An example of the application of State aid rules in the utilities sector in Italy (1)

Davide GRESPAN, Directorate-General Competition, unit H-3

Last June the Commission took a decision on a case concerning two Italian State aid schemes applicable to the sector of public utilities. This article focuses on the most interesting aspects of that decision and formulates some general remarks on each of them. These aspects are: the application of State aid rules in a sector with a limited degree of competition and trade, the notion of existing and new aid, the application of Article 86(2).

The facts of the case

In 1997 the Commission received a complaint alleging the existence of incompatible State aid granted by Italy to certain undertakings in the public utilities sector. In Italy Municipalities since long provide several local services in the field of transport, water, gas, electricity, waste and pharmaceutical products. These services can be provided directly by the municipality or by a separate municipal accounting entity or by a concessionaire.

In 1990 Law no. 142 laid down inter alia a reform of the legal arrangements a municipality may use to provide these services. Municipalities could then establish joint stock companies (società per azioni, ‘SpA’) with public majority shareholding (hereinafter “SpAs 142/90”). Eventually, in 1992 also the possibility of setting up a joint stock company with public minority shareholding was introduced.

The possibility to establish SpAs was an important reform allowing a greater participation of private capital in the utilities sector and the management of these activities in a more entrepreneurial way. Whilst, as a general rule, in the case of public service provided by the municipality or by a separate accounting entity the service provider cannot operate outside the territory of the municipality itself, SpAs are not limited by law as regard either the economic sector or the territory in which may operate.

SpAs 142/90 could benefit from a pre-existing law of 1986 allowing them to take loans from Cassa Depositi e Prestiti (“CDDPP”), an Italian administrative body.

Other measures concerning SpAs 142/90 were ‘codified’ in the paragraphs 69 and 70 of Article 3 of Law 28 December 1995 no. 549. Paragraph 69 provided for the exemption from all transfer taxes related to the transformation of aziende speciali and aziende municipalizzate into joint stock companies (hereinafter ‘the transfer tax exemption’). Paragraph 70 set out a three-year income tax exemption (hereinafter ‘the income tax exemption’) not exceeding fiscal year 1999 (2). The complainant alleged that the fiscal treatment provided for by paragraph 69 and paragraph 70 as well as the possibility to take loans from CDDPP constituted illegal State aid.

The Commission started a formal investigation under Article 88(2) in 1999 and assessed those measures as aid schemes, i.e. it only looked at general functioning of the legal instruments whereby the State grants certain advantages to undertakings fulfilling the conditions laid down in those instruments. It did not assess the application of the measures in any specific case.

The Commission found that CDDPP loans and the income tax exemption granted to SpAs 142/90 a State aid. On the other hand the Commission concluded that the transfer tax exemption is not a State aid (3).

Affectation of competition and trade

The Italian Authorities (‘IA’) argued, inter alia, that the markets in which the SpAs 142/90 operated at the time of the adoption of the measures were not open to competition or trade between Member States. The IA maintained that SpAs 142/90 provide services in limited territories on the basis of exclusive rights, thus no competition is possible. If there is no competition to be distorted there cannot be any State aid.

(1) Thanks to Mr Karl Soukup without whom drafting this article would have been more difficult.

(2) It is worthy to repeat that the expression ‘SpA 142/90’ in this article means joint stock company with public majority shareholding established following Law 142/90.

(3) This article does not focus on the Commission conclusion that the transfer tax exemption in not an aid.
In line with the Philip Morris judgement (¹) the Commission concluded that the advantage was capable of distorting competition. First SpAs 142/90 could exploit this advantage when they compete with any other undertaking for the entrustment with the exclusive right to provide the service. Second these undertakings had already expanded their activities in markets other than the utilities sector; the additional financial resources could therefore affect those markets. Third, the Commission observed that, especially the income tax exemption would allow those undertaking to distribute higher dividend thereby making capital investments in these undertakings particularly interesting. This could have distortive effects in the capital market.

As for affectation of trade between Member States it is established case law that state aid decisions do not have to be based on a demonstration of the real effect of the aid on competition or on trade between Member States (²). In order to assess the affectation of trade the Commission should also take into account the foreseeable effects of the aid on competition and intra-community trade (³).

