

Q.1 Questions for stakeholders

Q 1.1 Do you consider that there is a need to redefine the minimum US scope and / or obligations taking into consideration the evolution of postal consumers' needs? What are the main reason(s) for your view?

Q 1.2 If yes (to Q 1.1), how do you suggest that the EU US scope should be legally redefined?

Q 1.3 If no, why do you consider that the current legal framework provides Members States and NRAs with sufficient flexibility to keep up with the evolution of consumer needs?

Q 1.4 To what extent is innovation in the European postal sector advancing sufficiently quickly to keep up with evolving consumer needs? Please provide evidence to support your response.

Q 1.1

E-substitution in letter markets pushes USPs to revise their internal production processes. Private firms operating in end-to-end competitive markets achieve significant saving by applying new operational processes and procedures in both sorting and delivery. Savings allow to set lower competitive prices at the benefit of customers, especially in bulk mail. Today, presorted non-franked bulk mail comprises up to 70-80% of total volumes. For both senders and addressees this mail (bank statements, utility's invoices, direct mail, public sector organizations) does not require speed (at least for major shipments), but rather reliability and certain delivery. Its process can be planned in advance, allowing customers to get it within specific dates. Customers increasingly define quality requirements on a contractual basis through specific SLAs, often diversified by geographical areas.

Efficiencies can be gained by making processes (therefore costs) more flexible. With declining mail volumes and increasing parcel volumes, delivery routes require regular changes updates. Major European USPs reshape delivery routes at least 4 times a year. Private mail operators does not use a fixed delivery route structure: they organize it according to both incoming volumes and SLAs.

Directive constraints concerning delivery days (at least 5 deliveries per week) were set in an economic and technological environment that does not exist anymore. The present standard obliges UPSs to de facto maintain (and pay) postmen regardless of the volumes delivered: it considers their cost as fixed. It's an obligation no longer valid for the digital society. SLAs cannot be defined by regulation, therefore the standard of a predefined number of deliveries a week for USO mail only should be abolished, and substituted with more realistic issues as certainty in delivery, allowed by new technologies. The calculation of the USO net cost should take into account this crucial feature.

One important additional point is the granting of the universal service provision. Although the directive already allows multiple (regional) appointments for the Universal Service Provider, up today there are no experiences of granting different operators the title of USP. The reform of USO standards may be an opportunity for enforcing (i.e. to create incentives) a multiple USP' granting. This would create incentives to increase efficiency of the whole industry, since private competitors are very likely more efficient than USP, especially in specific regional areas.

Several studies in different Member States unambiguously shows that for retail customers daily delivery is not an important issue, but rather certain and reliable delivery where

promised performances are fully respected. Setting standards fully compliant with new technologies can protect consumers.

Q 1.2 If politically feasible, through amendments of the present directive. If not, a second level strategy could be to allow greater flexibility to Member States regarding exemptions (see the case of Italy)

Q 1.4 As far as mail volumes decline, postal network reorganization requires to adopt new innovative solutions especially in Member States where end-to-end competition is in place. Innovations may take the form of granting competitors the use of part of the USP's network (deliveries in remote rural areas, Postal Counters for competitor's mail and parcels consignments (similar as Parcel Lockers), email alerting rural customers that a letter is on the way....). In Italy private competitors are experiencing interesting innovations benefiting customers, as delivery by appointment for registered mail (if the first attempt fails, the customer can call the provider and fix a second personalized appointment).

Q 1.5 To what extent will Europeans' basic right to communicate be fulfilled by digital communications or increased efficiency in the postal sector or both? If gaps remain, what would be the best alternatives to deal with them (adjustment of the scope of the USO, others)?

Q 1.6 Should the European USO rules on post and electronic communications be merged to take account of e-substitution and, if so, in what way?

Q 1.5

In the next decades there will still need for mail postal services, thus the right to communicate will be fulfilled by integrating both models (postal and telecom). The scope of the Universal service in Posts should be redefined, but the right to communicate can be maintained even in presence of reduced deliveries. Delivery at Post Office may be a solution for remote rural areas, where addressees, regardless the sending operator could be informed by a SMS and/or email that a letter is waiting at P.O. Customers may subscribe for such alerting service, therefore providing the Post Office their phone number (everybody has a mobile) and/or email. The Post Office will be the hearth of the new Universal service, a facility directly and indirectly used and financed by all stakeholders (consumers, large customers, USP, the Government, competitors).

Q 1.6

E-substitution (e.g. drop of mail volumes) gradually but relentlessly lowers the long run sustainability in a given area of different delivery networks. Thus, Postal sector may adopt some policy options from telecommunication, as the partial unbundling of the local loop. Post Office's network is very likely an essential facility that competitors are unable to replicate. USPs may grant access to services provided in Post Offices, in particular the consignment of competitor's undelivered mail (especially registered mail) to customers at a predefined regulated price.

Even if there are some lessons that postal regulation could learn from telecoms, there is no need to submit both industries to the same regulation: technical and economic differences are too large and there is always the risk to apply improper rules in their transposition from one sector to the other. Let's consider the case of USOs. In Telecoms USOs apply to a very small part of the network's infrastructure (mainly public telephone), while in Posts it is much larger and mainly labor cost based.

