



ERGP PL (16) 33_Draft WP 2017

Work programme 2017

ERGP

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Introduction

The European Regulators Group for Postal Services (ERGP) advises and assists the European Commission in consolidating the internal market for postal services and serves as a forum for cooperation among NRAs.¹ It operates via consultation, coordination and cooperation among National Regulatory Authorities (NRAs) and between NRAs and the Commission.

At the beginning of each year, the ERGP publishes its annual Work Programme (WP) on its website. The Programme - prepared by the ERGP Chair in agreement with the European Commission (EC) - is previously submitted to public consultation with interested parties and then approved for publication.

The 2017 WP is the seventh for the ERGP, but it is the first developed in conformity with the ERGP Medium Term Strategy (MTS), 2017 - 2019. Indeed all the tasks foreseen in the 2017 WP are consistent with the three strategic pillars of the ERGP MTS 2017-2019, namely: i) promoting sustainable provision of a universal postal service; ii) promoting a competitive EU postal single market and iii) empowering and protecting end-users.

The ERGP's 2017 WP also take into account the proposal for a Regulation of the European Parliament and of the Council on cross-border parcel delivery services [COM (2016)285final], published by the EC on 25 May 2016. The Regulation, once adopted by the European co-legislator, the European Parliament and the Council, will add to the legal framework for postal services and hence will have an impact on the ERGP's work.

A draft 2017 WP was discussed and agreed at the 11th ERGP Plenary on 25 November 2016. Subsequently, in line with the established practice and with Article 11 p.3 of the ERGP Rules of Procedure, it was submitted to public consultation from 5 December 2016 to 5 January 2017.

The implementation of the 2017 WP will be undertaken by ERGP WGs, comprised of experts from the NRAs – members or observers - in ERGP. Each WG is a drafting team, which addresses a number of topics, analysing the relevant issues and preparing, *inter alia*, reports for discussion and adoption by the ERGP.

¹ The ERGP was established by EC Decision of 10 August 2010 (2010/C 217/07).



2017 Work Programme

Actions foreseen for the year 2017 are organised in three following paragraphs, named after the three Strategic Pillars of the ERGP 2017-2019 MTS:

- **Pillar 1:** Promoting sustainable provision of a universal postal service;
- **Pillar 2:** Promoting a competitive EU postal single market and
- **Pillar 3:** Empowering and protecting end-users.

Each paragraph is further divided into different sections that explain the objectives for each ERGP working group contributing to the Pillar and illustrates the deliverable of the year.

Pillar 1. Promoting a sustainable provision of the universal service

Key elements:

- Changes in the postal market due to digitalization: traditional postal volumes decrease, e-commerce increase and modification in consumers' needs;
- Rethinking of the universal postal service's scope and its effects on US cost sustainability.

- **P1.1. Implementation and evolution of the universal service obligation (USO)**

Background: The postal services sector has been evolving rapidly in recent years, mainly due to changing market conditions and consumer needs. The volume of the traditional letter mail service (upon which the sustainability of the USO was historically based) has been declining continuously in the past years as a result of e-substitution and the economic crisis. On the other hand, parcel services, B2C and C2C, are growing considerably due to e-commerce.

Taking into account such changes, already in 2015 ERGP in the "Report on the outcome of the ERGP public consultation on the evolution of universal service" concluded that a key input in a future possible review of the Postal Services Directive (PSD) should be an assessment of the services required to support intra-state commerce and territorial and social cohesion. Such analysis would need to take account of the changing nature of private and public demand, communication alternatives to postal services and the trends in commercial service provision. It would also need to take account of an assessment of the financial effect of the decline of letter volumes on universal service obligations (USO) sustainability. Based on the stakeholders' views, it appeared timely that work was commenced on the identification of the core set of services which would need to be provided with USO to support any future evolution of the Directive.



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To this end, the ERGP 2016 “Report on Universal Services in light of changing postal end users’ needs” focused on the demand side of the issue and tried to identify a new common European pattern in terms of postal users’ needs (both senders and receivers). On the same time, it assessed to what extent other means of communication are fulfilling (part of) these needs.

Legal framework: Articles 3–6 of the Postal Services Directive.