In the present case the Commission started observing that trade can be affected even if the beneficiary undertaking is itself not involved in exporting (⁴) especially in the case of aid to undertakings operating in the service and distribution industries (⁵). Then the Commission underlined that the grant of a concession is one of the legal options available to Municipalities and the concessions market is open to competition at community level (⁶). Those measures therefore could affect trade between Member States in making it more difficult for foreign companies to enter the concessions market in Italy (⁷). In addition, the scheme would make it less attractive for foreign operators to invest in the utilities sector in Italy (e.g. acquiring majority holdings) as acquired companies would not be entitled to (or may lose) the aid as a consequence of their new shareholding structure. The Commission concluded that as a general principle aid to local service providers may create an obstacle for foreign companies willing to establish themselves or sell their services in Italy, and therefore affect trade between Member States (⁸).

Ad abundantiam, the Commission noted that in some of the main sectors of activity of SpAs 142/90 there was already an important trade between Italy and other Member States (for instance pharmaceutical products or waste). Finally, the Commission observed that some SpAs 142/90 were also involved in economic sectors (telecommunications, software productions and commercialisation) other than those indicated by the IA and that these economic sectors were characterised by intensive trade between Member States. Therefore affectation of trade was not merely potential.

The IA also argued that affectation of trade was not significant either because SpAs 142/90 provided local services or because over the period of application of the measures in issue there were very few cases of concessions awarded according to open selecting procedures. The Commission stressed the above jurisprudence showing that even if trade between Member States in a certain economic sector and at a given point in time is limited this does not exclude that a measure may qualify for State aid. To conclude otherwise would give Member States a reason for preventing trade in that sector in order to avoid the application of State aid rules. By giving to municipalities an incentive to

---

(¹) See case 730/79 Philip Morris [1980] ECR page 2671, paragraph 11 and the AG Opinion page 2698. See, for instance, the AG opinion Case C-280/00 Altmark, not yet reported, point 103 where the AG notes that the requirement of distortion of competition is very easy to fulfil since it can be assumed that any State aid distorts or threatens to distort competition.

(²) Judgement of the Court Case C-301/87 France v Commission [1990] ECR I-307 paragraphs 32 and 33; joined cases T-204/97 and T-270/97 EPAC - Empresa para a Agroalimentação e Cereais, SA v Commission [2000] ECR II-2267, paragraph 85 and joined cases T-298/97, T-312/97, T-313/97, T-315/97, T-600/97 to 607/97, T-1/98, T-3/98 to T-6/98 and T-23/98, Alzetta Mauro and others v Commission, [2000] ECR II-2319, paragraph 76. As part of its assessment of notified aid the Commission is required to review whether that aid might affect trade between Member States. Hence the same standard has to apply when the Commission assesses non-notified aid. Were the Commission required to establish whether the aid has a real effect on trade and competition, such a requirement would favour MSs which grant aid in breach of the obligation to notify.


(⁵) Case C-310/99 Italy v Commission, judgement of March 7, 2002, not yet reported.


(⁷) The Commission mentioned also that not all the services provided by SpAs 142/90 are provided on the basis of a concession implying exclusive rights. This is the case for instance for the distribution of pharmaceutical products where SpAs 142/90 compete with private operators in the same territory and for services related to waste. Moreover, some services are provided after public tenders and these companies can also participate in public tenders. Therefore the same reasoning could apply with regard to affectation of trade as regard the participation of foreign companies in the public tenders.

entrust directly SpAs 142/90 with the service these measures affected trade between Member States by diminishing the potential number of selecting procedures for the grant of a concession and accordingly the possibilities for foreign operator to penetrate the Italian market.

Moreover the very fact that the IA entrust directly services to certain undertakings without any open selecting procedure is, according to the Commission, a violation of EC law (1). Therefore the IA could not rely on the small number of selecting procedures for demonstrating that the effect on trade was not significant.

The substance of the Commission’s reasoning is that the limited degree of intra-community trade is not a bar for the application of State aid rules. In fact that limited degree can also be the effect of the measures in question and not simply the factual situation prevailing at the moment of the grant of the aid. As any aid to local producers have the effect of diminishing operations of foreign companies such a situation cannot be considered as indicating that the aid does not affect trade between Member States.

