance for domestic priority mail (D+1, 2003)



Source: Wik 2004

Most EU 15 Member States have achieved a consistently high performance for the transit time of domestic service. Those countries which had initially performed less well have made significant improvements since 2000. However, the fact remains that the performance of some Member States, especially FR, HU and IR, has deteriorated. The public operators in these Member States are now adapting their networks and this is expected to bring about improvements in the short term.

With respect to cross-border services[34], transit time is not yet measured in the 10 new Member States in accordance with the system applied in the EU-15 countries[35], but it is expected that this situation will change in early 2005. Applying this system to the USPs in the new Member States has proved difficult because of the lack of data about the actual transit time of cross-border services in these countries. The situation as regards the new transit flows arising from enlargement will need to be assessed on the first available performance measurements, but there are already indications that a strong effort will be needed to improve quality of service.

The current intra-Community cross-border transit time objectives were generally considered attainable in the EU15 (despite some recurrent difficulties on flows involving notably Spain and Greece), and performance levels now seem to have reached a ceiling. Once the 10 new Member States have fully implemented the independent measurement system in 2005, it will be possible to determine whether the quality of cross-border services objectives (as defined in the annex of the Postal Directive) needs to be reconsidered in the future.

It should be noted that since the introduction of the first Postal Directive, there has been overall and continuing improvement in service quality in Member States. However, national standards vary significantly suggesting asymmetry in the effective universal service provided at national level, and further efforts will be needed in the future to address this issue.

A large majority of end consumers are overall happy with the quality of postal services. Consumers are happier with the quality of service (82%) and information delivered (78%) than they are with prices (68 %). A recent Commission qualitative survey confirmed this overall consumer satisfaction while revealing that in Hungary, Czech Republic, Latvia, Austria and France views are mixed. Quality improvements are reported by Maltese, Polish, Irish, Portuguese and Greek consumers.[36]

Interim conclusions on quality of service

The need to extend and adapt quality of service measurements and publications of results for universal services will have to be discussed with Member States in the framework of the Postal Directive Committee.

3.9. Complaints and redress procedures

Specific objectives set by the Directive

Article 19 of Postal Directive 97/67/EC requires Member States to ensure that there are adequate consumer protection measures in place and that complaints about poor universal postal service are handled through *"transparent, simple and inexpensive*

34 For cross-border postal items sent by the fastest standard category, the annex of the Directive provides that 85 percent of the mail must be delivered by the third working day after posting. A second requirement is that 97 percent of such mail must be delivered by the fifth day after posting. These targets should be achieved both as an overall average and in each bilateral exchange between member states.

35 The USPs of the EU-15 member states participate in a monitoring system called UNEX that systematically measures the transit times of cross-border letters. The results are regularly published by the International Post Corporation (IPC).

36 Eurobarometer (2002) in EU 15, Eurobarometer (2003) in the most recent Member States and Qualitative study on European consumers and services of general interest (EU-25) (Optem - 2003).

procedures…………particularly in cases involving loss, theft, damage or non-compliance with service quality standards."

The Directive lays down two key procedural requirements to ensure that there is clarity in complaint handling. The first is for Member States to ensure that USPs publish details on the number of complaints received and how these complaints were dealt with and resolved. The second is for Member States to ensure there is an appeals mechanism which allows complaints to be brought before *"the competent national authority"* in cases where grievances were not adequately resolved by the USP.

Progress to date

In the majority of countries the NRA either handles customer complaints in the first instance or on appeal after attempts to deal with them by the USP has failed. The one exception to this appears to be the UK where there is a statutory body, the Consumer Council for Postal Services (Postwatch), who has the lead role in investigating complaints and for setting quality standards and complaint procedures with the USP.

Interim conclusions on complaints and redress procedures

The provisions in the directive relating to complaint and redress are still not adequately implemented in several Member States. As noted in a recent study[37], the adoption (and its enforcement) of the CEN standard on measurement of complaints and redress procedures[38] would considerably contribute to improving the current situation. This aspect is very important for end consumers and SMEs, both of which have very limited or no bargaining power.

3.10. Technical standards

Specific objective from the Directive

Harmonisation of technical standards is an ongoing process which takes in particular account of the interest of users. The European Committee for Standardisation (CEN) is entrusted with drawing up the technical standards applicable to the postal sector. It is within this framework that standardisation mandates issued by the Commission to CEN are developed and agreed upon.

CEN has focused its work on technical harmonisation and aims to *"increase the interoperability of postal networks in Member States and to improve the availability of services offered to users."* The Postal Directive also requires the Postal Directive Committee to assist the Commission in developing measures on technical standardisation.

The Directive provides that each NRA is responsible for ensuring that the implementation of the mandatory technical standards (by the organisations concerned) is completed in compliance with set principles, within the regulatory deadlines and in a transparent and non-discriminatory manner.

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37 "Quality of services objectives, performance and measurement in relation to community universal postal service", Wik, August 2003.

38 EN 14012: Measurement of complaints and redress procedures.

Progress to date

As regards quality of service, CEN has adopted a number of standards, notably:

- **EN13850: Measurement of transit time of end-to-end services for single piece priority mail and first class mail.**

  - This key standard has been developed in order to provide a standardised technique that can be used throughout Europe to measure the transit time for priority and first class mail through samples representing real mail flows. It specifies conditions for independent measurements of end-to-end transit times with a unique method at the European level which is valid for both national and cross-border mail. It facilitates the full auditing of the results obtained. At the end of 2002, the Postal Directive Committee delivered a positive opinion on this standard.

- **EN14012: Measurement of complaints and redress procedures (measurement of the number of complaints and the speed with which they are handled).**

  - As noted above, this is a very important standard for consumers. It will help to ensure that information is collected, analysed, and reported in a consistent manner so that it can be tracked for quality control and audit purposes. It provides a classification system for complaints and some indications on minimum handling requirements for redress procedures.