Substantive focus: Based on previous years analyses, in 2017 ERGP will elaborate a common set of criteria to ensure comparability of different country consumers’ studies in the future.

Moreover, ERGP will address the supply side of the issue. Given the changing consumer needs and the emergence of new means of communication, the US scope needs to be reassessed from the perspective of services covered and the way they should be provided (e.g. accessibility, access points, frequency of delivery, transit time, etc.), always taking into account the efficiency and financing matters. This exercise may lead to the conclusion that the current PSD allows sufficient flexibility to MS managing any under or over-specification, or that a revision of the US scope in the Directive is needed.

Deliverable # 1: Common set of criteria to ensure comparability of different users’ studies in the future.

Deliverable # 2: ERGP report on the assessment of the possible changes of the USO scope in the light of market development and their impact on US sustainability.

Pillar 2. Promoting a competitive EU postal single market

Key elements:

- Promote a competitive single market for letters (prices/innovation);
- Development of cross-border parcels delivery, particularly in light of growing e-commerce (transparency & oversight).

P2.1. Cross-border parcels delivery for e-commerce purposes

Background:

The ERGP has already been working on European cross-border parcels delivery for e-commerce purposes since 2013. In 2013 and 2014, it provided opinions focused on the delimitation and the functioning (broadly from a competition perspective) of related markets and on potential problems on these markets and their pertinence for ex-ante regulation while in 2015, the ERGP looked at legal regimes in MS applicable to European cross-border e-commerce parcels delivery and their coherency. Furthermore, in 2015 a BEREC-ERGP joint working group provided an opinion on price



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transparency and regulatory oversight of cross border parcels delivery, taking into account possible regulatory insights from the electronic communications sector. In 2016, the ERGP elaborated an ERGP report on transparency for online sellers and consumers as regards cross-border e-commerce parcels delivery and a draft technical position paper on the proposed EC Regulation on cross-border parcels delivery.

Policy framework: Legal regimes applicable to e-commerce parcels delivery; 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*,² EC May 2015 DSM strategy³ and the EC's proposal [COM (2016)285final) of 25 May 2016 for a draft Regulation on cross-border parcels delivery.

Legal framework: Article 3, Article 11a, Article 12, Article 13, Article 22a of the Postal Service Directive, Future EU, regulation on the delivery of parcels service, as the case may be.

Substantive focus: The ERGP MTS foresees that ERGP in the years 2017 until 2019 will contribute to realizing the benefits of growing cross border e-commerce in the EU. In this regard, the MTS sets out that ERGP:

- taking a wide definition of parcels (“E-commerce-parcel”) as a starting point, will look into its implications for the tasks of the NRAs;
- will focus on the clarification of the activity regime of the postal operators and the transport operators.
- will continue its work on the appropriate regulatory approaches to promote a competitive single market for postal items both in relation to end-to-end and access-based competition.

Moreover, consistent with the MTS and its activities in previous years the WGs’ substantive focus in 2017 will lay on building consensus, supporting NRAs and providing advice to the EC in e-commerce parcels delivery related matters; to this end, the ERGP:

- will consider the proposed EC Regulation on cross-border parcel delivery services, in particular issues such as:
 - transparency of conditions and prices, while identifying critical factors for the affordability of cross-border parcel services;
 - consistent implementation of future EU legislation concerning parcels delivery;
 - the need for potential enrichment or clarification and, once adopted, will work out how they can best be implemented consistently by NRAs in order to ensure the

² Communication from the Commission of 16.12.2013, COM/2013/0886 final, „A roadmap for completing the single market for parcel delivery Build trust in delivery services and encourage online sales” 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>).

³ Communication from the Commission of 6.5.2015, COM (2015) 192 final, „A Digital Single Market Strategy for Europe“.