**Existing aid versus new aid**

The Commission had to deal with two issues concerning the classification of the measures as existing or new aid. The first issue is linked to the same argument that at the time of the entry into force of the measures the economic sectors in which the SpAs 142/90 were operating were not open to competition. The IA invoked the judgement Alzetta (2) in which the Court of First Instance (‘CFI’) established that a measure applicable to undertakings operating in an economic sector in which there is no Community competition is not to fall within the Alzetta rule.

In the case at hand the Commission found the aid measure must then be classified as existing aid (3). When an economic sector is liberalised gradually the same system of aid may classify for new aid with respect to undertakings providing services that have been liberalised before the granting of the aid (4) and, as existing for undertakings exclusively providing the services that have been liberalised after the granting of the aid (5).

As the Court said, the jurisprudence Alzetta Mauro applies to undertakings engaged solely in markets which were not open to Community competition (6). Therefore, if an undertaking receives an aid and it is active both in markets open to competition and in markets where there is no Community competition the classification of the measure will be made with reference to the markets open to competition (7).

The rule established by the CFI in Alzetta is identical to the rule contained in the first sentence of Article 1(b)(v) of Regulation 659/1999 (8) (‘the Regulation’). This article sets out the rules according to which the evolution of the market may affect the classification of a measure as new or existing aid. On the other hand the second sentence of Article 1(b)(v) establishes that: “Where certain measures become aid following the liberalisation of an activity by Community law, such measures shall not be considered as existing after the date fixed for the liberalisation” This rule is stricter for Member States than the one of the first sentence. It tells Member States to review their legislation before the date fixed by EC law for the liberalisation of an economic activity. Member States should check whether there are measures that are likely to be classified as State aid once the activity is liberalised. After that date those measure will be considered as new aid, non-notified and thus unlawful (9).

In the case at hand the Commission found the aid in question not to fall within the Alzetta rule.

---

(1) This violation is currently the matter of an ongoing infringement procedure started by the Commission against Italy (no. 1999/2184, letter of formal notice dated November 8, 2000).


(3) The rule established in Alzetta has been confirmed later by the CFI in case T-288/97, Regione autonoma Friuli-Venezia Giulia v Commission [ECR] 2001 II-1169, paragraph 89.


(5) Op. cit., paragraph 146 and 147. This case law means that the same measure can be classified as existing aid, new aid or non-State aid depending on the situation of the individual undertaking to which the measure applies.

(6) Paragraphs 147, 149 and 150 emphasis added.

(7) In order to avoid this possibility the measure itself should provide for its application only to those undertakings that do not carry out competitive activities.


(9) In Alzetta internal cabotage was liberalised by Community law. However the CFI considered the aid as existing. It would seem that there is some tension between the judgement of the CFI and the Regulation. However the Alzetta case and the liberalisation of internal cabotage predated the Regulation. Since nothing in the provision contained in the second sentence suggests that it should be of retroactive application, the CFI correctly considered that the stricter rule provided for by the Regulation did not apply in that case.
In some of the economic sectors in which SpAs 142/90 focused their activity there was already an important trade going on between Italy and other Member States at the time of the adoption of the measures. Therefore the IA claim that there was no competition was unfounded. Moreover the Commission noted that the two aid schemes under assessment were capable of granting advantages to any SpAs 142/90. The legal status of SpA gave these undertakings the possibility to operate in whatever economic sector. Finally nothing in those schemes ensured that the aid could only benefit those companies merely engaged in services not open to Community competition.

The Commission pointed out that this conclusion is without prejudice to the possibility that individual aid granted under the scheme may be considered as existing aid on the basis of the particular situation of the beneficiary (1) referring implicitly to undertakings exclusively involved in activities not open to Community competition at the time the measure was put into effect.

As a general remark with regard to the requirement of affectation of trade and competition it can be observed that this requirement is interpreted in a slightly different way when the question is that of the existence of an aid measure and when the question is that of the classification of a State measure as existing or new.

In assessing the existence of an aid measure the Court has recognised to the Commission the possibility to carry out a perspective analysis. So even if there is no competition at the time of the grant of an aid, that aid can still be considered as State aid if it is likely that competition will develop in that sector. On the other hand it seems that in classifying a State measure as existing or new aid this perspective analysis cannot be made. Therefore if there is no Community competition at the time of the grant of the aid and even if it is likely that such competition will develop, the measure will at most qualify for existing aid, provided that Article 1(b)(v) second sentence of the Regulation does not apply (2).

