



ERGP (12) 37 ERGP 2013 Work Programme

**DRAFT WORK PROGRAMME OF ERGP FOR
2013
FOR PUBLIC CONSULTATION**

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Introduction

One of the aims of ERGP is to contribute in consolidating the internal market for postal services and to advise and assist the Commission as to the consistent application of the regulatory framework.

In order to ensure that the key issues identified by the ERGP will be dealt with in a timely manner, the ERGP decided to design a multiannual work programme, subject to an annual review, offering the relevant level of both continuity and flexibility. Hence, the ERGP WP 2013 has also to be considered as a multi annual work program, similar to the approach taken for the ERGP WP 2012. The 2013 WP will be a logical development of the issues that came out of the work of 2011 and a continuation of some work initiated in 2012 that could not be finalized for objective reasons. In the WP 2013, the ERGP will profit from the learning experience of 2012 and take a step to the next level to try to achieve more consistency.

Consequently, this work programme consists of the following elements: the continuation of some work already initiated in 2012, the proposal of work items for 2013, with some openings towards the work that can be carried out in 2014.

The draft work programme was discussed at the Plenary held on 22nd November 2012 and is now submitted for public consultation which will run from 30 November 2012 to 9 January 2013. The stakeholders are very welcome to express their views on the different topics of the ERGP work programme.

I. Regulatory Accounting/Price regulation

Background: as in many network industries, where we are faced with multi-product operators, the share of common costs is substantial in the postal sector. Thus the appropriate allocation of these costs to different services has a material effect on many fundamental regulatory decisions (e.g. price regulation, US net cost calculation) and influences market outcomes strongly.

Legal framework: application of Article 14 of the Postal Services Directive which pursues two aims (i) ensuring universal service provision and (ii) preventing, directly or indirectly, the abuse of market power by postal market operators.



Substantive focus on accounting and price regulation: ensure cost oriented tariffs in order to prevent exclusionary behaviour through cross-subsidies, predatory prices and margin squeeze.

The work carried out in 2013 will deal with the following issues:

1° Common Position on cost allocation rules (on going work of 2012)

Based on the 2012 ERGP report on common cost allocation, ERGP has prepared a draft common position on cost allocation which is submitted to public consultation. Following the received comments, the final common position will be adopted early 2013.

This Common Position will identify the best practices as regards the scope of regulatory accounting, the classification of costs and allocation rules and the verification of the accuracy and reliability of the regulatory accounts.

Deliverable: ERGP Common Position on cost allocation rules (Mid 2013).

2° In-depth analysis of specific issues regarding cost allocation (new work of 2013)

1. A first topic will focus on activities where common costs are significant. In particular, the analysis will focus on:

- the case of delivery
- the case of post offices.

The application of the principle of cost causality will be examined for those activities, including the relevance of specific allocations rules (possible use of stand-alone, LRIC, or other allocation rules for joint costs).

2. A second issue will involve the revision of the different existing methodologies (revenue driven volumes, statistical studies, meters from operations) as regards the checking and validation of traffic measures for the proper cost allocation and possible identification of best practices, as traffic is one of the major cost drivers. Proper measurement is therefore crucial for cost allocation.

3. The third issue will be a reflection on the different methodologies and the relevance of the use of the cost of capital for regulatory accounting.

Deliverable: Report on specific issues related to cost allocation in the postal sector (End 2013).



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3° Price regulation in the context of declining volume

The ERGP will initiate a new work item with the focus on tariff regulation in the context of volume decline. Price cap mechanism typically requires a traffic forecast over a few years horizon and an estimate of cost evolution, taking into account efficiency gains. The ERGP will focus on best practices on those aspects.

Deliverable: Internal report on best practices as regards tariff regulation in a declining market, with a focus on traffic forecast and cost evolution (End 2013).

II. Net cost of USO - VAT as a benefit/burden

Background: The provision of the universal service (US) shall be ensured in the most cost-effective manner and the financing of net costs – if any – should be competitive neutral (“the least market distortive” concept). Therefore the ‘unfair’ financial burden of having to provide the US needs to be calculated by also taking into account the benefits, such as allegedly the "VAT privilege". As the later provides for one of the main remaining distortive effects of the market it would be important, if technically possible, to evaluate its net effects (advantage / disadvantage) in view of net cost calculation.

Legal framework: Application of Annex I of the Postal Services Directive and ECJ ruling of 23/04/09 (TNT UK case).

The work carried out in 2013 will deal with the following issues:

1° VAT treatment in the USO net cost calculation (on going work of 2012)

ERGP will revise, based on the answers obtained in the public consultation, the 2012 ERGP report on VAT treatment in the USO net cost calculation.

VAT exemption is regarded as important barrier to entry and cited by most stakeholders as a highly distortive element. In the absence of a legislative measure to provide a solution to VAT exemptions, it is proposed to assess the scope of market distortion and – if viable – incorporate it into net cost calculation methodology.

Deliverable: Report on VAT treatment in the USO net cost calculation (Mid 2013).



2° ERGP will carry out an experimentation/exploration of the implementation of methodology of the net cost calculation of USO as set in the ERGP 2011 report on net cost calculation and evaluation of a reference scenario. This work item is extremely complex and depends on the fact if such a technical feasibility study will be possible in 2013 (new work of 2013).

Deliverable: Report on the implementation of the methodology of net cost calculation (End 2013).

III. End-user satisfaction and monitoring of market outcomes

Background: A particular task of National Regulatory Authorities is to follow up the quality of service in order to guarantee a postal service of good quality and to ensure that transparent, simple and inexpensive procedures are available to users, particularly in cases involving loss, theft, damage or non-compliance with service quality standards. Furthermore NRAs should monitor the evolution of the postal market by collecting specific information in order to ensure the provision of the universal service.