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objectives of the regulation will be achieved. It will in particular deal with the form that will be used for the statistical collection as the explanatory memorandum of the draft regulation says *“although the basic information requirements are defined in Article 3, the form as such would be adopted by implementing act. In this regard, technical advice should be provided by the ERGP, while it would be for the Commission to establish the form”*;

- how the purpose of collecting complete and comparable data for a comprehensive overview and a proper analysis of the market can be ensured. Furthermore, the analysis will include looking at how open technology solutions and open standards can be fostered;
- the proposed dedicated website to increase price transparency, will analyze how this can serve best its purpose and become a useful tool for end-users to make a better informed decision. ERGP may also analyze which complementary measures might be required to translate the benefit of increased price transparency into more competition.

Deliverable #1: ERGP Report on defining the boundaries between items falling within the postal and transport sector in order to ensure NRAs clarity in the performance of their tasks.

Deliverable #2: ERGP report on the implementation and enforcement of the Regulation on cross-border parcel delivery services by NRAs (depending on the date of adoption and application of the Regulation).

P2.2. End-to-End Competition and Access Regulation

Background: In 2016, an ERGP Report on the development of end-to-end-competition and access regulation across the EU MS in the light of recent jurisprudence concerning discount regimes in the postal sector was elaborated. This report elaborated on the business models of consolidators, hybrid operators, end to end competitors and on the impact of recent ECJ judgements on those business models.

The previous work of the WG in 2013-2014 already described the market situation for alternative operators (consolidators and end-to-end competitors) in detail. While the 2012 report comprehensively elaborated on the regulatory framework for access to the postal network, the 2014 report provided a detailed analysis of the competition developments in MS, covering both access regimes and end-to-end competition.

The previous work of the WG reveals that, in addition to other factors, the regulatory framework and regulatory interventions impact on the development of access to the postal network. Taking into consideration its earlier findings, the WG will put the relevance of regulatory patterns and best practices in the focus of the current work programme.

Legal framework: Articles 11a and Art. 12 of the Postal Services Directive, stipulating that access to elements of the postal network and infrastructure is ensured under transparent and non-discriminatory conditions.



Substantive focus:

- Analysis of economic trends and patterns of regulatory interventions with focus on pricing, discrimination and quality issues;
- Elaboration of recommendations and best practices for access (in terms of competition, prices and quality of service).

The work of the WG will build on the findings of the WG in the previous reports. With reference to the results of the previous work, the regulatory regimes and their influence on the successfulness of the different business strategies will be assessed. While the work in 2016 covered the effects of pricing strategies, the first step of the new work item, more broadly focuses on economic trends, includes recent developments in the letter market (decline of letter volumes resulting from e-substitution). Given the importance of quality issues, the work of the WG will also analyse how far the regulatory intervention in the field of access is linked to quality of service. Based on the results of the first part, the second step of the work item aims at identifying patterns of economic trends and patterns of regulatory interventions in order to describe their impact on and specific interactions with access regimes. A key element of this part to elaborate recommendations and best practices in relation to access and price regulation.

Deliverable: ERGP report on recommendations and best practices in regulation for access to the postal network of the incumbent operator (in terms of competition, prices and quality of service).

P2.3. Regulatory accounting and price regulation

Background: In order to promote competition, in particular access competition, it is essential for NRAs to have an in-depth understanding of the costs of the postal network activities related to the access services provided by the USP/incumbent, as well as an understanding of how these costs should be quantified and allocated. Postal activities include sorting and delivery which are typically two of the most costly and complex elements of a postal network. Further insight on the allocation of sorting and delivery costs and their role with respect to the cross-border costs could become pressing in future years.

Legal framework: Application of Articles 11 and 11a of the Postal Services Directive concerning the provision of postal services and access to the network, of Article 14 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: identifying the costing methods that can be used in order to promote access competition. The work to be carried out in 2017 will deal with the costs of the postal network incurred by the designated USP/incumbent in providing access to other postal services providers.

The work will identify the technical and economic conditions suitable to granting access to the public postal network, considering incentives for access only in terms of economic efficiency, competition and maximization of users' benefits, and taking into account the regulatory framework applicable to the USP/incumbent and the access seekers. By analyzing the structure of the network and the services of the USP/incumbent, the report will evaluate the costing methods that could be



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adopted when defining access rules and the costing perspective on the different elements of the network.