Overall, 8 standards have been adopted and 32 are under development, including 7 standards proposed by the industry. CEN is currently reviewing the extension of existing standards to the new Member States.

In the 2002 report, the Commission called on Member States to prepare the implementation of the European standards currently being developed by the CEN, but progress has been limited so far. The work undertaken by CEN is essential as it contributes to a common framework for the measurement of quality and interoperability between stakeholders at the different stages of the value chain for the benefit of all customers.

Mailing technology and operations have evolved quickly and have grown more complex. In parallel, the whole industry now depends on a complex net of many stakeholders who act as partners. Coordinated actions are needed for a more dynamic expansion of the mailing business.

Interim conclusions on standards

In the interest of users, standards – developed by postal experts- should be more widely implemented and used. **The Commission together with stakeholders will look at ways to generate more benefits from the standards developed by the CEN. As suggested in the study on quality of services[39], the Commission will also look at ways to improve customer representation in the CEN decision-making procedures, and notably end consumers.**

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39 “Quality of services objectives, performance and measurement in relation to community universal postal service”, Wik, August 2003.

3.11. Conclusions on regulatory developments

The transposition of both Directives is well underway and nearing completion.

However, transposition is merely the first step in the process of full implementation of the Community framework. The practical implementation of some of the more complex regulatory requirements of the Postal Directive (tariff control, transparency of accounts, authorisation and licensing) still requires further efforts and attention from Member States and the Commission.

There is in particular a clear need for Member States, and more specifically National Regulatory Authorities, to become more active in reviewing the separation of accounts, cost allocation, and monitoring prices of universal services by conducting investigations into the major areas of tariff policy, including special tariffs, terminal dues, and cross subsidies.

In addition, there have been significant regulatory developments in the EU, which go beyond the transposition and application of the EU regulatory framework, with some NRAs taking the lead in introducing new approaches on key issues such as price control, access pricing and licensing. The framework harmonisation nature of the Directive has thus provided possibilities for Member States to pursue distinctive paths.

In the 2002 Application Report, a concern was raised about the lack of effective regulation in some Member States and an emerging regulatory asymmetry that could in turn foster market asymmetry in the Member States. Even if there has been good progress towards greater independence for NRAs and effective regulation at national and Community level, there is still a significant risk that inadequate regulation in some Member States could prevent the emergence of a single market for postal services.

Finally, the overall evolution of the sector may now require policy makers to introduce more precise definitions so that the legislation better reflects the realities of the sector.

In light of this, how to foster more effective regulatory approaches in some Member States as the sector moves towards a more competitive environment, while preserving consumer rights, should be considered. With this in mind, the Commission is launching two studies, on the development of competition and the evolution of the regulatory model for European postal services in the near future. The results of these studies will inform discussion on the next steps towards the accomplishment of the full internal market for postal services and facilitate the adoption of decisions at EU and national level in the coming years.

4. MARKET DEVELOPMENTS

4.1. Evolution of the postal market towards the wider communications market

The EU postal market continues to be driven by globalisation and the prospect of gradual market opening. As noted in the 2002 Report, the boundaries of the postal sector have continued to merge with other sectors, as postal operators have moved to provide customer driven one stop solutions.

The developments seen in the postal sector are not unique. Other sectors have already gone through equally far reaching changes. The evolution of the postal market is expected to continue and the pace of change is expected to quicken.

Although market conditions have appeared challenging for those operators used to predictable and stable volumes and traditional product streams, other operators have grasped new profit opportunities. Furthermore, potential efficiency gains have been realised as a result of organisational change, new working practices or greater automation.

Most postal operators are in the process of adapting to these changes so as to be able to interact with other communication media and provide tailored solutions for e-commerce, home shopping and hybrid mail. They have successfully transformed themselves into industrial organisations and their business customers now represent the major part of their clientele. This is reflected in the business model which largely depends on the volumes generated by business customers. These customers now generate more than 85%, while the Consumer to Consumer flows represent only 5 to 10% of total revenues.

However, there is evidence that modernisation has not been completed across the sector, partially as a result of remaining regulatory protection for incumbent operators.

In this context, the express and parcels segments have continued to be more dynamic in terms of process and product innovation, whilst the mail segments have remained more concerned with cost efficiency and ensuring profitability in a time of possible volume decline.

Progress remains especially slow in the letter post markets. Even in countries that have substantially or fully liberalised their letter post markets, competition is emerging very gradually and slowly.

There are still many potential factors constraining market entry. These include difficulties in obtaining non-discriminatory access to the USP's network, the favourable treatment of the USP under VAT laws, and customers' reluctance to change suppliers.