Legal framework: According to the postal directive, “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“. An important task of national regulatory authorities (NRAs) is to ensure compliance with those provisions in particular through the follow-up of the universal service provisions (mainly delivery), which includes quality of service issues as stipulated in chapter 6 “Quality of service and of users’ satisfaction”.

Substantive focus: ERGP will continuously monitor the effects of the implementation of the postal directive through appropriate indicators like benchmarking the quality of postal services and its development over time and assessing end user complaints procedures to ensure that consumers are protected according to the provisions of the Directive.

Considering that an accurate understanding of the evolution of the market is necessary to the NRAs to perform satisfactorily their task, the group will continue its data collection to publish statistics on the postal market.



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This work group consists of two work streams, namely:

- Quality of service and end user satisfaction,
- Market developments and effects of regulation.

1. Quality of service and end user satisfaction

ERGP will continuously monitor the effects of the implementation of the postal directive through appropriate indicators like benchmarking the quality of postal services and its development over time and assessing end user complaints procedures to ensure that consumers are protected according to the provisions of the Directive.

The work carried out in 2013 will deal with the following issues:

1° The quality of service indicators 2012 including cross-border quality of service results and complaints (new work of 2013). This report will collect the necessary data to monitor the quality of service within the context of the regulatory measures taken in that field.

***Deliverable:* Report of the quality of service indicators for 2012** (End 2013).

2° The best practices to ensure quality of service, complaint handling and consumer protection (new work of 2013). This report will try to detect if possible the most adequate instruments in the field of quality of service and also complaint handling and consumer protection.

***Deliverable:* Report on best practices in the field of quality of service, complaint handling and consumer protection** (End 2013).

3° The follow up the new standardisation work of CEN (new work of 2013)

Furthermore, the ERGP shall follow up on the new standardisation work of CEN and more specifically the implications for NRAs regarding the revision of EN 13850 on the one hand and on the new CEN standards in the field of consumer protection (e.g. damage of postal items, loss of postal items) on the other hand.

***Deliverable:* Internal report about the new standardisation work of CEN** (End 2013).



2. Market developments and effect of regulation

The work carried out in 2013 will deal with the following issues:

1° Monitoring of market outcomes (new work of 2013)

Implement, at the ERGP level, the ERGP report of 2012 on the methodology and indicators to measure market developments (including the revision of the status quo of the scope of the universal service).

In 2012 ERGP produced a report on the methodology and indicators for postal market, identifying core indicators to monitor market developments. The work in 2013 will consist in the publication of specific indicators, agreed at ERGP level, selected from the ones suggested by ERGP in the referred report.

Deliverable: Report on indicators on the postal sector (End 2013).

2° Monitor whether the indicators suggested by ERGP in the 2012 report are being implemented and applied in the ERGP Member countries. This work will seek to provide additional information on the practices followed by NRAs, such as: data sources and frequencies, definition/aggregation of indicators, practices to preserve the obligation to confidentiality, use of additional monitoring tools/indicators.

This topic will be developed in 2013 and 2014, with the objective to deliver the report at the end of 2014.

Deliverable: Report on the implementation of 2012 ERGP report on indicators for monitoring the postal market (End 2014).

3° The ERGP shall try to cooperate with Eurostat and DG Internal Market, for the data collection (new work of 2013).

Deliverable: Internal report about the cooperation with Eurostat and DG Internal Market (End 2013).



IV. Follow-up to the Green paper on cross-border parcel delivery and e-commerce

Background: The Commission's Communication on e-commerce and online services identified delivery as one of the top 5 priorities to boost e-commerce by 2015. In this vein the initiative of a Green Paper was announced, which is due to be published in November 2012. It will seek the views of stakeholders on different issues identified around three main pillars: convenience, costs and inter-operability.

Legal framework: E-commerce Directive in order to establish a coherent framework to build trust in the market for e-commerce and online services.

Substantive focus: Following the ERGP report on cross border parcel delivery, ERGP will continue to work with the Commission regarding this issue. The focus will be on the possible needs for NRAs in the area of parcel delivery in terms of competences, resources and institutional design.

The work would therefore be forward looking and not limited to the existing regulatory framework, but rather focus on what the regulatory framework may need to look like in terms of issues identified in the Green Paper.

Deliverable: ERGP Opinion concerning the specific question(s) raised by the Commission (End 2013).

V. End to End Competition and access Regulation

Background: Access to the postal network and infrastructure may be an important regulatory tool to ensure a level playing field in a liberalised market.

Legal framework: Application of Articles 11a and fifth indent of Article 12 of the Postal Services Directive to ensure any access to elements of the postal network and infrastructure is non-discriminatory.

Substantive focus: On the basis of principles set out in Directive, the focus will be on best practices regarding transparent and non-discriminatory access conditions to the postal network and elements of postal infrastructure.



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The work carried out in 2013 will deal with the following issue:

1° End to end competition (new work of 2013)

Examine the experiences in Member States of end to end competition for letters with the objective to study the impact of end to end competition on the universal service. The focus will be on an analytical/information gathering and sharing among NRAs and an analysis of the regulatory responses.

The work on "end-to-end competition" can build on the Access report and in particular also highlight that access to the elements listed in Art. 11a of the Postal Directive is a fundamental precondition for market access and reducing barriers to market entry and with this also for the development of end-to-end competition.

Deliverable: Report on state of play end to end competition (End 2013).

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