Replies to the Green Paper on e-commerce parcel delivery in the EU

Summary report

Introduction

The Commission Green Paper of November 2012 on 'an integrated parcel delivery market for the growth of e-commerce in the EU'[1] sets out the main issues to be tackled in order to achieve more convenience for consumers, better prices cross borders for businesses and citizens, and better interoperability among delivery service providers. This document is available at http://ec.europa.eu/internal_market/consultations/docs/2012/parcel-delivery/121129_green-paper-parcel-delivery_en.pdf.

Around 100 replies were received. These replies (except those from the small number of respondents who asked for confidentiality) are available on line at http://ec.europa.eu/internal_market/e-commerce/parcel-delivery. This document presents the summary of the responses to the consultation, following the order of the questions of the Green Paper.

The main conclusions arising from the consultation confirm firstly, that e-commerce driven delivery is a key factor in the overall development of e-commerce and, secondly, that the rapid development in the expectations and needs of consumers and e-retailers concerning parcel delivery have not yet been appropriately addressed, in particular, for cross-border delivery. Overall, there was wide support for initiatives to enhance consumer experience with e-commerce delivery.

The follow-up actions, as announced in the Green Paper, are presented in the Communication of the Commission 'A roadmap for completing the single market for parcel delivery - Build consumer trust in delivery services and encourage on line sales'[2].

Question 1 to 4: the regulatory and institutional framework for the EU parcel delivery market

The first four questions of the Green Paper consultation address the current regulatory and institutional framework for the EU parcel delivery market. In the context of their replies to these questions, a majority of respondents – ministries, transport companies and (postal) delivery operators, e-retailers and e-commerce associations, chambers of commerce, regulatory and competition authorities as well as consumer associations expressed their

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[1] COM (2012) 698

[2] COM(2013)

appreciation of the launching of the Green Paper in view of the rapid changes and developments in the e-commerce and parcel delivery sectors. In their view, robust and fair competition, the availability and affordability of delivery solutions should be at the center of any new policy initative.

In reply to the fourth question – whether regulatory gaps will need to be adressed and if there is a need for additional measures and/or regulation, Member States' authorities and most stakeholders expressed their strong preference for industry driven action and non-legislative measures. This is because of the complexity of parcel delivery and e-commerce markets, their fast changing nature, and the considerable extent to which new delivery processes and product innovation are being developed and rolled out across the sector.

Delivery service providers along with most authorities in Member States stressed that any new measures introduced at the EU level should not contradict or hinder existing positive developments being generated by a well functioning market. Most of the replies characterised the existing regulatory framework as broadly sufficient and fit for purpose.

Most stakeholders agreed that a combination of the existing provisions contained notably in the specific requirements in the Postal Directive, the new Consumer Rights Directive and the recently adopted rules on alternative and on-line dispute resolution systems addressing consumer complaints can serve as an appropriate regulatory basis for the continued development of e-commerce and parcel delivery.

Nevertheless, numerous replies, contributions and suggestions concerning questions 1-4 have highlighted challenges and the scope for improvement when it comes to addressing specific e-commerce requirements – such as high cross-border prices, lack of information e.g. about delivery times (track and trace), need for harmonisation of product categories, harmonisation of labels and address systems and return procedures – as well as the implementation and enforcement of existing regulatory provisions.

Question 1)   For the purpose of this Green Paper, 'parcel' is defined in the broadest sense and includes all items weighing up to 30 kg. Are there particular elements which in you view are of crucial relevance for the qualification as 'parcel' in the context of the ambition to achieve a more integrated, well-performing parcel delivery market in the EU ?

Asked about the current definition of 'parcels', postal incumbents regard the definition in the Postal Directive as appropriate or would even appreciate a narrower definition for the purpose of the Green Paper (e.g. one postal incumbent proposed to exclude B2B parcels from the scope of the Green Paper). Alternative operators, e-retailers and consumer organisations appreciate a broader and more flexible parcel definition.

Alternative delivery operators (other than postal incumbents) as well as some e-retailers/associations consider it very important that the low weight segment (small packages) should fall within the current parcel definition. Currently, on the basis of the Postal Directive, these small items/packages are very often declared as letters which are part of the universal service obligations. The e-commerce sector covers a very large volume of those small items (DVDs, CDs, books…). Alternative operators pointed out the potential VAT advantage for incumbent operators who can send and deliver small items under the universal service letter mail segment and avail of the VAT exemption, which can result in significant competitive distortion on the delivery market.

