

PUBLIC CONSULTATION ON POSTAL SERVICES

PART 2

MARKET OPENING AND THE UNIVERSAL POSTAL SERVICE

UNIVERSAL SERVICE SCOPE

Q1 In relation to the scope of the universal service:

- **What postal services should the universal service include?**

Universal service should include at least such postal services as mentioned in Art. 3 p. 4 Directive 97/67/EC of 15 December 1997. Yet it should be specified that direct mail do not pertain to universal services. It also needs considering to exclude bulk mail (sent by institutional customers) from universal service.

- **What steps should be taken by Member States to ensure that the universal services are clearly defined to reflect the needs of customers?**

Each Member State on the basis of Directive should in its internal legislature specify clearly the scope of universal service in a way that would reflect the needs and preferences of customers as well as conditions of service provision in a particular country.

- **Should the scope of universal service products be further harmonised at EU level, or should some elements remain an issue for Member States to determine based on users' needs and market developments?**

Only some general frameworks and minimum requirements for universal service products should be regulated at the EU level, however, each Member State should make these regulations more specific and precise in its legislature.

Q2

- **Are the current universal postal service obligations still appropriate?**

Yes, the current universal postal service obligations are appropriate.

- **Should universal postal service obligations be applied uniformly?**

Universal postal service obligations should not be applied uniformly as the scope of universal service should depend on economic, geographic and other conditions of Member States.

THE RESERVED AREA

Q3

- **Is a reserved area necessary to maintain a universal service? What are the risks and opportunities to ensuring a universal service in a competitive environment?**

Yes, the reserved area is necessary to maintain a universal service because there are no clear sources to finance losses incurred for providing universal services.

CALCULATING THE COST OF THE UNIVERSAL SERVICE OBLIGATION

Q4

- **Should a common methodology for assessing the cost of universal service be determined (e.g. following the approach taken in telecoms), and if so, who should determine this? In broad terms what elements should be taken into account in this calculation?**

Since each Member State has the right to specify the scope of universal service, there should not be any common methodology for assessing the cost of this service. However, at the EU level there should be determined a way how to set such a methodology.

UNIVERSAL SERVICE –SAFEGUARD MECHANISMS

Q5

Universal Service Provision - Safeguard mechanisms

- **In the absence of a reserved area, what safeguard mechanisms are needed to ensure the continued ability to provide a universal service that would be appropriate in a liberalized market, equitable to citizens (as both users and taxpayers) and competing market participants, as well as practical and cost effective to administer?**

As indicated in answer to Q3, the reserved area safeguards to the largest extent universal service. In the event of lack of reserved area, the effective system of financing universal service should be elaborated at the EU level or Member States should be obliged to arrange such a system in accordance with EU guidelines.

QUALITY OF SERVICE

Q6

- **Should minimum domestic quality of service levels be further harmonised, to what degree of convergence, for which product types, and how should targets be set?**

Domestic quality of service level should be harmonized with cross-border quality of service level for the fastest category of letter mail only. Minimum domestic quality level should be set individually by each Member State as it depends on economic, geographic and technical conditions.

CONSUMER PROTECTION – COMPLAINTS AND REDRESS

Q7

- **Should complaint and redress procedures be strengthened at EU level; if so, what proportionate intervention would be needed, taking into account experience with existing approaches?**

Redress procedures should not be strengthened at EU level. Should be settled at the level of each Member State (its internal legislative system). Since market liberalization also means freedom of Member States in terms of procedures.

STANDARDISATION

Q8

- **What role should standardisation play in the future postal marketplace?**

Some norms and standards should be common and should be binding in the whole postal market ex. size of mail item because it is connected to the possibility of using standardized technical devices.

ENSURING FAIR COMPETITION VS. REGULATORY BURDEN

AUTHORISATION AND LICENSING

Q9

- **Respondents are invited to comment on these options, including, where appropriate the nature of conditions that may be associated with authorisations, (in particular universal service obligations), to whom associated conditions should be applied, and how they are to be enforced.**

Scope of services subject to general authorizations should be precisely defined. Individual licensing system for universal service should be maintained. Individual licensing within reserved area should be extended as reserved area is determined by two criteria: weight and price and should be especially subject to monitoring. Treaty regulations and Directives impose on Member States obligation to arrange universal service provision. This obligation is then transferred to operator designated to render this service. Therefore, licensing of universal service should be maintained since authorizations (as requiring expression of will by operator) may not ensure appropriate ex-ante control of universal service.

ROLE AND RESPONSIBILITY OF NATIONAL REGULATORY AUTHORITIES

Q10

- **Building on the Postal Directive's objectives, are more precise definitions needed concerning the independence, role and responsibilities of NRAs?**

We do not see any need for more precise definitions concerning the independence, role and responsibilities of NRA's.

Q11

- **Should the detailed definition of regulatory tasks and the sharing of best practice be facilitated by setting up a European Group of Postal Regulators, or progressed through existing bodies?**

We think that existing regulatory bodies are entirely sufficient and do not see any need for setting up a European Group of Postal Regulators.

Q12

- **Should measures determining the financing of NRAs be prescribed at EU level, or left to Member States to determine?**

If a European Group of Postal Regulators is not set up, measures determining the financing of NRAs should be left to Member States.

