



ERGP (14) 27 – 2015 Work Programme

ERGP WORK PROGRAMME FOR 2015



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Introduction

Ever since its establishment in 2010¹, the ERGP has been advising and assisting the European Commission in consolidating and developing the internal market for postal services, as well as facilitating the consistent application of the regulatory framework across the Member States through constant exchange of regulatory experience among its members².

In this capacity, and relying on the resources committed by the regulatory authorities in the field of postal services in all the Member States, ERGP has addressed in the past few years a number of core issues relevant for postal regulation and has thus supported the work of the European Commission, as well as that of the national regulators in the field.

As the ERGP WP 2014 was conceived as a multi-annual work programme – providing for continuation of the work of 2013 and initiating multi-annual projects meant to be finalized in 2015, the ERGP 2015 Work Programme will allow for continuation of the projects initiated last year.

I. Regulatory accounting/Price regulation

Background: As in many network industries, the postal sector is a multi-product/service activity where the share of common costs is substantial. Thus, the appropriate allocation of costs to different services has a material effect on many fundamental regulatory decisions (e.g. price regulation, US net cost calculation) and can strongly influence market outcomes (assessment of cross-subsidisation and other anti-competitive behaviours).

The volume decline witnessed by many Member States in the letter postal markets, on the one hand, and the growth in most business parcel markets, on the other hand, is putting constraints on postal operations. In this context, the ability of postal service providers to adapt costs to traffic changes, in particular as regards the common/fixed costs, should be reflected in tariff regulation.

Predicting traffic decline and assessing the cost characteristics resulting in the specification of the cost function (cost evolution) are essential for regulators in order to adapt the pricing regulation of the universal service or even beyond, where applicable.

¹ Commission Decision of 10 August 2010 establishing the European Regulators Group for Postal Services, OJ C 217, 11.8.2010.

² As reflected by the various ERGP documents available at:

http://ec.europa.eu/internal_market/ergp/documentation/documents_en.htm.



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Legal framework: Application of Article 14 of the Postal Services Directive, concerning the principles of the allocation of costs and Article 12 thereof, which is relevant for provisions related to tariff regulation, in particular cost orientation.

Substantive focus on accounting and price regulation: identifying new regulatory tools and strategies to address market evolutions.

The work to be carried out in 2015 will deal with the following issues:

1° Cost Standards to assess potential predatory or excessive pricing of the USPs in the postal sector (new work for 2015)

One of the applications of price regulation in regulated markets is to ensure that prices are not artificially set too low so as to eliminate or deter competition or too high, so as to result in an exploitation of consumers at the cost of inefficient functioning of the regulated services. Investigations in alleged predatory or excessive pricing situations are laborious and may extend over long periods of time during which competitors could be driven off the market. The ERGP intends to outline the legal precedents and explore potential calculation methods of cost standards to assess predatory or excess pricing in the postal sector (e.g. long run incremental cost, standalone costs).

***Deliverable*: ERGP Internal Report on the calculation of cost standards to assess potential predatory or excessive pricing of the USPs in the postal sector** (End of 2015)

2° Comparative working methods for forecasting costs in the postal sector for price-cap regulation (new work of 2015)

The ERGP started working in 2013 on tariff regulation and the challenges of a continuous trend of volume decline. As price-cap mechanisms, similarly to other price regulation regimes, typically require a traffic forecast over a few years horizon and an estimate of cost evolution, taking into account efficiency gains, the ERGP focused on the state of play, producing an ERGP internal report in 2013 and an ERGP public report in 2014.

In 2015 the ERGP will build on the aforementioned ERGP reports, exploring methods of forecasting costs. The work will identify how future cost movements could be estimated, identifying comparative methods which could be adopted in price-cap regulation. It is proposed that the scope of the work stream be limited to consideration of one or two key parameters (e.g. volume drivers, efficiency) used in the estimation of cost movements.



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Deliverable: ERGP Report on comparative working methods for forecasting costs in the postal sector for price-cap regulation (End of 2015)

II. Implementation and evolution of the USO

Background: According to the Postal Services Directive, the provision of the universal service (US) must be ensured in the most cost-effective manner and the financing of unfair financial burden for providing this service - if any - should be competitively neutral ("the least market distortive" concept). Postal markets are changing rapidly and declining volumes of letter mail may require rationalization in the letter activities of the designated USPs, but in addition there is an option to reduce the costs by changing the scope of the universal service within the flexibility provided for by the Postal Services Directive. These changes should be closely followed and the ERGP should reflect how changes in markets (declining volumes) may need to be tackled in the future (including considering related costs or savings).

Legal framework: Articles 3, 4 and 7 in conjunction with Annex I of the Postal Services Directive.

Substantive focus: reflecting on the observed and considered changes of the scope of the USO in view of market developments and changing communications patterns.

The work to be carried out in 2015 will deal with the following issue:

Implementation of the Universal Service Obligation in the postal sector in view of the market developments (ongoing work of 2014)

The ERGP will describe how the Universal Service Obligation in the postal sector has been implemented in the European countries, and, notably, recent changes in the scope of USO and reasons for them. The work will be based on the factual information provided by the study on the Main developments in the postal sector (2010 – 2013) done by WIK and the information in the 5th Application Report to be published by the Commission, but also on the stakeholders input provided during the public consultation and workshop on this theme that took place in 2014.

The work will then focus on possible challenges for long term sustainable provision of the USO in view of regulatory and market developments, notably declining letter mail volumes and subsequently increasing pressure on the net costs of providing USO.