Some e-retailers and operators and their associations called for a much broader definition of parcels which would cover items such as electronic devices, furniture and clothing. Some respondents also indicated that weight should not be the only criteria determining the definition of parcels. In their view, volume and orformat of the items for delivery should also be considered as a relevant criterion.

In their replies, both individual consumers and consumer associations appreciated the broader definition chosen for the purpose of the Green Paper which, in their view, would better reflect the reality of the e-commerce sector than the purely postal related universal service definition. In short, whatever definition is agreed upon, it would need to be both broad and flexible.

As regards the replies from national ministries, there were some who, in line with alternative operators, e-retailers' and some consumer's contributions, also raised a number of points in relation to the definition of parcels. In particular, they drew attention to the difference between universal service letters/parcels on the one hand and the e-commerce parcels on the other hand suggesting that future discussion should address how this would impact on what regulatory regime would be applicable and its influence on competition.

Some ministries, regulators and consumer associations proposed further harmonisation, notably harmonised definitions and scope of universal service in different Member States, a better harmonised classification of bulky or cargo goods and the need to make parcel definitions more consistent with the Consumer Rights Directive definitions. Also some e-retailers and delivery companies would appreciate (partly) standardised parcel formats in order to better facilitate delivery operations.

<u>Questions 2) and 4)   Is, and if so to what extent, the existing framework an obstacle to the creation of a truly integrated European parcel delivery market that meets the needs and expectations of e-retailers, consumers and workers in the sector?</u>
<u>Do you consider there are regulatory gaps or a need for additional measures/regulation?</u>

The Green Paper also asked if the existing frameworks comprise obstacles to the creation of a truly integrated European parcel delivery market that meets the needs and expectations of e-

retailers, consumers and workers in the sector. Most respondents found the existing (regulatory) framework appropriate in the sense that they would not call for any amendments to it at this point in time. In their view, too much regulation at this stage in this area could have a negative impact on competition and hinder market driven improvements which are currently emerging in Europe.

Nevertheless respondents had a number of concerns, proposals and requests with regard to the implementation, interpretation and enforcement of existing frameworks and current regulatory practices. Moreover, some consumer associations as well as some Member States' authorities and alternative operators called for additional measures in the context of harmonization, notably the need for common standards and measures to facilitate trade across borders.

When asked to identify regulatory gaps as well as the necessity of additional measures (question 4), respondents highlighted the following: information and traceability gaps, too high prices for cross border delivery and in rural areas and additional consumer protection measures notably concerning cases where delivery went wrong for whatever reason.

While ex-ante sector specific price regulation does not seem to be a good option at present for the different market players, a number of respondents identified room for improving market conditions by creating a more balanced legislative and regulatory environment for e-commerce and delivery services. In their view, some elements such as liability issues, return of items, insufficient information on delivery services and times etc. are not sufficiently addressed in the current framework. B2B operators and transport and logistics companies wanted to see a greater focus on transport related issues such as customs (maintaining current simplifications/facilitating customs administration, promoting e-customs) the abolishment of restrictions on road transport cabotage, appropriate urban delivery solutions (also with regard to environmental improvements); a balanced approach on aircraft traffic noise; promoting the use of the European modular systems and more modern payment facilities.

The current VAT framework and its application was a concern for many respondents from different segments of the delivery sector. Alternative delivery operators and some e-retailer associations called for the application of VAT in a more 'competition neutral' manner: currently, postal incumbents benefit from the VAT exemption for universal service products and services and very often this applies to small packages that are considered as part of the universal service. This was of particular concern for alternative operators (including express operators) and their associations as well as e-retailers who collectively felt that this is a significant barrier to more effective competition in the (parcel) delivery market. In short, the VAT exemptions on universaal service products should in their views be eliminated for the benefit of both alternative delivery companies and their clients. One contribution pointed to the relevant CJEU ruling which links the VAT exemption to the universal service obligations, but in view of the contributor does not cover e-commerce operations.

Some authorities (ministries, regulators) expressed the need for more clarity on the definition of cross border parcel delivery markets and possible scope of ex-ante regulatory measures. A small number of respondents stressed that ex-ante regulation should be considered in those segments where competition is not sufficient.

<u>Question 3)   What are the top three challenges posed by the regulatory framework? What could be done to help you respond, in the short and long term, to these challenges?</u>

In reply to this question, many respondents took the opportunity to highlight their top 3 challenges in a broad sense (not necessarily limiting themselves to the regulatory framework).

A large majority of respondents cited fair competition, legal certainty with regard to measures affecting delivery, and a new approach concerning the application on VAT as the main challenges. Alternative postal operators additionally highlighted the need for better access to the incumbent's postal network and infrastructure under fair conditions. Some postal operators mentioned transport related issues such as customs, facilitation of administrative procedures and cabotage rules.