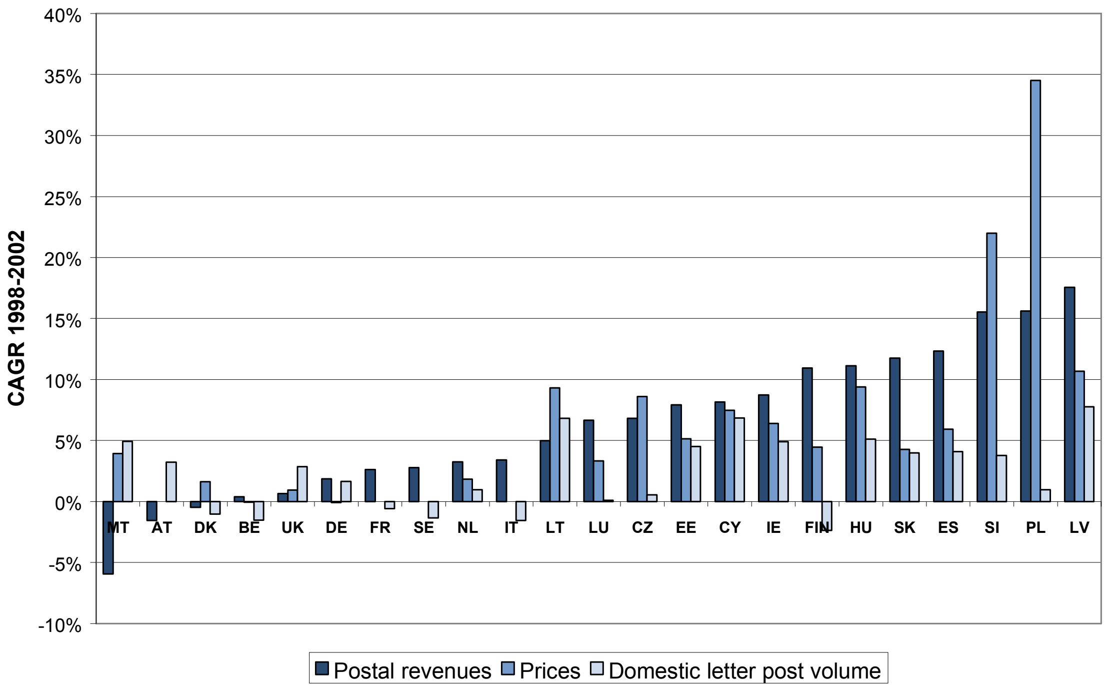
The reasons for the continuously slow progress towards greater competition in fully liberalised postal markets are puzzling and deserve further analysis. The Commission plans to launch a new study on the development of competition in the postal market -and this will go some way towards providing an analysis of the problem.

Progress in the sector still remains constrained by the lack of the completion of the internal market and the failure of some postal operators to modernise. However for those who are prepared to face up to these industrial, commercial and social challenges, there are market opportunities ahead. It is crucial for the future of the sector to develop the value of mail and promote the mail media in the wider communication market.

4.2. USPs developments: a mixed picture

Against the background of a quickly evolving market, the current situation of postal operators presents a mixed picture. The components of this mixed picture include continuing uncertainties surrounding future trends of mail volumes, growing revenues (and profitability), the high mail market shares enjoyed by public postal operators and the slow development of competition.

Development of postal revenues, prices, and letter post volume (CAGR 1998-2002)



Note: data not available for GR, PT
Source: Wik 2004

4.3. Uncertainty of future volumes

Mail volumes present a complex picture: while some Member States still experience positive growth, others have seen stagnation or slow decline with shifts within the different categories of mail and parcels. It is now clear that we are seeing the end of guaranteed future volume growth which had been a feature in the sector for the last 30 years. Postal operators can no longer anticipate the volume of mail that will enter their network every day and they need more flexibility to adapt their operations accordingly.

Furthermore, as direct mail becomes the major portion of the mail market, mail is evolving towards a one-way distribution service rather than the traditional two way communication. As a result, the business to customers' mail flow, which already accounts for more than 60 percent of total volume, will become even more important.

The domestic letter post volume in the EU 25 rose from roughly 85.1 billion items in 1998 to roughly 88.3 in 2002 and perhaps 89.3 billion items in 2003. The three largest public postal operators account for 62 percent of EU mail volumes.

For the parcels market, available data suggest that the sector is more concentrated than the letter post market, with the top three universal service providers handling 76 percent of the parcels carried by public operators. There also seems to be a tendency towards the consolidation of parcel post operations in the hands of the largest public operators.

While letter post volumes continue to be driven by general economic growth, this effect is now much more evident in the less economically developed Member States where volumes are lower. Moreover, a trend towards the decoupling of economic growth and mail volume growth may imply that in high volume countries factors such as price and quality of service will have a larger impact on mail volume than in the past.

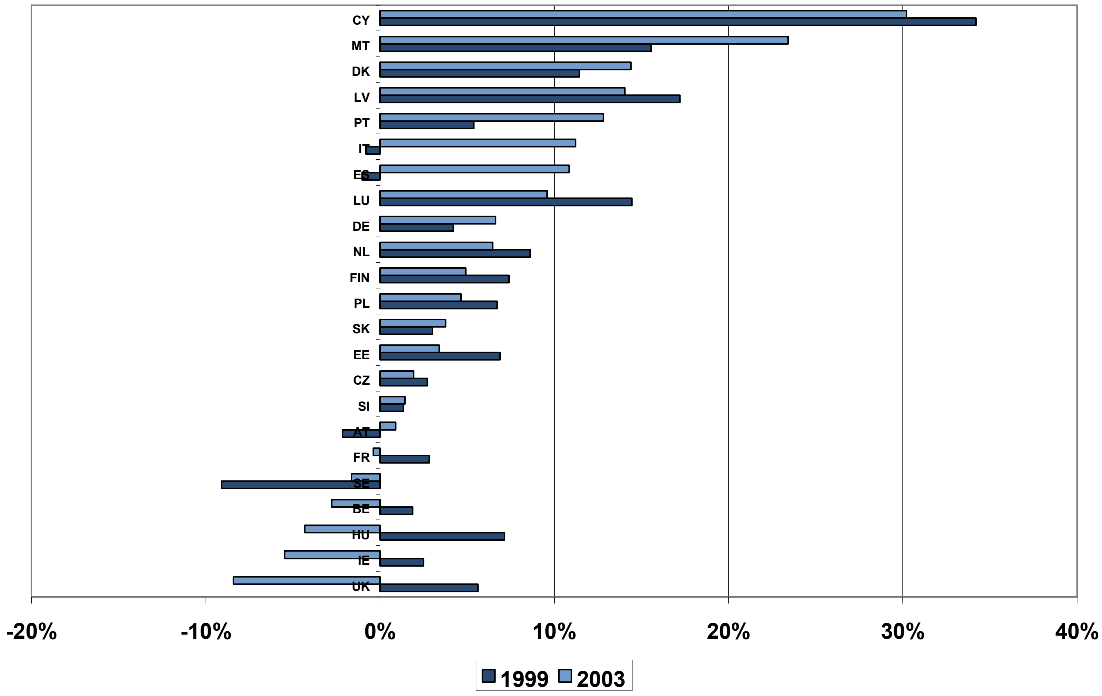
More accurate data are needed to discern more subtle market trends. It should also be noted that while many public operators have foreseen a decline in volumes in the future, it appears that no in depth research has been published confirming this hypothesis. This will require further monitoring of the market and the collection of appropriate data.

