



LE GROUPE LA POSTE

DIRECTION DE LA REGULATION EUROPEENNE ET NATIONALE

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Answer of La Poste to the public consultations launched by the ERGP on its “draft common position on cost allocation rules” and on its “draft report on VAT as a benefit or a burden”

On 22th November 2012, the European Regulators Group for Postal Services (ERGP) adopted during its 3rd plenary meeting three documents, which are subject to public consultation until 9th and 23th January 2013.

La Poste appreciates the opportunity to contribute to the public consultations by submitting comments about the draft common position on cost allocation rules and about the draft report on VAT.

La Poste is willing to seize the opportunity to reassert its position on the regulation needs in the postal sector. Confronted with the structural and ineluctable decrease of postal flows, public policy makers, regulators and postal operators should consider the safeguarding of the universal service as the number one priority. This objective will be reached through an adequate degree of flexibility left to incumbent operators in charge of universal service obligations, in order to allow them to redesign their business model.

This doesn't contradict the objective of creating a level playing field and ensuring the development of a fair and balanced competition. In this view, both topics studied by the ERGP and subject to public consultation – the allocation of common cost and the impact of VAT on postal operators' activity – are relevant.

Regarding the issue of cost allocation rules, La Poste is pleased to note that the ERGP took into account some remarks formulated in its previous (January 2012) contribution to the public consultation on costs allocation, notably the possibility to use the urgency driver to allocate postal costs.

La Poste acknowledges that the ERGP made some efforts to clarify the definitions of direct costs, common costs and joints costs from the previous draft report on this topic. However, La Poste considers that this distinction is complex and not always relevant and recommends adopting a more economic approach by distinguishing fixed and variable costs.

Regarding the issue of VAT, La Poste welcomes the balanced, deep and well documented ERGP's analysis of VAT exemption impact on postal market. For the first time, this issue is examined from all sides, with no priori assumption, considering the VAT exemption potentially as a burden for universal service providers.

La Poste agrees the ERGP conclusion that *“claiming that USP's VAT exemption positively affects the USP's profit and reduces the entrant's one (...) could be too general a conclusion”*, that *“many factors influence the level of impact that different VAT treatment*

have on the postal market” (p. 19) and “there is no clear answer as to whether the VAT exemption provides a benefit or a burden” (p. 31).

La Poste finds regrettable that the ERGP quoted the WIK Consult study without mentioning that this study has been subject to critics due to many conceptual errors on what could be considered as an intangible benefit related to the postal universal service¹ and wrong assertions related to La Poste’s practices². More details on this could be found in the answer written by La Poste and posted on the ARCEP’s website.

La Poste wishes to recall the specific tax rules in force in France. As universal service provider, La Poste is exempted from VAT on products belonging to the universal service scope. This exemption has two consequences: on one hand, La Poste cannot recover the VAT paid on expenses related to exempted products and services; on the other hand, La Poste is subject to a “wage tax” like all French companies that are completely or partly exempted from VAT (article 231 of the tax Code). This wage tax is assessed on the gross payroll of each employee and amounted to €540 million in 2011 for La Poste. These tax costs clearly counterbalance the benefit incurred from the VAT exemption vis-à-vis postal customers who haven’t the possibility to deduct the VAT paid.

Last but not least remark: this study on VAT emphasizes even more the complexity – or impracticality – to establish a credible global counterfactual scenario (corresponding to the situation in which the USP would be if it were released from its obligations) to calculate the USO net cost, as the ERGP admits itself.

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¹ One example: the WIK considered as an intangible benefit related to the postal universal service the public subsidy received by La Poste for the newspapers delivery public mission.

² For example, the WIK affirmed, without foundation, that postal incumbents “endeavor to maintain [their] market position by attempting to hinder or soften any measures that would enable competitors to make inroads into their markets and threaten this position” or that they “try to prevent or soften any measures that would increase their costs” (p. 56).