Moreover, many postal operators, e-retailers and e-retailer organisations asked for improvements concerning interoperability and the facilitation of cross-border sales, such as common labels, improved address systems, open interfaces with regard to information flows for track and trace, as well as facilitating delivery and return through open access solutions and shared infrastructures.

Improvements concerning fair competition and access issues were also mentioned by some e-retailers, consumers and their organisations. They also highlighted problems with regard to geographical coverage and rural areas; accessibility and affordability of delivery solutions.

The creation of experts groups and/or co-operation networks was another common interest of respondents from different fields (national authorities, consumers, some operators and e-retailers).

Challenges and issues to be tackled from the consumer's side were high prices, liability, accessibility, return conditions, lack of competition, lack of harmonisation and standards, and in general – as a confirmation of the Green Paper's starting point – the lack of easy cross border sales.

Like e-retailers, consumers want to be able to choose between an appropriate range of reliable and affordable delivery solutions and companies. The harmonisation of tracking solutions, standardized labels, return solutions and more standardisation to the structure of addresses /postal codes and/or a standardized format for parcel sizes and labels, for outbound returns and custom documentation were also mentioned as useful ways to create seamless delivery.

Replies from postal operators were more conservative even if some are open to embracing new models and ideas when it comes to addressing current challenges.

The establishment of monitoring reports to fill data gaps and allow better monitoring/supervision of parcel markets where necessary was considered a useful approach among some Member States' authorities and e-retailers.

Questions 5 to 7: improving consumer experience and convenience- more transparency

Question 5) Information on delivery options and modalities

5 a) Which information should be made available to consumers on the e-retailer's website (name and contact details of the delivery operator(s), the delivery price, the time and place of delivery, information about complaint handling, track and trace options, return options)?

5 b) Taking into account the risk of information overload, what could be done to provide consumers at the right moment with clear, transparent and comparable information on delivery?

No consensus emerges from responses on the information to be provided to the consumer. Many, in particular e-retailers associations, but also some representatives of delivery operators and some Member States, think that the level of information provided is sufficient as many obligations to furnish information already exist. Too much information would not necessarily be in the interest of the consumer. A link to a track and trace option would be sufficient. Some respondents advocated the promotion of alternative means to provide information, such as trust marks and easy to use comparison tools.

In their replies, delivery operators strongly insisted on the fact that the burden of providing information to consumers lies with retailers, and some added that the burden has to be part of the commercial strategies pursued by e-retailers.

One postal operator took the view that the delivery price imposed on consumers should reflect costs while the few e-commerce or business associations addressing this issue explained that the consumer is not interested in details but simply in final costs and generally wants free delivery.

Respondents considered the possibility of giving choice to the consumer as the main priority. Some, including a few regulators, consumer associations and some delivery operators would like to see wider information including the name and contact details of delivery operator, price of delivery, date and exact time of delivery as well as place, information on complaint handling and return options.

Several consumer associations would also like to see the provision of information on delivery and payment, the availability of the goods, place of delivery (including alternative options), contact details of delivery operator, track and trace, return solutions and complaint handling, but also suggest more targeted information, for example, the introduction of an indication that time is essence of contract (ex: delivery before Christmas or a certain fixed date), contact details, cost and place of delivery.

SMS is also cited as a useful means of communication. Weight, accessibility (for the visually impaired) and social and environmental aspects of the company undertaking the delivery, especially cross border were mentioned by respondents as essential information. Two contributions suggested giving consumers the possibility to provide feedback.

However, very few respondents specified how this additional information should be added. One big retailer is in favour of standardization of information with common terminology. One regulator suggests guidelines or standards as useful tools while other respondents consider that the general terms and conditions in sales contracts as the appropriate tool to provide that information. Others claim that the relevant information is given too late and should be more prominent and available at an earlier stage in the sales transaction.

Question 6)   Information on the quality/performance of delivery

6 a)   Performance indicators relate, for instance, to the speed of delivery, the geographic coverage of the delivery operator, delays, damaged or lost items. How can such performance-related information be measured and gathered? Would publishing the results of such performance indicators create added value for consumers? Is there a need to develop standards to monitor such performance levels?

Among respondents who endorsed the idea of establishing and using performance indicators such as speed of delivery, delays, geographical coverage etc. the most frequent reason given was the level of confidence that such a system would provide to consumers. However, this was subject to the condition that any system of performance indicators would have to be managed by an independent body. Some respondents qualified their support with observations such as: a system would only work well in a truly competitive market, should be limited to parcel delivery under universal service obligations and focus on key elements such as track and trace and returns, be limited to cross border parcel services and highlight lost, damaged or delays in delivery.

