



ERGP (13) 39 - Draft ERGP Work Programme 2014

## **DRAFT ERGP WORK PROGRAMME FOR 2014 FOR PUBLIC CONSULTATION**

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## Introduction

Ever since its establishment in 2010<sup>1</sup>, ERGP has been advising and assisting the European Commission in consolidating and developing the internal market for postal services, as well as facilitating the consistent application of the regulatory framework across the Member States through constant exchange of regulatory experience among its members.<sup>2</sup> In this capacity, and relying on the resources committed by the regulatory authorities in the field of postal services in all the Member States, ERGP is rapidly becoming a significant centre of knowledge and expertise on postal matters.

As each particular area in which the ERGP does work today is confronted with a series of challenges, some of them common, some of them very specific, and as the weight of its responsibilities increases, the ERGP Chairmanship decided, for the first time, that a wider prior reflection between ERGP members was necessary in the exercise of preparing the work plan for 2014 and therefore held a workshop dedicated to the initial mapping of the issues which require the ERGP attention in 2014 and beyond.

The key issues identified during the workshop are reflected in the proposed WP 2014 deliverables herein. The ERGP WP 2014 should be considered as a multi-annual work programme as it is a logical development and a continuation of the work already initiated in 2013. Also, the ERGP WP 2014 contains proposals of new work items, with some openings towards work that could be carried out beyond 2014.

### I. Regulatory Accounting/Price regulation

Background: As in many network industries where we are faced with multi-product/service operators, the share of common costs is substantial in the postal sector. Thus, the appropriate allocation of costs to different services has a material effect on many fundamental regulatory decisions (e.g. price regulation, US net cost calculation) and can strongly influence market outcomes (assessment of cross-subsidisation and other anti-competitive behaviours).

Lately, the volume decline witnessed by all Member States in the letter postal markets, on the one hand, and the growth in most business parcel markets, on the other hand, is putting constraints on postal operations. In this context, the ability of postal service providers to

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<sup>1</sup> Commission Decision of 10 August 2010 establishing the European Regulators Group for Postal Services, OJ C 217, 11.8.2010.

<sup>2</sup> As reflected by the various ERGP documents available at:

[http://ec.europa.eu/internal\\_market/ergp/documentation/documents\\_en.htm](http://ec.europa.eu/internal_market/ergp/documentation/documents_en.htm).



adapt costs to traffic changes, in particular as regards the common/fixed costs, should be reflected in tariff regulation.

Predicting traffic decline and assessing the cost characteristics resulting in the specification of the cost function (cost evolution) are essential for regulators in order to adapt the pricing regulation of the universal service or even beyond, where applicable.

Legal framework: Application of Article 14 of the Postal Services Directive, concerning the principles of the allocation of costs and Article 12 thereof, which is relevant for provisions related to tariff regulation, in particular cost orientation.

Substantive focus on accounting and price regulation: adapting to market trends.

The work to be carried out in 2014 will deal with the following issues:

**1° Tariff regulation in the context of volume decline** (ongoing work of 2013)

The ERGP started working in 2013 on tariff regulation and challenges posed in the context of a continuous trend of a volume decline. As price cap mechanisms as well as other price regulation regimes typically require a traffic forecast over a few years horizon and an estimate of cost evolution, taking into account efficiency gains, the ERGP focused on the state of play, producing an ERGP internal report thereon.

In 2014 the ERGP will build on the aforementioned ERGP internal report, exploring further the applications of traffic forecast and its implications for the price-regulation, especially in the context of price cap regulation. When possible, best practices will be identified.

