

Public Consultation ERGP report (12) 29 Draft ERGP report on VAT as a benefit or a burden

UNI Europa Post & Logistics appreciate the release of the new ERGP report for public consultation on VAT as a benefit or a burden. The report aims on assessing the VAT exemption impact on the USO net cost calculation and its implications for postal market competition. The VAT exemption for postal services was foreseen in the VAT Directive as a tool to lower prices for final customers and make postal services affordable. The company itself has no financial advantage others than a better condition in the competition. After the implementation of the third postal Directive and with this, the creation of an internal market for postal services, an equal playing field has to be created. The question also at the end of your report stays open if VAT exemption is a burden for competition or creates inequality by for example except services from VAT provided by the incumbent postal company while the same services from competitors are not. It might be a solution to split the VAT exemption from the universal service provider and focus only on the universal services provided no matter from which company. This could be a way for the future to create more equality among competitors in the market.

UNI Europa Post & Logistics supports the fact that VAT exemption shouldn't create inequality in the market. We see VAT exemption as a tool to support the universal service provider(s) in the provision of quality and affordable universal postal services to all citizens in the country as a publicly available service to satisfy the basic needs following the minimum requirements set down in the third postal Directive. All USPs should be treated in the same way, so that all USP with a postal network providing universal services should have the same advantage. UNI Europa Post & Logistics sees the importance of the fact that taxes are the financial source for social welfare and the provision of public services and infrastructure in a country. All companies providing private services shall be obliged to pay taxes accordingly to the legislation to carry their part in financing the public authority. But we see the urgent need to make a difference also by the ERGP in a publicly available basic service which should be provided by law to all citizens in the entire geography of the country to affordable prices by a network which has been built up with tax money.

UNI Europa Post & Logistics sees the problem in VAT exemption in a company which provides mixed services. If one sends a postal object through a fully exempted operator, it will not be VAT-charged, but the operator has paid VAT on its inputs: the vans it uses, the post boxes it buys, etc. In that case, the input tax paid and non-deducted will weight down the operator's costs and be recovered through the prices as so called hidden taxes. It will be necessary that VAT exemption has to be considered when assessing the net cost of USO, so companies have to do a separate cost calculation for the universal services provided can reclaim the taxes paid in the proportion of the number of postal items falling under the universal service definition transported. Like this, the danger of passing over additional costs to residential costumers can be avoided. The VAT exemption can be also seen as encouragement for other private postal operators to provide universal services in the public interest and create their own postal networks.

UNI Europa Post & Logistics sees also as a positive fact that individually negotiated prices for postal services will be liable to VAT. This gives the correct advantage to residential customers vis à vis business clients to keep their tariffs affordable in the public interest. Residential clients are unable to recover VAT paid and therefore will automatically chose the exempted provider. Also we support the fact that operators using the postal network for downstream activities should fall under the VAT regulation, as the postal network in all European countries has been built up in a time of postal state monopoly and is therefore financed and maintained by tax money. This could be seen as well as motivation for operators to create their own postal networks but also to ensure the maintenance and further development of the network in the future without additional state subsidies.

Finally an operator which is VAT exempt, as carried out in your report, has a greater incentive to employ its own workers instead of subcontractors, since it cannot reclaim VAT on the expenses it has to pay to the subcontractor. Therefore, VAT exempted operators may also influence the labour conditions in the postal sector. We agree to the ERGP report that clear and transparent regulation should be in place for the VAT exemption to avoid any inconveniences or confusions on the market. At the moment VAT exemption is a guarantee to maintain the social conditions in the sector by less self-employed or outsourced services.

25 of the 26 EU member states included in this research use VAT exemption for universal postal services. The report takes the point of view of postal operators and a market perspective rather than the residential client or the workers' side. It also stimulates that the VAT exemption could be a burden for USPs in competition as they have a disadvantage in price negotiations with business customers exempt from VAT. We share your point by saying the universal service provider will depend on its client's portfolio if it sees VAT exemption as a benefit or a burden. A general conclusion repeated in your report, also underlines this fact when you say: "that VAT exempted incumbent will always be worse off when the fraction of non-rated customers is very low and it will be always better off when the fraction is very high." The examples shown in this report have a customer portfolio of 50% non-rated and rated customers. To stop VAT exemption for universal services means an increase in prices for half of the clients, mainly residential clients or the average of the citizens in a country. As universal postal providers have a public duty to fulfill, we strongly recommend that a price increase for the majority of the population can't be acceptable under no conditions.

UNI Europa Post & Logistics want to underline once more the public duty the designated universal service provider has and therefore we also disagree with the approach to compare USPs with private companies only by figures. The question if a company charges VAT hidden by higher prices or not should be not only seen from an operator's perspective but also in a way how regulation could look like to avoid such hidden price aspects and how residential or not exempted customer from VAT could benefit as well. A conclusion has to be if and how residential customers and workers benefit from the VAT exemption and we would recommend the ERGP to investigate in this point. You gave in your report already good examples that VAT exemption has an effect on customers, now the next step has to be how to make the regulation more transparent and avoid that non deductible expenses are handed over to the customers in form of higher prices. You use in your report mainly the scenario of unchanged prices after the stop of VAT exemption, the reality has shown that companies normally pass over additional tax burdens to the clients in form of higher tariffs, therefore we really recommend you to change your scenarios and include also those with price-raises.

To stop VAT exemption on USO products will have an effect for non-rated customers especially in terms of higher prices and for the workers as the outsourcing of activities will increase and staff costs have to be reduced in order to stay competitive in prices. In times of financial crisis and decreasing letter volume this would lead to even less letter volume and more insecure and in general less jobs in the sector. To underline this fact, you quote in your report the WIK consulted report: "Definition, Classification and Methodology for calculation intangible Benefits related to Universal Postal Services, ARCEP" on page 23: "The VAT exemption will therefore have a positive effect on the demand and the ESP's profit." As the ERGP said in the report on page 20: "Nevertheless, it is obvious that different VAT treatments do affect prices, volumes, costs, labor market and welfare, but the level of those impacts still needs further analysis." we would highly recommend the ERGP to investigate first in these aspects European wide with special focus on employment and social cohesion consequences before taking any measures in changing the actual situation or cancel VAT reduction at all.