Among respondents who did not endorse the idea of using performance indicators, the main reasons were based on the following considerations: cost to service providers, notably SMEs, the limited added value that indicators would generate, the difficulty of creating a truly comparable system, the danger that results would be manipulated, the fact that the market and market players already provide a solution, and that for many consumers, indicators are not of major importance compared to delivery time(s).

Those respondents supporting the introduction of performance indicators also advocated the publications of results on an annual basis and for each Member State. Many also recognised the inherent difficulties in creating a set of agreed indicators.

6 b)   Would trust labels (e.g. a certificate given by an industry association that the delivery process of an operator can be trusted as they meet requirements based on best practice) offer a more efficient way to increase consumers' confidence?

A slight majority of respondents support the use of trust labels. This was because trust labels are viewed as a useful means of instilling consumer confidence and being particularly pertinent for e-retailers. Nevertheless, many of the same respondents qualified their answers by drawing attention to the following considerations: trust labels
- should be voluntary and consumer friendly,
- should be used by e-retailers in particular,
- must be mandatory to ensure comparability and issued by an independent authority,
- must go beyond mere compliance with statutory requirements e.g. consumer rules.

On the other hand, respondents who did not endorse the idea of trust labels took the view that they are not needed in a dynamic market, do not offer added value for consumers or absolute guarantees and are not necessary to engender consumer confidence which can be generated through other means – 'word of mouth', ratings by users of services and practical experience of using different service providers.

6 c)   Would ISO certification of a quality process aiming at efficient delivery be an appropriate tool to increase consumers' confidence?

About two thirds of respondents did not support the idea that ISO certification would enhance consumer confidence. The main reasons offered were because:
- it would add new financial costs and administrative burdens and hinder competition,
- the ISO certification system is in their view too rigid and difficult to adapt to industry practices,
- it simply certifies a level of compliance with internal company procedures,
- consumers may not always understand its significance and thus underappreciate it,
- it does not guarantee tangible elements and (of itself) does not offer specific protection for the consumer.

Those supporting an ISO certification system suggested that it could raise levels (of services) across the sector, boost consumer confidence and should include a social and employment dimension.

There was no clear indication among respondents replying to question 6 that introducing new tools to monitor the provision of parcel services would increase consumer confidence. The most common reasons for this appears to be confidence that the market can offer satisfactory guarantees and that the different policy options would be difficult and costly to introduce and operate successfully across national markets. Of the three options on offers, respondents were most attracted by the prospect of introducing and using trust labels and least attracted by a generalised ISO certification system.

Question 7) Independent supervision: Who should take the lead to monitor performance: an industry organisation, an independent body, a regulator?

Question 7 invited respondents to choose (as the appropriate supervisory authority to monitor performance) between an industry organisation, an independent body and a regulator.

About two thirds of respondents supported the idea of giving the task of monitoring performance to either a regulator or to another independent body. Most respondents sharing this view did not indicate their reasons. Those doing so suggested that regulators offered sufficient independence and have the required expertise and experience to discharge this task. The remaining one third either suggested that the industry was best placed to do so as it understood the demands of the market and that market forces should be the judge of how operators performed.

The replies to this question very much reflect the division of opinions expressed in relation to question 6 a) which invited views on the usefulness of introducing a set of performance indicator. Those respondents who support this approach also provided the majority of replies to question 7, while those who did not, refrained from doing so, presumably on the grounds that their views expressed in relation to question 6 a) were sufficiently clear and did not require further refinement.

Questions 8-9: increasing consumer experience and convenience – better services and more safeguards

Question 8)   Possible need and scope of a universal delivery service for parcels:

8 a)   Is there a need for a new universal service obligation to address the ubiquity, affordability and quality of parcel delivery services?

Approximately two thirds of respondents who replied see no need to establish a universal service to address parcel delivery in the EU. Many different reasons were presented in these replies. The most common reasons given were that:
-    this service is competitive, no market failure has been identified so far,

- new regulatory requirements would drive up costs and discourage investment,
- no demand for or identified need to go beyond current obligations,
- current service levels are deemed sufficient.

Respondents supportive of a new universal service obligation suggested that it should only apply to conventional parcel delivery services (and not to courier services) and that its introduction would help to safeguard and strengthen consumer rights across the EU and merited further analysis.

8 b)   If so, what could be the main characteristics of this 'new' universal service (in terms of service levels, convenience and affordability)?

The (3) replies suggested the following characteristics:
- minimum track and trace service,
- affordability, transparent presentation of offers of service,
- choice of service – 2 day/3day/5 day delivery duration.