Finally, according to the recent study conducted by Wik-Consult, about 75 percent of letter post items weigh less than 50 grams, and only about 7 percent weigh between 50 and 100 grams. As indicated by the consultant, the reduction of the weight limit for the maximum reservable area on January 1, 2006 is therefore likely to have a limited impact in terms of volumes and a smaller effect than the previous reduction from 350 to 100 grams effected in 2003.

4.4. Overall revenue and profitability growth

Overall the postal sector market has continued to grow in terms of revenue. With a few exceptions, postal services remain profitable, with high margins for mail services, but relatively low margins for express services.

Profitability of the USPs (EU-25) – 1999 and 2003



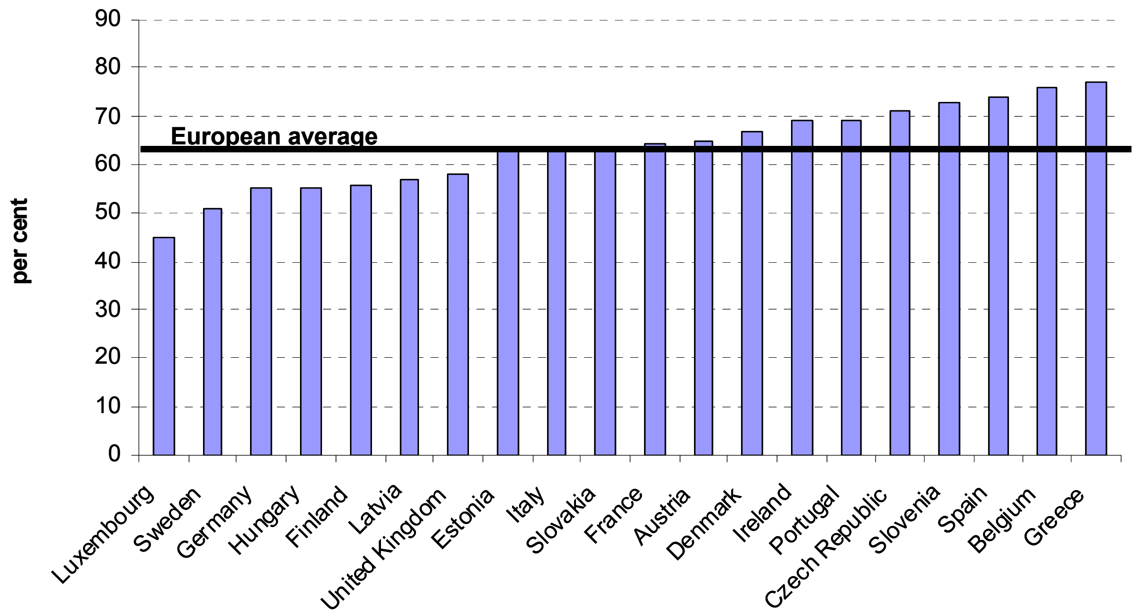
Source: Wik 2004

The profits of the leading players continue to be generated in the reserved services. This suggests that in some Member States, mail -a mature market- remains the most important profitable activity in terms of revenues and profits.

4.5. Costs: a rather stable global picture with some variation among operators

As noted above, many postal operators have engaged in serious restructuring efforts in order to increase cost efficiency and to achieve more flexibility. However, the global picture as regards the traditional dispersion of costs remains stable. Labour cost remains the largest component of costs and represents on average 63% of global costs. However there is a noticeable variation in labour costs among USPs suggesting room for further efficiency gains in some organisations.

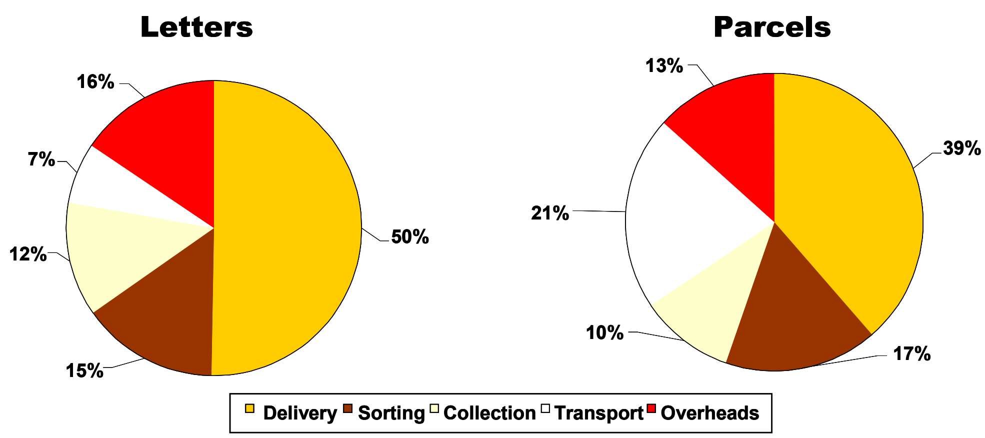
Labour Cost as Percentages of Total Costs by Operator, 2002



Note: data not available for CY,LT, MT, NL, SL, PL
Source: Nera 2004

The broad picture of costs per activity is very much the traditional one. In other words, delivery continues to account for a higher proportion of costs although for parcels the percentage is slightly less than for letters.