***Deliverable***: ERGP Report on tariff regulation in the context of the declining mail volumes (Mid-2014)

**2° Benchmarking the universal service tariffs** (new work of 2014)

The ERGP work in this area will focus on reviewing the tariffs for the deliveries within the USO (including parcels), going beyond the tariff of the standard single piece letter below 20g which are already collected in the working group on monitoring of market outcomes, and on comparing these values across Member States. It will aim at incorporating bulk mail services, subject to differences in product characteristics between Member States. This will be done building on the work carried out thus far by the ERGP sub-group on market indicators. It will be reflected after the finalization of a deliverable whether this exercise should be one-off or



whether it should become continuous and, if so, whether it should be added to the dedicated work stream on monitoring and collection of market data.

**Deliverable: ERGP Report on the benchmarking of the universal service tariffs (End-2014)**

## II. Net cost of USO

Background: The provision of the universal service (US) shall be ensured in the most cost-effective manner and the financing of unfair financial burden for providing this service - if any - should be competitively neutral ("the least market distortive" concept). Furthermore, there are signs of changes in the postal market and competition in a number of countries that should be considered. Declining volumes of letter mail require rationalization in the letter activities of the designated USPs. In addition there is an option to reduce the net costs by changing the scope of the universal service within the flexibility provided for by the Postal Services Directive in the process of the implementation of the said Directive, which can be observed in the last regulatory developments. These regulatory and market changes should be closely followed and the ERGP should reflect if and how the said developments could impact the net costs of the USO and how this issue may need to be tackled in the future.

Legal framework: Articles 3 and 4 in conjunction with Annex I of the Postal Services Directive.

Substantive focus: reflecting on the observed and considered changes of the scope of the USO in view of market developments and changing communications patterns.

The work to be carried out in 2014 will deal with the following issues:

**1° Exploration of challenges to overcome when implementing a net cost calculation methodology based on a reference scenario – Benchmark of experiences (ongoing work of 2013)**

The purpose of this project is to explore how the methodology works in practice. The goal of this work stream is to identify, based on the experiences of net cost calculation made by the NRAs, challenges and examples of the implementation of the methodology applied. The most challenging aspects, as well as the possible measures to eliminate the problems should be further explored and discussed.

The work began in 2013 with the deliverable scheduled for the end of 2013. As this work item is extremely complex, the period for its delivery was prolonged from 12 to 18 months.



***Deliverable:* Report on experiences of the challenges when implementing a methodology for the net cost calculation based on a reference scenario (Mid-2014)**

**2° Implementation of the Universal Service Obligation in the postal sector in view of the market developments (new work of 2014)**

The ERGP will look into how the Universal Service Obligation in the postal sector was implemented in the European countries, notably from the perspective of changes in the scope of USO and possible reasons for that in the process of the implementation of the 3<sup>rd</sup> Postal Services Directive. The work will be based on the factual information provided by the study on the Main developments in the postal sector (2010 – 2013) done by WIK and the information in the 5<sup>th</sup> Application Report to be published by the Commission.

The work will specifically focus on the reflection concerning possible challenges for sustainable provisions of the USO in view of regulatory and market developments, such as declining letter mail volumes and subsequently increasing pressure on the net costs of providing USO. The ERGP will in its work also take utmost account of the necessity to minimise any distortion of competition caused by the imposition of USO and therefore consider the market's ability to avoid the social exclusion of a majority of the population without public intervention. ERGP will also look into possible existence of risks that the USO may result in, such as effect of a barrier to market entry for more efficient operators and placing an unjustified financial burden on the sector and thus on users.

The reflection will cover both the assessment of the possibilities provided for by the Postal Services Directive when it comes to safeguarding the provisions of the universal service, as well as a forward looking consideration of potential shortcomings of the current regulatory framework.

As integral part of this work, the ERGP will hold a public consultation based on a discussion paper resulting from the reflection described above, and that will be followed by the first ERGP stakeholder dialogue workshop, which will be held in November 2014. The final report will reflect both the contributions to the public consultation and the conclusions of the workshop.