8 c)   From a delivery operator perspective, do you think a universal (parcel) service would be feasible in terms of cost/profitability? If so, at what level?

Only three respondents answered this question which was addressed in particular to operators. All three gave negative replies (funding would be a major issue, would impose too rigid conditions for operators).

8 d)   What would be the best tools to implement such a concept (e.g. guidelines; revision of the Postal Directive; new regulatory instrument with enhanced powers of the national regulatory authorities)?

Respondents were offered a choice of three policy options: guidelines or legislative provisions via the Postal Directive or enhanced powers for national regulators.
Five respondents replied. Two favoured regulation via the Postal Directive, two supported flexible regulation and one favoured guidelines.

Question 9) Improving consumer experience

9 a) Taking into account the existing set of consumer rights, how could consumer concerns and complaints about delivery be addressed most effectively?

Many claim that tools already exist, e.g. Article 19 of the Postal Directive, the Consumer Rights Directive or in the general terms and conditions in contracts used by operators. Two respondents would like to add or include delivery features in any trust marks used by operators.

One Member State authority would like to see consumer contact details being provided to the delivery operator (including GSM number) and see improvements to track and trace options. Another Member State would like to see consumer knowledge and awareness enhanced, while one called for common mandatory rules concerning consumer complaints for all operators.

Some logistics operators promoted examples of some existing practices as being the best answer to consumer complaints. These included automated delivery terminals allowing for on-site complaint handling, video recording of delivery in terminals, SMS, Web chat or e-mail.

Some consumer associations thought that using ISO standards 10002 and 10003 is the way forward, while one pointed out the problem for consumer when the retailer and delivery operator refuse to accept responsibility for a problem which may have been created by another party or when they do not know in which step of the delivery the problem occurred. One government authority advocated that cross border complaints be dealt with at European level.

9 b) Do you have any concerns about liability regimes in the event of lost or damaged parcels? What could be done to improve the situation?

As for liability, views are very variable. A minority of respondents see no problem. Many (logistic operators in particular, but also one competition authority) insisted that liability rests with the seller while some e-retailers would want the company providing the final mile delivery to be responsible for complaint resolution and customer's contact and mentioned the need to focus on increasing insurance options. One local authority suggested that responsibility be determined ex-ante. Two Member States noted that, in their opinion, full tracking of both delivery and returns would solve the liability question.

Several respondents, postal operators, e-commerce association or consumer associations, pointed out the need for increased transparency on the role and responsibilities of the different players in the delivery chain.

9 c) Could the e-commerce industry and delivery operators come up with more proactive solutions to better respond to consumers? What actions could be taken quickly to improve the situation in the short term? Which medium to long term solutions could be envisaged?

According to some e-retailers and two Member States, standardized and integrated systems and improved cross border track and trace services are the most appropriate solutions which could be introduced by the industry. On the other hand, some, in particular logistic operators, claim that solutions already exist, for example the 'easy collection solutions'.

Technology is seen by several consumer associations as the best solution.

Question 10: more cost effective and competitive delivery solutions- controlling costs

Question 10) Different options could be envisaged to control costs.

10 a) Are there any outstanding examples of, or best practices for alternative delivery solutions allowing for a reduction of costs?

Some best practices indicated by e-retailers were, carrier agnostic lockers and the promotion of parcel shops. The adaptation of access conditions and abolishment of internal price advantages of Universal Postal Union (UPU) members were also stressed.

Member States and National Regulatory Authorities (NRA) cited the possibility to leave undelivered items at the nearest post office or in a commercial establishment close to the residence of clients. Delivery operators and associations praised initiatives like relay points, SMS or booking of delivery date, parcel stations, parcel shops for unsuccessful delivery and return. Some alternative delivery operators were in favour of open access for all operators to post offices, parcel kiosks, relay points, return points, pick-up drop-offs, under the same price conditions.

A trade union highlighted the need to find ways to prevent competition in the sector being solely based on prices, wages or working conditions.

10 b) Are there any outstanding examples of best practices to increase efficiency?

There was support from a number of contributions for better tracking solutions, more competition, delivery choice options and carrier aggregation. The 'Digital Shopping basket', a joint venture of Post.NL, DHL, CB and the Rijksuniversiteit Groeningen was cited as a good example of innovative practices. It combines the logistics of several web retailers and operators in a platform where consumers can order from several websites but get the parcels delivered by one operator only.