The second issue the Commission had to deal with relates to the argument that the income tax exemption in favour of SpAs 142/90 is not a new aid because its content is identical to a pre-existing measure. Since the beginning of the century aziende municipalizzate and then aziende speciali (3) were assimilated to local authorities for fiscal purposes and as such they were not subject to income tax. SpAs 142/90 have taken the place of aziende municipalizzate and enjoy the same fiscal treatment.

To reply to this argument the Commission made reference to the case Namur-Les assurances (4) (‘Namur’): in that case the question was ‘whether a decision authorising the enlargement of the field of activity of a public undertaking (the OND) may imply that aid granted to such an undertaking becomes new aid. The Court noted that legislation predating the entry into force of the Treaty defined (i) the purpose and areas of operation of the OND in very general terms (provision of export guarantees), (ii) provided for some advantages, and (iii) contained no restriction in terms of subject matter or geographical area on OND’s activity. OND, which for many years limited its activity to the insurance of certain export risks, decided to provide insurance also for export to western European Countries. The Court observed that the question of whether an aid is new or existing must be answered by reference to the provisions providing for it. It held that the decision to expand the export risks covered by OND (which did not go beyond the original description of the OND’s task) did not amend the legislation granting those advantaged either in regard to the nature of those advantages or in regard to the activities of the public establishment. Accordingly the aid was existing.’

The Commission observed that, unlike in Namur, the income tax exemption in favour of SpAs 142/90 was provided for by a new legislation. The new legislation laying down that exemption had the declared purpose (5) to extend the fiscal treatment provided for local authorities and aziende municipalizzate to a new category of undertakings, the SpAs 142/90, for a three years period.

(1) This conclusion is in line with the Court case law, see case C-310/99 Italy v. Commission not yet reported, paragraphs 89 to 91. The Court explained that when the Commission is dealing with an aid scheme it can limit its assessment to the features of the scheme without having to examine the particular situation of any individual undertaking benefiting from the scheme. The situation of the individual beneficiaries may be considered in the phase of the recovery of the aid.

(2) If liberalisation takes place after the entry into force of the Regulation 659/1999 on the basis of a community rule then the aid becomes new.

(3) Aziende municipalizzate and aziende speciali are separate accounting entities fully owned by the local authorities subject to the control and supervision of the same authorities.


(5) The preparatory works confirmed that without the new legislation SpAs 142/90 would not have enjoyed any income tax exemption.
The notion of existing aid is based essentially on the principle of legal certainty. The aim of this notion is to avoid that some measures already in force become automatically illegal as from the entry into force of the Treaty (3). After the entry into force of the Treaty when a Member State decides to modify the measure there is no logical reason for the Member State to invoke legal certainty any longer. That is why any substantial modification of the measure transforms an existing into a new aid. The Member State that modifies the measure should notify the alteration to the Commission otherwise the measure becomes a new and unlawful aid. Likewise, if a Member State extends the scope of an existing aid to a category of undertakings that originally were not entitled to receive the aid there is no issue of legal certainty at stake. The extension of the aid to the new category of undertakings constitutes a new aid.

This conclusion seems to accord with the recent Gibraltar judgement of the CFI (4). In that case the Commission qualified as new aid the ‘exempt companies legislation’ of Gibraltar dating 1967, because of two amendments of 1978 and 1983. It was common ground that the original exempt companies tax scheme of 1967 constituted an existing aid. The 1978 amendment extended the tax exemption to a category of additional operations and the 1983 amendment added a category of companies to the beneficiaries of the tax exemption. The Commission considered that those two amendments changed the tax system in its entirety and transformed it into a new aid.

The Court stressed that only the alteration and not necessarily the altered aid in its entirety is new aid. ‘It is only where the alteration affects the actual substance of the original scheme that the latter is transformed into a new aid scheme’ (5). When it is severable from the initial scheme, like it was in that case, the alteration has to be assessed on its own merits. That means that the alteration can qualify for new aid while the original scheme remains an existing aid (6). By the same token, the income tax exemption may also be the alteration of an existing aid scheme. However the extension of that scheme to SpAs 142/90, a category of undertakings that like in the Gibraltar case initially were not covered by the scheme, represents a severable alteration of the scheme. Having been established well after the entry into force of the Treaty this alteration constitutes a new aid.