Promoting a competitive market

Q 2.1 Do you consider that the Postal Directive provides all the instruments needed to promote end-to-end and access competition in the evolving postal market (letter and parcel)? Please explain your answer providing examples where appropriate. Do any of these regulatory instruments need to be adapted to reflect market developments and trends and, if so, in what way?

Q 2.2 Do you consider that the current terminal dues system (UPU, IRA) is fit for purpose in an e-commerce market?

Price transparency

Q 2.3 Is the current overall level of price transparency along with the measures proposed in the Regulation [COM(2016) 285 of 25 May 2016] sufficient to resolve price transparency problems or would it be necessary to have additional measures/solutions to address market developments? If not, please provide suggestions on how price transparency could be improved and which role ERGP should have in terms of enforcing the above EU regulation regarding price transparency measures?

Q 2.1 The Postal Directive does not solve the problem of competitor's access to non-urban delivery areas in end-to-end competition. If the USP, thanks to an insufficient regulation, is allowed for rural deliveries to charge competitors higher prices with respect to (lower) prices that it charges its customers, a serious competition problem arises. The USP, regardless of the specific mail product provided (either USO or non-USO), should hold the special obligation to charge the same price to either its customers or competitors, also considering that in non-urban areas, being the only provider, it holds a monopoly power. NRAs should grant through appropriate regulation this kind of access. A Communication of the European Commission, copied with ERGP actions, may create the right incentive to USPs to avoid this anticompetitive behavior.

Q 2.2 Yes

Q 2.3 The EC draft Regulation proposal raises the right issues concerning excessive/non transparent prices sometimes charged to SME and single customers using e-commerce services. The regulation correctly addresses measures to services where price charged are official and publicly available only. Therefore it excludes all services provided under contractual basis.

However, the reasons for this market failure are different and cannot easily solved.

- 1) lack of legal definition for parcels: parcels weighting less than 2 kg. with specific dimensions as A4 format can be delivered by ordinary postmen, thus they are postal services. Parcels weighting more than 2 kg. can only be delivered by alternative networks using vehicles as express couriers.
- 2) for e-commerce cross border delivery services provided by USP under universal service, both land inward rates and volumes treated (economies of scale) matter, but are outside the control of the USP.

More important and effective is to fulfill the need to facilitate customers in finding their preferred solution for cross border services. The proposal is to build a public database provided with appropriate software comparing prices and quality features all available services for a given destination. This would push providers to a market discipline, preventing excessive pricing, more than an extremely complicated statistical exercise performed by NRAs.

Q.3 Questions for stakeholders:

Q 3.1 *Do you consider that the provisions of the Postal Services Directive, namely Article 19, are sufficient and future-proof in terms of consumer protection and empowerment? If not, please explain why and propose any associated changes.*

Q 3.2 *Do you consider that the current regulatory framework, including horizontal consumer protection rules, is sufficient to protect consumers in the area of postal services? Please provide evidence to support your answer.*

Q 3.3 *Are the generic rules on consumer protection and complaint handling sufficient to address the latest market developments, or do we need sector-specific consumer protection rules, notably covering the increased relevance of deferred and express parcel delivery services? If so, please provide examples.*

Q 3.4 *Do you consider it is important that the ERGP monitors postal indicators that are relevant for the protection of postal service consumers? Which indicators do you consider to be essential to collect and analyze?*

Q 3.5 *Which indicators should be collected (and reported) as a minimum by NRAs or the EC and how frequently should this be undertaken?*

Q 3.6 *Are the additional powers proposed by the Commission in the Regulation [COM(2016) 285 of 25 May 2016] sufficient or which additional powers should NRAs have in order to collect the required information from providers?*

Q 3.7 *Do you consider that the measures proposed in the Regulation [COM(2016) 285 of 25 May 2016] will ensure that there is sufficient regulatory oversight in relation to the issues identified by the EC in its DSM initiative regarding the cross border parcels delivery market? If not, in what respects would you favour their amendments?*

Q 3.1 Yes, article 19 of the directive is still an effective protection for consumers.

Q 3.2 Yes, considering that SLAs effectively protect large customers in letter markets. In some Member States national legislation implementing the directive foresees procedures for clearing complaints and reimbursements, including those (either deferred or express) of parcel couriers. In Italy each non delivered non universal letter is reimbursed to customers.

Response of ConsorzioArel to the public consultation of the European Regulators Group for Postal Services on the Discussion Paper for the ERGP Medium Term Strategy 2017-2019

Non selective measures aimed at strengthening external controls on postal provider's performances as in parcel express and deferred markets even in absence of ascertained market failures risk to uselessly distort competition, also considering that in some Member States these market are excluded from the postal sector regulation.

Q 3.4 While in mail markets quality performance indicators are easy and unambiguously measurable, in parcel markets, especially for e-commerce, they are not. B2B, B2C and C2C parcel markets require very different indicators. To impose postal operators cumbersome procedures for collecting data (that they not generate internally) in highly competitive markets would only increase bureaucratic costs as well as risks of consumer's confusion. In mail markets two different sets of indicators should be used. For truly universal services (i.e. those that users and retailers access from Post offices or mailboxes) the correct measure is the traditional J+X. For other mail services, especially those provided under SLAs, the % of reimbursed undelivered mail seems to be more appropriate