Other solutions suggested by respondents were a more streamlined address system, more harmonization and interoperability of payment systems; simplification of administrative procedures in maritime ports; harmonization of network railway; M2M communication systems for road transport; tax reductions on parcels (port and airport). Providing an accurate delivery address for the consumer (e.g. workplace address instead of home address) to ensure successful first-attempt deliveries was another best practice recommended.

10 c) What type of technology can or could reduce the cost of delivery?

A number of contributions favoured improvements in tracking solutions, information exchange between e-retailer and delivery operator and between the sending and the delivery operator.

Other solutions suggested were exchange of text messages between the delivery operator and the recipient, better harmonization of delivery processes, consolidation and sharing of local logistics facilities, more sophistication of in route optimization programmes.

10 d) What could be done, in your view, to remove or alleviate current regulatory constraints without putting the attainment of their underlying objectives at risk?

Delivery operators, who were the majority to reply to this question, take the view that the market will provide for competitive prices. They were also against regulatory intervention on the basis that it would be harmful for competition, innovation and investment. A number also referred to the need for VAT harmonization, the simplification of customs procedures and liberalisation of transport (cabotage) as possible measures to alleviate current regulatory constraints.

Question 11: competitive but sustainable prices – sustainability and transparency of tariffs

Question 11) Sustainability of tariffs:

11 a) Do you think that the current level of tariffs charged to consumers for home delivery is sustainable in the medium and long term? If not, what should be done to mitigate this?

There was no consensus among respondents on this question. For some groups like consumer associations and e-retailers, the sustainability of prices is not in question. A few e-retailers consider that prices are too high and that there should be a better balance between domestic and cross-border prices. For other respondents e.g. Member States and delivery operators, current tariffs are not sustainable.

Delivery operators argued that tariffs are adapting to the needs of consumers and SMEs and delivery services are therefore competitive and efficient. For this stakeholders' group, the contractual partner of a delivery operator is the e-retailer and the current level of tariffs charged to consumers for home delivery is a strategic marketing choice of the e-retailer, who can choose to charge it to the end consumer by including it or not in the price (free delivery strategy) or who can opt for an all-inclusive or partitioned price. They also pointed to other alternative delivery options like postal shops, kiosks, etc.

11 b) Should the actual cost of delivery incurred by e-retailers be made more transparent to consumers? If so why?

A number of contributions from consumer associations and NRAs favoured more transparency of the cost of delivery incurred by e-retailer. These respondents took the view that increased transparency about the global delivery costs is advantageous to consumers and that it can help the functioning of the market.

Others, e-retailers, logistics intermediaries and delivery operators groups argued against this level of transparency stressing that it may lead to an increased burden and unwarranted intervention in commercial decisions. E-retailers declared that it would increase burdens on them as these costs are difficult to measure (including warehousing, order processing and customer support) and may ultimately increase prices. Logistics intermediaries thought that it is inappropriate to intervene in commercial decisions and that this type of transparency is not needed as delivery costs are fixed according to the needs of market forces.

Delivery operators pointed out that there is no need to communicate delivery costs to the consumer as it just another input cost in the value chain and those types of costs are not communicated to the consumer. However, they did acknowledge there could be more clarity on whether delivery costs are included and which delivery methods are available. They highlighted that in many cases shipping costs charged to consumers do not reflect the shipping costs the e-retailer actually pays to the logistics service provider.

A trade union suggested providing e-retailers and consumers with information on the real price of delivery, thus, making the situation of the parcel delivery industry more transparent to society and ameliorating the situation for workers in the delivery sector.

11 c) Should the true costs of delivery to the society at large be made more transparent? If so why? And how?

Most respondents acknowledged that it would be difficult to provide more transparency regarding the full costs of delivery to society at large. One NRA stressed that the task of defining what are the real delivery costs and what should be included in its calculation (e.g. negative externalities) was a major challenge. Some Member States and e-retailers are of the opinion that detailing the cost structure of the e-retailer could create more administrative burdens. Delivery operators declared that delivery costs related to environmental sustainability are already quite transparent for society but making them more transparent would constrain competitive pricing strategies.

Nevertheless, a small number of respondents took the view that the real costs of e-commerce, including environment externalities, should be communicated in a complete and transparent way even if it would not be easy to do so.

Questions 12-13: competitive but sustainable prices - more competitive delivery markets

Question 12) Level of competition in delivery markets:

12 a) In which markets, or market segments would more competition be essential?

Responses indicated that although competition seems to be present in most markets, the SME segment is the one cited by respondents where competition is essential. Most delivery operators and logistics intermediaries declared that both domestic and cross border markets are already very competitive, with the possibility of universal service for small senders where this may not be the case. Respondents generally agreed that market segments with smaller volumes are less competitive.