Deliverable: ERGP report on costs of the postal network incurred by the designated USP/incumbent in providing access to other postal services providers

Pillar 3. Empowering and protecting end-users

Key elements:

- Monitor postal market development;
- Protect consumers adequately;
- Monitor the relevant indicators.

P3.1. End-user satisfaction and monitoring of market outcomes

Background: Ensuring the protection and empowerment of both individual and business postal end-users is an important postal regulatory objective. This includes ensuring the availability of postal services for the consumers, with a particular focus on the protection of the more vulnerable ones.

In this context, ERGP has been monitoring postal market developments and postal trends, including quality of service levels, prices, complaints procedures and development of the market in terms of market concentration, employment, volumes and revenues. Furthermore, ERGP has been also closely monitoring the evolution of days' number for collection and delivery together with the related national specificities due to the circumstances or geographical conditions deemed as exceptional.

In terms of consumer protection, ERGP will assess the challenges stemming from the technological change in the provision of postal services and the implications for market dynamics which may require adjustments to protect consumers adequately.

Work stream 1 – quality of service, consumer protection and complaints handling

Legal framework: Articles 3, 16, 17, 18, 19 and 20 of the Postal Services Directive.

Substantive focus: The work to be carried out will assess the quality of service levels including the scope of the USO and its evolution, as well as the indicators describing the complaint handling and consumer protection of the postal service providers in ERGP Member States and their main trends in terms of development.

In particular, with the development of e-commerce, the variety of players active in the B2C delivery poses challenges regarding consumer protection that will be explored, namely identifying the problems but also the pros in terms of consumer's protection. ERGP will also analyse the possible existence of different requirements in terms of mail integrity, complaints handling procedures (e.g. the existence of a redress scheme) and compensation requirements between universal service



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operators and other operators, identifying if there is a level playing field in terms of consumer's protection.

ERGP will also develop a flash of the report on the quality of service, consumer protection and complaint handling, which synthesizes the main conclusions of the report and highlights its key findings.

Deliverable #1: ERGP Report on the quality of service, consumer protection and complaint handling 2016 - an analysis of trends

Work stream 2 – Monitoring of market developments

Legal framework: Articles 22 and 22a of the Postal Services Directive.

Substantive focus: Given the pace of change and the impact in relation to regulatory decisions, understanding market dynamics and therefore the monitoring of the evolution of the market is of utmost importance for NRAs and ERGP. In this context, the work to be carried out will identify the main postal market developments, outline trends and collect information on core market indicators within a European context.

The WG will continue working on harmonized method for the collection, treatment and comparison of key market indicators, with a focus on the definitions and reflecting the impact of e-commerce on the development of the postal sector, namely on the parcels segment.

The work to be carried out might also address the implementation of the measures of the regulation of the European Commission on cross border parcel delivery regarding regulatory oversight, namely on the monitoring exercise of the parcel delivery market, guaranteeing that the new reporting requirements are proportionate, simple, and transparent and the confidentiality of all the information provided is ensured and that the parcel delivery service providers provide accurate, comparable and reliable data.

Finally, ERGP will also develop a flash of the report on core indicators for monitoring the European postal market, which synthesizes the main conclusions of the report and highlights its key findings.

Deliverable #2: ERGP Report on the Main postal market developments

Horizontal axis: ERGP Effectiveness and efficiency

Background: The ERGP Medium Term Strategy 2017-2019 addresses ERGP efficiency as a horizontal axis supporting the three strategic pillars in order to advise and assist the Commission in consolidating the internal market for postal services. ERGP will be effective through assisting NRAs in their efforts to implement the Postal Services Directive and contribute to the development of the Digital Single Market Strategy.

Legal framework: ERGP Medium Term Strategy 2017-2019, Chapter 5 ERGP Effectiveness and efficiency.



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Deliverable: Timely publication of the ERGP Annual Work Programme for 2017 and its Deliverables. Coordination and monitoring the WGs' work throughout the year in order to ensure the quality of deliverables and their timely completion.

According to the approved decision during the 10th ERGP Plenary Meeting on 01 July 2016, in the future, the Work Programme for the year “*n*” will be approved in the third quarter of the year “*n-1*”. The ERGP Work Programme 2018 will be approved in the third quarter of 2017.

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