***Deliverable:* a) ERGP Discussion Paper on the implementation of the Universal Service in the postal sector and the effects of recent changes in some countries on the scope of the USO (Mid-2014)**

**b) ERGP Report on the implementation of the Universal Service in the postal sector and the effects of recent changes in some countries of the scope of the USO (Autumn 2015)**



### III. End-user satisfaction and monitoring of market outcomes

**Background:** A particular task of the national regulatory authorities (NRAs) 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:** Article 3 of the Postal Services Directive, in conjunction with Chapter 6 "Quality of service" thereof.

**Substantive focus:** ERGP will continuously monitor the effects of the implementation of the Postal Services 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.

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

The work to be carried out in 2014 will deal with the following issues:

**1° The best practices to ensure quality of service, complaint handling and consumer protection** (ongoing 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** (Mid-2014).

**2° The quality of service, complaint handling and consumer protection indicators 2013 – an analysis of trends** (recurrent work)



This report will assess the quality of service levels and evolution, as well as the indicators describing the complaint handling and consumer protection of the postal service providers in Member States and their evolutions.

***Deliverable: ERGP Report on the quality of service, complaint handling and consumer protection 2013 - an analysis of trends (End-2014)***

## **2. Market developments and effects of regulation**

The work to be carried out in 2014 will deal with the following issues:

### **1° Monitoring of market outcomes (ongoing 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 carried out in 2013 shall be finalized in 2014 and 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 (Mid-2014).***

### **2° Implementation of the ERGP (12) 32 Report on indicators for market monitoring (ongoing work of 2013)**

This work will seek to monitor whether the indicators suggested by the ERGP in the 2012 (12) 32 Report are being implemented and applied in the ERGP Member countries, as of 1 January 2014. Moreover, it will seek to provide additional information on the practices actually followed by NRAs in the monitoring of the market, such as: definition and aggregation of indicators, practices to preserve the obligation to confidentiality, use of additional monitoring tools and indicators etc.

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

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



Background: The European Commission adopted on 11 January 2012 the E-commerce Communication, which addressed various issues important for building consumer trust in the online environment (payment, delivery, consumer protection and information). As a continuation to this Communication, the Commission launched in November 2012 a Green Paper on an integrated parcel delivery market to address specific issues related to delivery services that need further attention in view of facilitating e-commerce trade.

The 2013 request from the Commission, and the current request, stem broadly from the same overall aim of creating trust in the single digital market for e-commerce and online services and the role delivery services play in that. In 2013, the ERGP already provided a background on how, if this was ever judged necessary, a market analysis of European cross-border e-commerce parcels delivery from an ex-ante sectoral regulation point of view could be carried out and on related steps.

Policy framework: Roadmap on cross-border parcel delivery.

Substantive focus: providing advice to the Commission in the context of the action plan laid down in its Roadmap, notably on the functioning of the cross-border parcel delivery markets and on the possible market failures present.

The work stream will enable the Commission to draw on the rich experience in regulatory monitoring and enforcement of regulatory obligations of the national regulatory authorities, on the possible follow-up that may be appropriate, taking into account the actions identified in the above referred Roadmap.

The work to be carried out in 2014 will deal with the following issues:

**1° Advice to the Commission to enable the latter to better understand the functioning of European cross-border e-commerce parcels delivery market(s) as a follow-up to the 2013 Commission Roadmap**

The ERGP work in this area will focus on providing advice to the Commission on specific issues identified in its Roadmap, notably on the functioning of the cross-border parcel delivery markets and on the possible market failures present.

The group could also assist the Commission with the implementation of its Roadmap: providing advice on the best way to implement any actions identified (as relevant for ex-ante regulators) and/ or suggesting actions to achieve other more general objectives of the Roadmap.



***Deliverable:*** ERGP opinion on bettering understanding on European cross-border e-commerce parcels delivery market(s) and the functioning of competition (End-2014)

## **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 the postal infrastructure.

The work carried out already in 2013 should be finalized in 2014 and deals with the following issue:

### **1° End to end competition and access regulation (ongoing 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 and access regulation (Mid-2014).