Costs of Activities in the Letters and Parcels Sectors



Source: Nera 2004

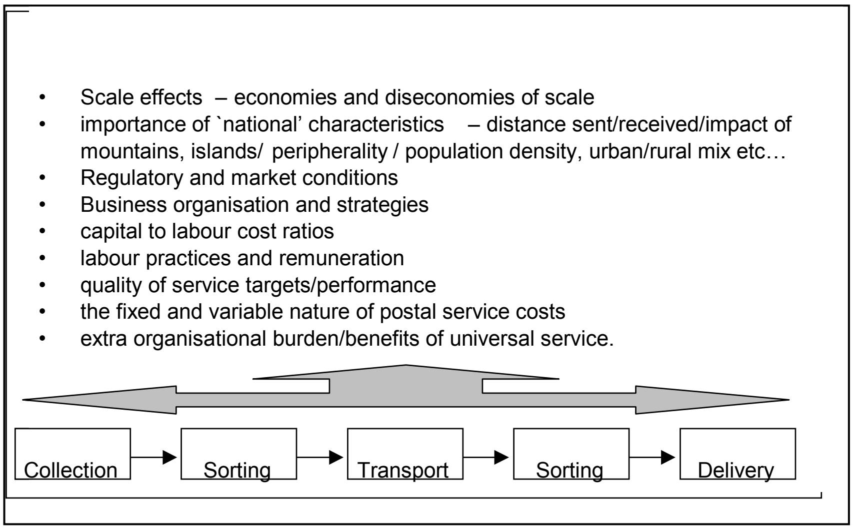
As the Nera study suggests, costs are closely associated with such factors as unit wages, volumes, number of households and demographic characteristics (e.g. proportion of the population living in urban areas rather than the traditionally used statistic on overall population density).

The cost of the post offices network is important and despite the few flexibility opportunities available (due to national requirements), most public postal operators (notably in Austria, Denmark, Sweden) have been remodelling their networks, trying out innovative ways to provide postal services and modernising their outlets.

Another important factor is the pension liabilities of public postal operators, a complex issue which is debated in many Member States between incumbents and the government.

Finally, (and again according to the Nera study), provided that access to delivery networks is granted where necessary, the cost economics of the sector suggest that there is room for potential competition in different parts of the value chain. This is particularly true, as might be expected, for the business bulk mail.

Cost impact across the value chain



Source: DG Markt

4.6. Limited development of competition in the mail market

Competition has continued to develop slowly in the mail market, partly as a result of the remaining reservation of services which prevents the critical mass that arguably is required for entry. This absence of competition has allowed for continuing high margins in the mail industry.

However, there has been fierce competition in the parcels and express sectors and this has reduced margins for leading players.

The four largest USPs (from DE, FR, GB, NL) control about 67 percent of the letter post market and about 60 percent of the parcel market, or about 59 percent of the total Community postal services market. This situation is mainly due to the size of the respective national markets of these four operators.

Even in the more liberalised mail markets (most are still far from being fully liberalised), public postal operators still enjoy a high market share.

USPs letter post market share in liberalized markets, 1998-2003

	1998	1999	2000	2001	2002	2003
DE	99.2%	98.7%	98.4%	97.6%	97.0%	96.0%
DK	100.0%	100.0%	100.0%	100.0%	100.0%	98.0%
ES						90.0%
GB						99.7%
NL	98.0%	98.0%	98.0%	98.0%	95.0%	95.0%
SE	95.6%	95.1%	95.7%	94.8%	94.2%	93.4%
SI	98.0%	98.0%	98.0%	98.0%	98.0%	98.0%

Source: Wik 2004

4.7. Business strategies

In order to adapt to the market changes described above, most of the public operators have engaged in significant reorganisation, focusing on creating more responsive, flexible and cost effective organisations. In addition, there is a trend towards expanding the scale of operations through both vertical integration upstream into the value chain and horizontal integration (internationalisation, express, and logistics).

As customers increasingly seek one stop solutions for a global standardised service, the move upstream into the value chain by postal operators helps them to secure key lucrative accounts.

These increasingly commercial business strategies have also led to an increase in acquisition activities so as to secure vertical and horizontal expansion.

Main operations in the acquisition of companies in national markets

Operations	No. of USPs acquiring companies	List of USPs active in the acquisition of companies
Horizontal expansion		
Letter post	1	DE
Parcels	10	AT, BE, DK, ES, FIN, FR, IE, IT, PT, SE
Express	10	BE, DE, FR, IE, IT, LT, NL, PT, SE, SI
Unaddressed items	7	AT, BE, DE, FIN, FR, NL, PT
Freight/logistics	4	DE, IE, SE, SI
Vertical expansion		
Printing services	5	DE, FIN, IE, NL, SI
Mail preparation	4	DE, FIN, IE, PT
Hybrid mail	3	NL, PT, SI
Mailroom management	3	BE, NL, PT

Source: Wik 2004

At the international level, the acquisitions by the big operators have continued albeit at a lower pace. There has been a clear effort to consolidate in the wake of former acquisitions. The top players have retained their market share and strengthened their hold on related sectors such as logistics.

Operators with less financial capacity have in general secured cooperation with other operators, at domestic and international levels. Those partnerships are needed in order to compete with the services offered by integrators. As customers demand more, this collaboration along the supply chain will also provide further opportunities to increase the value of postal services.

In the near future, the challenge for the postal operators will be to adapt their organisation to the wider communications and transportation market, while managing the -sometimes conflicting- demands of their stakeholders (shareholders, customers, workforce, regulators, and suppliers).