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The ERGP will in its work also take utmost account of the necessity to minimise any distortion of competition caused by the imposition of USO and therefore consider the market's ability to avoid the social exclusion of a majority of the population without public intervention. The ERGP will also look into the possible existence of risks that the USO may result in, such as effect of a barrier to market entry for more efficient operators and placing an unjustified financial burden on the sector and thus on users.

The ERGP will assess the possibilities provided for by the Postal Services Directive concerning the provision of the universal service, and how the current regulatory framework could, if required, be adapted.

Finally, a short summary (based on existing material) of the main changes to the USO outside the EU will be included in the report.

Deliverable: ERGP Report on the implementation of the Universal Service in the postal sector and analysis of the effects of the market and other developments on the scope and long term sustainability of the USO (End of 2015)

III. End-user satisfaction and monitoring of market outcomes

Background: A particular task of the national regulatory authorities (NRAs) is to follow up the quality of service in order to guarantee a postal service of good quality and to ensure that transparent, simple and inexpensive procedures are available to users, particularly in cases involving loss, theft, damage or non-compliance with service quality standards. Furthermore, NRAs should monitor the evolution of the postal market by collecting specific information in order to ensure the provision of the universal service.

Legal framework: Article 3 of the Postal Services Directive, in conjunction with Chapter 6 "Quality of service" thereof.

Substantive focus: The ERGP will continue to provide advice to the Commission with regard to the collection and aggregation of statistical data in the postal sector, with the purpose of collecting less, but more relevant indicators, focused on regulatory purposes. The ERGP will also continue to assess end-user complaints procedures to ensure that consumers are protected according to the provisions of the Directive.

This working group consists of two work streams, namely:

- Quality of service and end-user satisfaction,
- Market developments and effects of regulation.



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The work to be carried out in 2015 on quality of service and end-user satisfaction will deal with the following issue:

1° The quality of service, complaint handling and consumer protection indicators 2014 – an analysis of trends (recurrent work)

This report will assess the quality of service levels and evolution, as well as the indicators describing the complaint handling and consumer protection of the postal service providers in Member States and their evolutions.

Deliverable: ERGP Report on the quality of service, complaint handling and consumer protection 2014 - an analysis of trends (End of 2015)

The work to be carried out in 2015 on market developments and effects of regulation will deal with the following issue:

2° The core indicators for monitoring the European postal market (new work of 2015)

The objective of this report is to provide information about key core indicators of the postal market of ERGP Member countries. This report will use some of the indicators suggested by the ERGP in the 2012 (12) 32 Report that are being implemented and applied in the ERGP Member countries (taken into account the review of its implementation by NRAs made by ERGP in 2014³) and the data collected by the European Commission for those indicators, avoiding duplication of work.

Deliverable: ERGP Report on core indicators for monitoring the European postal market (End-2015)

IV. Cross-border parcels delivery for e-commerce purposes

Background: To assist the EC's work to ensure well-functioning parcels delivery markets to the benefit of consumers, the ERGP provided in 2013 and 2014, opinions on the functioning of European cross-border parcels delivery markets (broadly from a competition point of view). The 2014 work was partly a follow-up to the 2013 EC roadmap.

³ ERGP Report on the implementation of the 2012 ERGP report on indicators for monitoring the postal market



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Policy framework: EC initiatives to build consumer trust in the e-commerce environment, notably its December 2013 document *A roadmap for completing the single market for parcel delivery – build trust in delivery services and encourage online sales*⁴.

Substantive focus: providing advice to the EC, partly in the context of its roadmap: notably on the functioning of competition on cross-border parcels delivery markets.

The work to be carried out in 2015 will deal with the following issues:

Current European postal regulation was principally (although not exclusively) set up to oversee letter mail services. Parcels delivery is somewhat different (in terms of, for example, market structures and types of operators) and in most Member States arguably less homogeneous. It has no dedicated single European legal regime and delivery operators could be subject to national provisions in several types of law, for example, postal, transport or freight law. While this is not necessarily problematic per se, it is important that legal provisions are consistent for comparable services. Parcels delivery is growing, particularly given the take-off of e-commerce, and both are of increasing importance to consumers and to the economy.

1° Identification of the different legal regimes (national or European) that may apply to European domestic or cross-border e-commerce parcels delivery and of any specific provisions that may be in conflict with each other

The ERGP will consider whether there are situations (consumer protection, time limits for signalling damage to a parcel or its content etc.) in which one parcels delivery operator could be subject to provisions (national or European) that another parcels delivery operator may avoid (or vice versa) for what is essentially the same service or offer as well as situations where operators could see a potential choice between regimes. This work will lead the ERGP to describe the relevant types of delivery operators, the different legal regimes that could (be held to) apply to them and, particularly (if this is the case), any specific provisions that could be in conflict with each other.

The aim would be to identify any aspects of inconsistency (different regimes applying to like services), redundancy or possible questions of primacy between different regimes⁵.

⁴ See http://europa.eu/rapid/press-release_IP-13-1254_en.htm. In addition to its January 2012 e-commerce communication on building consumer trust and its November 2012 green paper on an integrated parcels delivery market, all of which are undertaken in the context of the Digital Agenda for Europe (see communication from the EC to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions (COM(2010) 245 final/2) of 26 August 2010, *A Digital Agenda for Europe*: <http://ec.europa.eu/digital-agenda/about-our-goals> and <http://ec.europa.eu/digital-agenda/digital-agenda-europe>).



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Deliverable: ERGP report on legal regimes applicable to European domestic or cross-border e-commerce parcels delivery and, particularly, any provisions that could be in conflict with each other (that could (be held to) apply differently to undertakings providing like services) (End of 2015)

⁵ The aim of the work would be neither to increase nor to reduce relevant provisions. The ERGP is not a legislative body and seeks only to *identify* possible areas of, for example, inconsistency.