One NRA noted that competition in the cross border parcel delivery market is already emerging, with express operators becoming active in the Business-to-Consumer segment and thus competing with the postal networks. However, a Member State and one e-retailer highlighted that the collection and last mile delivery segments could be more competitive and thus benefit SMEs.

12 b) Publishing price comparisons would provide more clarity to consumers and SMEs. How could this be done? What would be the pro and cons?

There is no clear consensus about price comparison websites. Some stakeholders e.g. some NRAs and Member States, declared that price comparison websites could be useful. However, these should be treated with caution as it could result in some forms of collusion between operators and mislead consumers. They also advocated that the entity or organization managing these price comparison websites should be transparent.

Another point raised was the fact that the prices displayed may not reflect all the factors pertaining to certain delivery situations, which in turn could affect the perception of the price and the service. Some other stakeholders are of the view that list prices are not representative and cross border price comparison can be distorted by different national conditions creating some distorted effects.

Most delivery operators argued that these websites already exist and that too much transparency on the price side can have a detrimental impact on competition. Additionally, they highlighted that price comparison of delivery is relevant to the e-retailer, not to the final consumer, as it is the e-retailer who chooses the options of delivery and operators.

Question 13) Oversight and regulation: Ex ante regulatory measures (such as transparency obligations, obligations to provide access to delivery networks, and obligation for tariffs to be

cost oriented, etc.) imposed on delivery operators with significant market power can lead to more competitive markets.

13 a) Which would be the relevant markets to consider in this respect?

Stakeholders are divided on this question. One NRA considered that appropriate ex-ante regulatory measures imposed on delivery operators with significant market power could lead to more competitive markets. One consumer association also favoured ex-ante regulatory measures (e.g. transparency and access to network) whenever an operator has significant market power. In addition, one logistics operator proposed that the market within the scope of universal service (especially if financing is implied) should be subject to ex-ante regulatory measures.

However, most delivery operators consider that there is no need for additional regulation as in their opinion, the Postal Directive already covers the issues raised in the question. This group stressed that ex-ante regulatory measures would restrict competition and innovation and that market forces offer the best solution. Additionally, the group noted that there are few examples of operators with significant market power in the parcel delivery market and that in any event, market leaders are already subject to general competition law.

13 b) What are the specificities of cross-border operations which could justify cost constraints? Please specify.

Respondents provided the following specificities of cross-border operations to justify cost constraints:
- differences in cost structures when compared to domestic ones due to distances involved (related to transport costs),
- interconnection operations and agreements with the receiving operator,
- volumes and cross-border operations such as the optimization of international traffic handled in treatment centres where items are processed again, relabelled, etc.

Different technical requirements defined by different operators were also raised as a source of increases in the costs of operators. Other specificities highlighted include costs related to returns, repair of damaged goods, delivery guarantees, payments, languages and interaction between the hub networks of different carriers.

13 c) Should the regulator have more information on cost accounting data of operators to better assess the cost-price structure of packets and parcels?

Responses to this question varied considerably. NRAs are of the opinion they should be able to impose cost accounting obligations on those cross border delivery operators having significant market power in order to be in a position to assess the costs structure of parcels/packets and to ensure fair and effective competition. One e-retailer proposed that the

regulator should have more cost and price data and more competences to supervise the parcel market if there are indications that the market is not functioning well.

In addition, alternative and logistics operators agreed that the NRA should have access to the accounts of the market dominant operator, especially to avoid abuses related to financing of the universal service and to ensure access to the delivery network of the universal service provider.

On the other hand, delivery operators argued that, for the universal service provider, the Postal Directive covers the costs related to universal service obligation, which are already provided to NRAs. They also stressed that the parcel segment outside the universal service has already been open to competition for some considerable time.

<u>13 d) Should regulators and/or competition authorities play a more active role in overseeing the national markets or market segments concerned?</u>

The majority of responses declared that existing rules already allow for adequate regulation and supervision of the market, as sectorial and competition regulators already have all necessary instruments. There are also suggestions that in a liberalised market, it is expected that an ex-post regulatory intervention is more appropriate compared to ex-ante intervention, and that this may deepen cooperation between the sectorial regulators and the horizontal competition authorities.

One stakeholder added that a more active role in overseeing markets might be necessary to ensure minimum tracking standards and the monitoring for anti-competitive behaviour. One trade union suggested that NRAs, when looking at cross-border delivery, should focus also on social regulation, delivery optimization and innovation regarding environmental protection. In its opinion, greater transparency would give consumer a more informed choice when it comes to social and environmental quality.