4.8. Parcels and express

As shown in the table above, postal operators are expanding their services in the parcels and express markets, either through partnership or by building their own networks. Express and parcels operations play a major role in providing the links that are crucial for businesses to compete on world wide markets. These operators help them to streamline their supply chain thus leading to reduced delivery times and faster responses to market needs.

In this respect it is interesting to note the recent development of some operators in freight forwarding activities. Over the years, the express activity has evolved from the delivery of documents and parcels to specialist items with high value and low weights (documents represent now only 20% of the shipments). Most of the activity is done in the business to business segment.

The European express industry is dominated by key players such as UPS, Fedex, DHL, TPG. Unfortunately as very limited data on this market was made available during the course of recent studies conducted on behalf of the Commission, it is not possible to provide a clear picture of recent developments.

Overall, the turnover of the European express industry was approximately 35 billion Euros, with 250, 000 full time equivalent employees plus a further estimated 280, 000 related jobs. Its activity is growing rapidly, notably in the new Member States.

The parcel business can rely on the mail network, provided volumes are limited. Only the largest postal operators are able to invest in separate networks. As a result, there is a clear trend in Europe of both consolidation and regionalisation of parcel operations.

4.9. Social, consumers and employment aspects

Access to postal services

As noted above, postal operators face the key challenge of reorganising while fulfilling their important social role of universal service. One of the long standing issues in this regard has been the access to postal services, and more specifically the network of post offices. While access to universal postal services remains abundant relative to other public services, there has been some rationalisation in the USPs' retail postal networks in recent years. However this has been balanced to some extent by innovative developments in some Member States to provide postal counter services in new economically viable contexts.

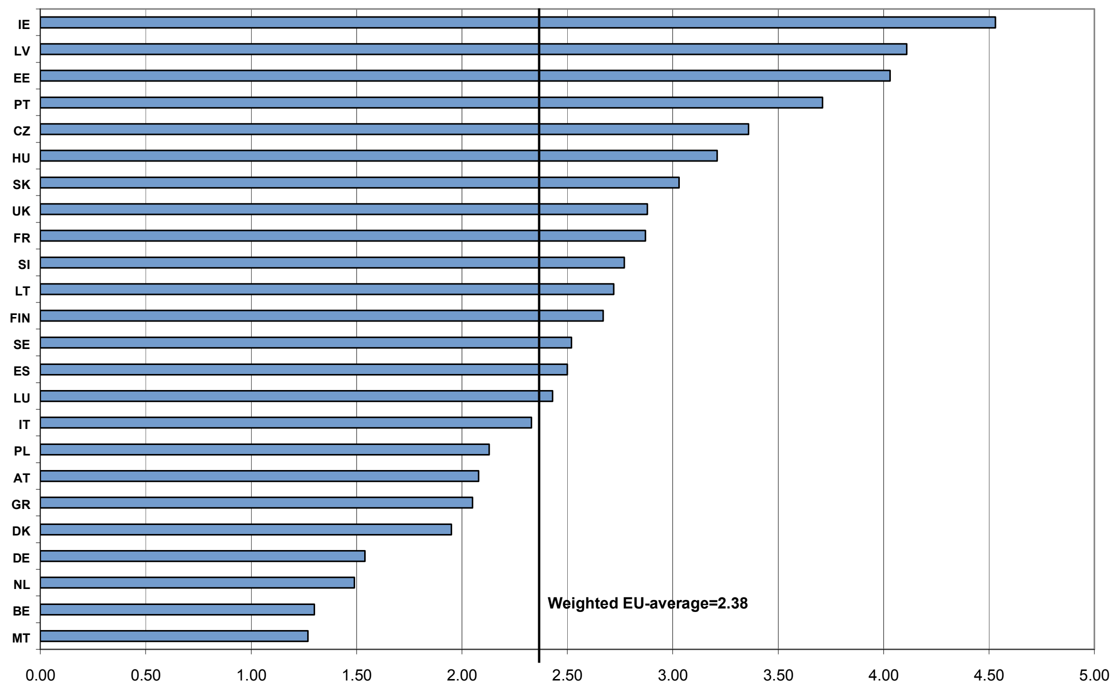
One way to contribute to ensuring the economic viability of post offices network is through the provision of postal financial services. Where this is provided (by post bank services), it plays an important role for a number of postal operators across Europe..

One of the conclusions of the 2002 Report was that there was an over-provision (of access) in the European postal infrastructure. The picture in 2004 has not changed, and difficulties remain for public postal operators faced with the challenge of having to meet extensive geographical coverage targets while adequately serving their predominantly urban based customers.

On the consumer side, access is seen as covering issues such as network of post offices, opening hours, waiting time, mail delivery and proximity to letter boxes. 87% of respondents to the Eurobarometer survey said that they had easy access to postal services; 10% had access only with difficulty, and 1% not at all. Difficult access to postal services was often mentioned in Sweden (18%), Italy (15%), Belgium and Austria (both 12%). These figures were confirmed by a recent Commission qualitative study which recorded negative opinions from German, French and Swedish consumers while consumers in the Benelux have mixed opinions. In Sweden, the widespread closure of post offices in favour of service points in shops and petrol stations is seen as unsatisfactory. In the remaining countries, access to postal services is viewed as being easy by a large majority of consumers.[40] In the remaining countries, access to postal services is judged easy by a large majority of consumers. Difficult access to postal services is often mentioned in Sweden (18%), Italy (15%), Belgium and Austria (both 12%) (for further comments, see section 4.9 access to postal services).

[40] Eurobarometer (2002) in EU 15, Eurobarometer (2003) in the most recent Member States and Qualitative study on European consumers and services of general interest (EU-25) (Optem - 2003).