In Namur the Court made also reference to the fact that the purpose and areas of operation of the OND had not been changed. This suggests that also the modification of the legal nature, or of the activity of the beneficiary of the aid might imply a modification of the classification of the measure from existing to new aid (7). In this case the Commission observed that the law restricts the subject matter and geographical area of aziende municipalizzate’s activity. On the contrary SpAs 142/90 may get involved in any kind of economic activity and whatever territory. Hence, also in this respect there was an important difference between the present case and Namur.

Service of general interest and Article 86(2)

The original Commission position was that State funding of a SGEI is not State aid insofar as the funding does not exceed the net cost of providing that service. In case FFSA (8) and SIC (7) the CFI ruled that the State funding of a SGEI is a State aid within the meaning of Article 87. However, this aid is compatible with the common market by virtue of Article 86(2) insofar as it does not exceed the net cost of providing the SGEI, and provided that the other conditions set out in that article are met.

The legal classification of the funding of a SGEI as a State aid implies the application of all State aid rules. This means a greater involvement of the Commission. In particular Member States, according to Article 88(3), should notify to the Commission any such funding before the aid is granted. The Commission has the task of assessing the proportionality and compatibility of the funding to the net cost of the SGEI under Article 86(2) and contribute to clarify the rules and principle applicable to the funding of SGEI thereby fostering legal certainty. In this connection in 2001 the Commission issued its second Communication on SGEI (9). The Communication dealt extensively also with the question of the funding. It explained

(1) In substance the role of the notion of existing aid is similar to that of a Grandfather clause.
(2) T-195/01 and T-207/01, not yet reported.
(3) Op. cit. paragraph 111.
(4) The Court did not reach this last conclusion with regard to the measures at issue in that case because it did not want to substitute its assessment to that of the Commission. However this seems to be the logical conclusion of the Court reasoning.
(5) How important must be this modification for changing the classification of the aid the Court does not say.
(8) OJ 2001/C 17/04. The first Communication on SGI in Europe is of September 1996.
that Article 86 is the provision on the basis of which the Commission would assess the legality of that funding and that three principles underlie the application of Article 86(2): neutrality, Member States' freedom to define what they consider to be public service, and proportionality.

In Nov, 2001 in case Ferring (1) the Court of Justice by referring to a judgement of 1985 (2) concluded that the public funding of a SGEI is not a State aid but rather a compensation for the service that the undertaking provides in the general interest. And this insofar as the compensation does not exceed the net additional costs of the general service mission. In these circumstances the undertaking entrusted with that mission does not receive any real advantage.

The Court ruling implies that the notification requirement of Article 88 does not apply, and that in order to justify the State funding of a SGEI there is not need to look at Article 86(2). This article does not seem to apply to the funding of services of general economic interest. Indeed if the funding is proportionate then there is no State aid, if the funding is excessive there is an aid that cannot be considered as compatible on the basis of Article 86(2) (3). Any national authority may be asked to check the proportionality of the compensation at the same time of the Commission. Moreover national authorities within the same Member State and of different Member States may apply different criteria to calculate the proportionality of the compensation (4). Furthermore undertakings in different Member State may be compensated for essentially the same SGEI on the basis of different economic criteria thereby provoking distortion of competition (5). Finally because there is no need to notify the compensation to the Commission it is difficult for the Commission to learn of possible different approaches. On the basis of Article 86(2) the Commission could set out the economic criteria on which the compensation must be calculated and ensure coherence in the Community.

Following the Ferring construction the question arises: has the Commission any competence to set out the economic criteria on which the compensation must be calculated? Under Ferring this cannot be done on the basis of Article 86 since this article does not apply to the matter of the compensation of a SGEI. There might be different remedies but Ferring does not say which ones. In summary, while giving the impression of laying down a rule which is easy to apply Ferring could in fact be the source of more legal uncertainty and disputes.

Moreover, Article 86 last sentence gives the task to the Commission to check that the funding of a SGEI does not affect the development of trade to an extent contrary the interest of the Community. If Article 86 does not apply no one can check that the funding of a SGEI complies with the Community’s interest.

