

## **Synthesis of the public consultation on the draft ERGP report VAT exemption as a benefit or a burden**

**16 April 2013**



## Summary of the results

A public consultation of the ERGP draft report on VAT exemption as a benefit or a burden was launched 30 November 2012 and ended 23 January 2013. In all five submissions were received. Two were submitted by postal operators that are competitors to a USP, one was submitted by a consolidator and one by a USP. The fifth submission was made by a trade union federation.

## Issues covered

### 1. Specific points to be developed further

The trade union federation does not agree with the approach and considers the perspective of the study to be too narrow. It is rather the perspective of the postal operators and the market than the perspective of the residential clients or the workers. The union is of the opinion that a conclusion has to be if and how residential customers and workers benefit from the VAT exemption and recommends ERGP to investigate this. Taking the customers perspective and considering that companies normally pass on additional tax burdens to its clients, the union recommends to include a scenario where prices are raised. Finally the union highly recommends ERGP to investigate aspects such as prices, volumes, costs, labor market and welfare before taking any measures changing the actual situation or cancel the VAT reduction at all.

*The objective of the study is briefly mentioned in the introduction, section 1 in the draft report. To be more explicit an additional text has been added to this section clarifying that the issues mentioned above are out of the scope of the study.*

### 2. The impact of the VAT exemption on the market

One postal operator underlines that introducing a VAT exemption only for services provided by the USP would eliminate competition on the postal market concerned. Furthermore the operator stresses that ex-post competition regulation is unlikely to ensure competition and that the best way to ensure sufficient ex-ante sector specific regulation is to preserve a wide definition of USO, including bulk mail services that are subject to competition.

*The fact that the VAT exemption could have a significant impact on the market and that it is necessary to take the exemption into consideration when calculating the net cost, is already highlighted in the report. The issue whether ex-post competition regulation or ex-ante sector specific regulation is the best way to ensure competition is of an overall principle character that is not relevant to include in a study on net cost calculation.*

The other postal operator states that the VAT exemption is a barrier to entry, harms competition and distorts the market in favor of the USP. The operator underlines the importance of taking into account all the benefits that the VAT exemption brings to the USP when the NRA calculates the net cost of USO. But even more urgent is that ERGP and the European commission take initiative and all necessary measures to abolish the VAT exemption on postal USO products as it does not bring about the expected lower consumer prices. The operator, who offers services that fulfils the USO definition, concludes that the harm to competition caused by the exemption clearly exceeds any benefits of the exemption.



The consolidator stresses the importance that all postal operators are treated equally as far as VAT is concerned and that the exemption for universal services should not be in line with the EU regulations.

*The importance of taking into account all benefits related to the VAT exemption is already in the report. Furthermore the text added to section 1 in the draft report clarifies that the exemption as such and whether it could be justified from different perspectives is out of the scope of the study.*

### 3. Essential additional information to be developed

The USP finds it regrettable that ERGP quoted the WIK consult study without mentioning that the study has been subject to critics due to conceptual errors on what could be regarded as an intangible benefit.

*It has been added in section 3.1 that the study was criticized by the USP*

The USP remarks that the study emphasizes even more the complexity – or the impracticability - to establish a credible reference scenario to calculate the net cost. The USP recalls the importance of taking specific national tax legislation into consideration when calculating the benefit incurred from the VAT exemption. There is for instance legislation in place to counterbalance the benefit from the VAT exemption.

*It is obvious that the VAT exemption complicates the exercise described in the ERGP report Net cost calculation and evaluation o a reference scenario and this is also mentioned in section 4.1 A necessary but complex exercise. Furthermore in section 4.2 Elements to be considered in the net cost calculation, the need to consider country specific conditions is highlighted and the wage taxes in France are mentioned.*

The trade union federation points out the problems in companies with mixed services and agrees that a clear and transparent regulation should be in place for the VAT exemption to avoid any inconveniences or confusions in the market. Furthermore the federation stresses a need to prevent hidden VAT to be passed on to residential customers.

*The complexity in companies providing mixed services is mentioned in section 2.3 in the draft report. Furthermore the text added to section 1 implies that the impact of hidden VAT as such on specific user groups is out of the scope of the study.*