ACCESS TO POSTAL INFRASTRUCTURE - DOWNSTREAM NETWORK ACCESS

Q13

- **Should the Postal Directive's provisions on downstream access be maintained or is a more detailed mandatory model necessary?**

New Postal Directive should contain provisions saying that downstream access is regulated on the basis of commercial contracts between operators.

ACCESS TO POSTAL INFRASTRUCTURE – OTHER FACILITIES

Q14

- **Leaving aside the issue of downstream network access to which elements of the postal infrastructure should equitable access be required, and how should this be remunerated? Which elements, if any, would best be prescribed at EU level?**

In case of downstream access no elements of postal infrastructure should be prescribed at EU level. Downstream access should be regulated on commercial basis in terms of contracts between Parties. Besides equitable access should be ensured to P.O. Boxes and remunerated on commercial basis.

COST ACCOUNTING AND PRICE CONTROLS

COST COVERAGE AND TERMINAL DUES

Q15

Cost Coverage:

- **Cost coverage: should the authorisation for the imposition of uniform tariffs be applicable to all universal service products? How should the decision on uniform tariffs vs. cost coverage be regulated?**

Each Member State should decide whether to apply uniform tariffs on its territory or not, especially that prices must be geared to costs. Uniform tariffs not always will cover costs of particular service particularly when services are provided on extensive and difficult accessible area. As a result of that Member State should have the right to decide whether to apply uniform or different tariffs. However, principles of determining tariffs should be specified at EU level.

- **Should the Directive's provisions on terminal dues be maintained?**

Yes, Directive's provisions on terminal dues should be maintained.

- **In the framework of EU competition law, should the postal Directive's provisions for achieving non-discrimination in respect of special tariffs be maintained?**

The postal Directive's provisions for achieving non-discrimination in respect of special tariffs should also be maintained unless the bulk mail (mail sent by institutions) is excluded from the universal service.

COST ACCOUNTING RULES

Q16

Cost Accounting

- **Are the current cost-allocation principles in the Directive unnecessarily rigid?**

The current cost-allocation principles in the Directive are NOT unnecessarily rigid and should be maintained as they are.

- **What should be the level of public disclosure of regulatory accounts of universal service providers, and would full market opening change the appropriate level of disclosure?**

Regulatory accounts of universal service providers should only be disclosed to NRA or European Commission in case of applying for state aid with respect to financing deficit for providing loss-making universal services.

PRICE CONTROLS

Q17

- **Should price controls be restricted to postal services provided under conditions of market dominance? If so, in broad terms, how should dominance be assessed, at what level, and by whom?**

Price controls should be restricted only to universal services irrespective of the fact whether they are provided under conditions of market dominance or in competitive market.

MARKET OPENING AND ECONOMIC AND SOCIAL IMPACTS

Q18

- **Do you envisage overall economic growth in the postal sector following full market opening and how might this develop over time? What will be the impact on employment?**

First of all, we do not see economic growth after partial liberalization as universal service on the territory of the whole country is still provided by incumbents (national operators). Moreover, full liberalization might have negative impact not only on service quality but also on already dropping employment level. As we look at countries which have already fully liberalized market, employment was not smoothly absorbed by other universal service providers. Therefore, we envisage that after full market opening incumbents will be even more obliged to provide services nationwide. The other operators will provide services in carefully selected and the most profitable market segments leaving loss-making areas for operator designated by the State.

Q19

- **What positive or negative social impacts could result from full market opening? How might negative impacts be avoided or limited?**

Full market opening leads to a possibility of a robust competition which shall result in a price reduction on universal services. That is definitely advantageous for customers. However, unfortunately we envisage more negative sides such as decline in service quality as a result of lack of financing deficit for providing loss-making universal services. Decline in quality service may occur in on-time delivery and frequency as well as in frequency of emptying collection boxes and office hours of postal outlets. It may be difficult to maintain a number of P.O. Boxes and postal outlets on the current level and at the same time to ensure service availability (one of the most essential principles of universal service). It may lead to drastic cuts in employment at USP's. Although, it is impossible to eliminate negative effects of full market opening, some steps should be undertaken to limit this phenomenon. It can be done through setting up rules for universal service provision in a competitive environment. Services provision in profitable areas should be

balanced with obligation to provide services in loss-making areas in order to disallow for scream-skimming practices.

OTHER

Q20

- **Please add any final comments you feel may be helpful to the development of the Commission's 2006 Proposal on Postal Services.**

The most crucial issue during elaborating new postal Directive is defining universal service by adopting appropriate criteria. It is especially important in the case of universal service provision after full market opening in competitive environment. We should look at universal service not from subject perspective (ie. who provides service) but rather focus on universal service itself. It is important to emphasize that a distinguishing feature of universal service is that it is provided on the basis on a public postal network. It should also be clearly indicated in Directive that courier services also pertain to postal services to prevent from bypassing provisions in that case.

STAKEHOLDER IDENTIFICATION

Q21

- **Please explain the nature of your interest in the sector (or that of your organisation), and in what capacity you are responding to this consultation. Anonymous contributions to Part 2 are not possible.**

We represent **Poczta Polska** – Polish National Postal Operator and as one of the biggest public operators in Europe we are obviously interested making some contribution in shaping new regulatory model on Internal European Postal Market.

Organisation: POCZTA POLSKA HEADQUARTERS (WARSAW)

website: www.poczta-polska.pl