It is not even clear whether this judgements represents a complete departure from the CFI jurisprudence. A few months after Ferring two Advocate Generals (‘AG’) dealt with the question of the compensation of a SGEI. AG Leger in his opinion in the Altmark case (6) interpreted Ferring as a complete departure from the CFI jurisprudence. He criticised this judgement and recommended the Court to adopt the construction of the CFI. AG Jacobs (7) proposed a compromise solution according to which the Ferring jurisprudence applies only in particular circumstances (i.e. ‘where the financing measures are clearly intended as a quid pro quo for clearly defined general interest obligations’) and for all other cases the CFI jurisprudence applies.

While the Community judiciary was, and still is, dealing with the question of how to classify the funding of a SGEI, the Commission had to decide the present case. The immediate issue was whether or not the three criteria of the 2001 Communication on SGEI could still be relied upon in order to deal with the IA claim that the aid in question was justified under Article 86(2). The Commission

(1) C-53/00 ECR [2001] I-9067.
(3) Paragraph 33.
(4) Already in the determination of the additional cost of the service of general interest there can be different approaches to questions such as whether the quantification of the additional costs must be made on the basis of the incremental costs of providing the service of general interest in combination with other services provided by the same undertaking where this is the case, or whether the additional cost should be the stand-alone cost of providing the service of general interest. Another question that is susceptible of different approaches is the cost allocation of infrastructure that are used both for the public service and for other services. Also in the determination of the amount of “allowed” compensation there can be different approaches for instance how to deal with economies of scale and of scope, or with indirect advantages that could follow from the entrustment with a service of general economic interest such as reputation, ubiquity, etc.
(5) For a more extensive analysis of the practical implications of the classification of the State funding of a SGEI see AG Leger C-280/00 opinion of 19/03/2002 not yet reported.
(6) See previous note.
(7) C-126/01 Opinion of 30.4.2002 not yet reported.
concluded that the principle of neutrality, entrustment and definition, and proportionality underlie the application of both Article 86(2) and the Ferring jurisprudence (1). This is not surprising since the neutrality principle is a principle that finds application throughout the Treaty and is enshrined in Article 295, also under Ferring the compensation must be proportional to the net additional cost of the mission, and entrustment and definition are logical requirements of any meaningful assessment of proportionality.

The Commission acknowledges that the sectors in which the undertakings are mainly active have general interest relevance. However the measures are contrary to the neutrality principle. Indeed the aid was not linked to the entrustment of a general service mission, but merely to the legal status (i.e. SpA) and shareholding composition of the undertaking (i.e. majority public). There was no evidence of any general service obligation that applies exclusively to SpAs 142/90 because of their legal status or shareholding composition. In other words the public or private nature of an undertaking cannot be the criteria on the basis of which a Member State grants the compensation of the general service mission.

Also the principles of entrustment and definition, and of proportionality were not met. Law no.142/90 refers to the possibility for the Municipalities to provide public services by means of SpAs 142/90. However, this Law does not specify which services have to be considered as public services and to what extent, and it does not mention any specific public service obligation. Therefore it cannot be considered as an act clearly defining the public service mission and explicitly entrusting certain undertakings. Finally the Commission found that it was not possible for it to assess the proportionality of the funding because the IA did not indicate the public service obligations, nor any net extra costs deriving from these obligations, and not even the amount of public funds granted to SpAs 142/90.

The Commission’s conclusions as regard Article 86(2) demonstrate the intention of the Commission to stick to its policy with regard to SGEI announced in the 2001 Communication, even when the European Courts do not really help to clarify the legal rules that apply to this matter. This decision shows a rigorous application of that 2001 Communication.

Conclusion

This decision deals with quite a wide set of issues and with aid measures focusing on sectors that have seldom been investigated on the basis of State aid rules. The decision is based on the premises that even in the sectors of the public utilities respect of State aid rules must be ensured. The Commission has rigorously applied those rules and has ordered Italy to recover the aid.

The Commission did not exclude that because of the importance of public utilities Member States may impose obligations in the general interest to service providers and provide for the funding of those obligations. However in the light of the ever more competitive character of these sectors there is a need for transparency. It is important that these obligations are defined clearly and the amount of compensation determined with reference to the net extra cost generated by those obligations, if any. On the contrary measures whose effect is only to reinforce the competitive position of the undertakings controlled by local authorities cannot be considered as justified by a vague and ill-defined general interest mission.

(1) For another example of this approach see also Commission decision of 12 March 2002 State Aid to Poste Italiane S.p.A (C47/98 ex NN41/98).