Postal outlets per 10,000 habitants (2002)



(source : Wik 2004)

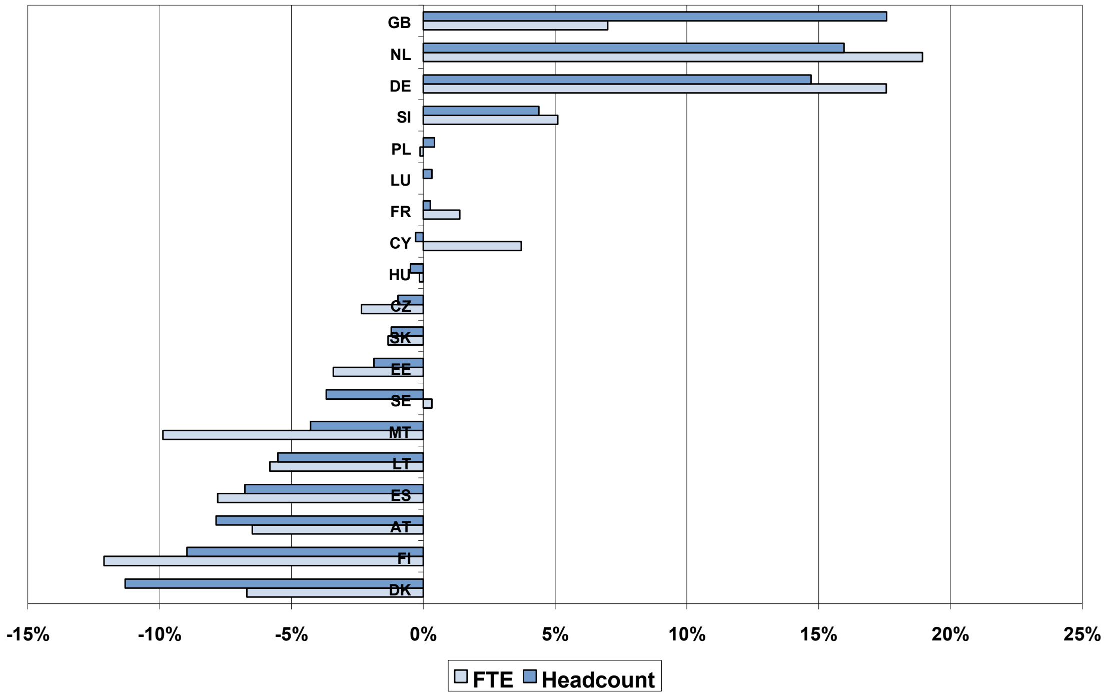
Levels of employment

General employment levels are likely to be sustained overall in the short term although current trends towards outsourcing, increasing flexibility and a greater share of employment in the private sector and parcels/express are likely to continue.

WIK-Consult estimates that Universal Service Providers employed about 1.85 million persons in 2002. Total employment by the Universal Service Providers has increased by 5 percent from 2000 to 2002 due mainly to acquisitions by the largest public operators. However, if employment levels linked to acquisitions are discounted, the majority of public operators have reduced their employment levels during this period. Some public operators (in UK, SE…) have recently undergone -or are in the process of undergoing- serious reorganisations in order to adapt to the new market environment.

Based on Wik estimates, it appears that USP postal employment has decreased more than 2 percent between 2000 and 2002.

Development of total employment – FTE and Headcount



Notes: GR, IE, IT, LV – no FTE figures available
BE, PT (FTE) – confidential.

Source: Wik 2004

In addition, there is an ongoing trend of substituting full-time employment with part-time employment. Finally, the number of civil servants employed in the sector continues to decline.

Unfortunately, during the course of the recent studies conducted on behalf of the Commission, no information was made available to the consultants on employment by competitive postal operators. The last available figures are from the PLS Ramboll[41] study which indicated that in 2000, over 5 million jobs were directly or indirectly associated with the postal sector in Europe. In the US, 11 million jobs are reportedly linked to the mail sector[42] (USPS, the public postal operator, employed some 738, 000 employees in 2004).

These figures show the critical importance of the postal sector in terms of employment. Continued high levels of employment depend on the vitality of the postal sector in the future, and growth opportunities will have to be found throughout the industry sector and not simply from public or private postal operators.

End Consumers

The postal services play an important social role in ensuring the benefits of efficient basic postal services to all users, including those living in remote areas, at affordable prices. It should also be noted that consumers are increasingly relying on other media to meet their

41 "Employment trends in the EU postal sector" by Pls Rambøll, October 2002.
42 Study completed in 2004 by the Institute for Postal Studies of the Envelope Manufacturers Foundation.

communication needs. As highlighted above, European consumers benefit from a high standard universal service. There is still room for improvement, in the interest of consumers as well as operators and mailers. Some years ago, marketing studies showed that "getting the mail" was the consumer's favourite daily task. In an attempt to enhance this experience, marketing services now try to add value to what is known as the 'mail moment' by sending targeted and interesting offers in the mail.

The universal service obligations are established primarily to protect the less powerful, but also numerous consumers and small business customers. Therefore, more involvement by and input from postal customers is needed when the time comes to propose future postal regulation. Thus far, it has not been easy to get feedback from these groups and therefore their needs should be better identified by legislators and regulatory authorities. How this can best be done clearly depends on the cultural and legal traditions of Member States, and ways need to be found to ensure the involvement of their representative associations especially at national level.

At EU level, recent Commission surveys on consumer satisfaction as regards postal services show that consumers view postal services as entailing an important social function that must be safeguarded by the public authorities. The surveys also show that there is limited awareness of the existence of a certain degree of competition already in place today. As regards the next steps towards liberalisation, consumers fear any move away from the universal service obligation and have difficulty seeing how current constraints linked to public service obligation may be compatible with profit-maximising objectives [43].

The lack of choice and product innovation remains a key concern. Time certain delivery and the facility to get mail at selected locations are two examples of newly emerging type of services that operators should explore further. This is even more important because technological developments present a wide range of opportunities to further develop the value of mail.

4.10. Technological trends

Increased use of technology and automation has led to significant improvements in the quality of the letter post service, but these benefits can only be realised in the medium term.

Pressure, whether from market opening or increased use of other communication services (eg. Internet) appears to be forcing management to focus on improvements in quality of service. Postal providers are reviewing their traditional organisational schemes and are taking advantage of innovating technology to create new flexibility in their structure.

In general, public operators are engaged in a process of modernisation, automation, and are working towards higher productivity that relies on technological developments:

– Change in transportation and mail processing networks by reducing the number of sorting centres to create critical mass for sorting automation and the reduction of transportation costs.

[43] Eurobarometer (2002) in EU 15, Eurobarometer (2003) in the most recent Member States and Qualitative study on European consumers and services of general interest (EU-25) (Optem - 2003).

– Use of information technology to optimise routes and reduce costs in transportation and distribution

– Outsourcing of transport, collection, and retail network

– Operational synergies

Furthermore, changes in technology and commercial practices are redefining the types and categories of available delivery services with potential for new value added products.

Technological developments have contributed to the development of customer-oriented mail, notably for the direct marketing industry: printing technology, data base management, data encoding on envelopes or tracking mail right through the entire postal process. These new products and services facilitate the growth of paper mail as an effective communications medium, by making physical mail more attractive and of greater value.

While many public operators are well advanced in this process, others have lagged far behind. This widening gap in technological sophistication may become difficult to bridge in the future.

4.11. Environmental considerations

Environmental issues are becoming increasingly important, and postal operations need to take them into account. Equally, transport issues are likely to become critical in the years ahead. Air transport constraints and noise pollution limits are already affecting the possibilities of postal operators to use this mean of transport for urgent and express mail.

In recent years, there has been a continuous shift from rail to road transport for cost and flexibility reasons. However, the expected increase in road congestions as well as associated pollution problems will have an impact on this trend and as a result, the transport of mail to sorting centres or delivery offices within cities are likely to be affected.

Postal operators are aware of these environmental issues and are adapting their operations and work practices accordingly[44]. Many have committed to promoting responsible environmental policies within their business and monitor their impact on the environment.

Equally, mainly operators now have to face many new security requirements relating to the transport of mail and parcels. At the end of 2002, the Parliament and Council adopted a regulation dealing with Freight Transport Security[45]. This noted that promoting security contributes to a safe and secure environment for employees and customer’s shipments, and therefore also constitutes an element of competitiveness.

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[44] see examples of such actions in the PostEurop bulletin of Nov 2003, www.posteurop.org.

[45] Regulation (EC) No 2320/2002 of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security.

4.12. Conclusions on market developments

Conclusions on market trends

Broadly speaking, the postal market has continued to move towards a one way distribution market and away from the more traditional two way communications model. If this trend continues in to the future, there may be the need to review the modalities of the current universal service obligations with a view to allowing some additional flexibility while continuing to guarantee consumer rights. This trend also highlights the potential for developing a dynamic postal market which can exploit opportunities in the wider communication market (home shopping, e- commerce, hybrid mail and value added services) in the interest of all customers.

However, competition has still yet to develop in the addressed mail market segment outside niche services, and this suggests that limited initial market opening combined with sometimes limited regulatory capacity or certainty, and advantages enjoyed by incumbents, have all combined to deter entry.

There are indications that the absence of competition has also affected the pace of the modernisation of the sector. One such indication is the differing infrastructural costs across Member States.

Similarly, regulatory asymmetry and the continued protection for incumbents have affected mail market development. This has been varied across Member States. In some, the Universal Service Providers (USPs) continue to enjoy high profit margins and can exploit key market developments. In other Member States, USPs face more difficult conditions. To a large extent this variation can be explained by the different types of market intervention, different ownership and incentive structures and different price levels set for services in a market with low price elasticity and traditionally captive customers.

In the competitive parcels and express markets, margins remain tight, but consolidation has continued with some of the more profitable USPs acquiring dominance in this market segment and also moving increasingly into ancillary markets to control the entire value chain. This suggests that continued reservation and distortion in the mail market may be affecting ancillary markets and reinforces concerns over potential breaches of competition law by dominant suppliers.

All this reinforces the need to consider how to move towards more effective and better regulation and an internal market for postal services in order to ensure better services for all consumers, including commercial customers and end consumers (greater choice, innovation, quality, price options, etc).

Finally, the difficulty in getting accurate market data will need to be tackled in the future as appropriate market information (notably the development of prices, accessibility and quality of services for the various users' category) is necessary for the sound development of regulation of the sector.

The market impact of the Postal Directive

The implementation of the Postal Directive by Member States and its application has had significant regulatory and market impacts. The legislation has been a major driver in improving quality of service and has reached its broad objective of securing universal service while gradually opening the market. By laying out the milestones towards the achievement of the internal market for postal services, the legislation has contributed to a dynamic reform process, greater efficiency and the development of the market in the interests of the customers.

This in turn has led to the potential development of competition, which threat has generated further flexibility in the operations of universal service providers and increased their ability to meet customer needs and thus had a positive effect on universal service. External forces have also contributed to the pace of reforms. The effects of increasing electronic substitution on universal postal service seem to act as an incentive which is partly similar to the effects generated by market opening.

The Postal Directive has created an expectation of further market opening, which is expected to have a positive impact on the market. As noted from the analysis above, the postal market is at a crucial stage in its development. Further steps are needed to promote actual competition in the market, while ensuring the financing of the universal service and addressing end-consumer concerns, as well as much needed innovations in order to promote continued market developments of the postal sector in the wider and quickly evolving communication market.