Question 14: competitive but sustainable prices - more competitive prices for cross border delivery services

<u>Question 14) How can more competitive and transparent cross-border tariffs be ensured?</u>

<u>14 a) Should it be left to market forces to provide the tariff levels and levels of transparency that are demanded by e-retailers and consumers?</u>

Several stakeholders consider that market forces and compliance of tariff principles (for the scope under universal service obligations) are sufficient to define the prices of services in a more competitive and transparent way. However, regulatory intervention should occur if the markets are not competitive or become less competitive.

Some NRAs highlighted that when an operator is deemed to have significant market power, appropriate ex-ante regulatory obligations, such as transparency and tariff control, could be imposed on the operator in order to ensure fair and effective competition and to safeguard the interests of users.

Delivery operators argued that market forces should offer the levels of prices and transparency as parcel markets are already competitive. They stressed that e-retailers have significant bargaining power to press operators to decrease prices and offer convenient services. Additionally in their view, the needs of small business and consumers for single parcels are protected by the universal service obligations. More obligations would create additional costs. Some logistics operators advocate that postal operators should be required to provide minimum tracking levels on all their services.

<u>14 b) Would more regulatory supervision contribute to achieving sustainable prices for consumers?</u>

Contributions from operators suggest that more regulatory supervision would interfere with free market principles and would constrain the developments in the market. NRAs noted that costs related to cross border parcel delivery can vary significantly because of fuel prices or if any big international retailer chain has significant market power. On the other hand, delivery operators indicated that current universal service obligations' rules are sufficient and do not need amending.

<u>14 c) Do you think that applying some type of price cap for single piece cross border packets and parcels would be a feasible and effective option to address the needs of e-retailers and consumers? What would be the impact of such a price cap on market offer and competition?</u>

With the exception of consumer association groups, most responses suggest that a price cap would not be the appropriate tool to address the needs of e-retailers and consumers. Some NRAs stress that price caps for single piece cross border packets and parcels should only be considered in the following circumstances:
- in order to safeguard the provision of universal postal service,
- in cases where an operator is found to have significant market power, or
- when the affordability of the delivery service would be jeopardized.

Delivery operators and logistics operators argue that a price cap would be a disincentive to innovation and could distort competition. E-retailers groups prefer private sector led measures to reduce prices (such as standardized service levels), as a price cap would hinder free competition. One Member State suggested that the retail segment would also suffer as any unjustified restriction of competition would also create pressure on retail growth.

Question 15: Improving interoperability - investing in technology:

Question 15) Levels of investment required:

15 a) To what extent is it possible to evaluate both at micro and macro level, the approximate cost of a generalised track and trace system for parcels? Which would be the most relevant parameters to take into account?

There is broad consensus that track and trace services are currently generally available and may represent a significant cost depending on a number of factors. These include the complexity of operational processes, the number of tracking events, tracking points, service levels, item types and 'tagging' and tracking modes. Operators point to existing cooperation in this field. However, some respondents called for further improvements as regards track and trace for cross border shipments.

15 b) What specific pilot projects for delivery of e-commerce products could be promoted, possibly within broader programmes aimed at fostering investment in information and communication technologies?

A number of contributions favour further improvement of tracking solutions, in particular the idea of establishing a platform for information exchange. Other new projects suggested concerned:
- new applications (apps) related to e-commerce;
- electronic postal mailboxes/hybrid mail;
- automated parcel delivery terminals;
- the use of RFID (radio-frequency identification) and NFC (near field communication);
- standardisation of formats/letter boxes;
- easier returns and more efficient payment returns.

Question 16: improving interoperability – enhanced partnership:

Question 16) Partnerships and cooperation:

16 a) Is better co-operation between e-retailers and delivery operators likely to increase the interoperability of operations? If yes, what specifically could retailers and operators do to build new or improve existing partnerships?

Several contributions suggested a better use of logistic platforms as well as improvements to (timely) data exchange as the way forward. Others referred to building better links between applicable IT systems. A number of respondents suggested the creation of a single complete database for addresses in Europe and to oblige operators with a bigger market share to grant access to their network (particularly to their track and trace system and their data sets). Operators stressed the existing close co-operation between delivery operators and e-retailers.

16 b) Should contingency capacities be jointly developed to deal with peak periods? If yes, how could this be done?

The existence of peak periods was recognised by respondents as something that impinges on all players. One idea proposed was to lessen peak period pressure by offering discounts in the run up to and after such periods.

16 c) Would you need the services of facilitators and third party logistics providers? How can those –new or existing- services develop, become better known and more visible?

Few respondents provided replies to this question. Those who did so recognise the importance of facilitators and consolidators in particular.

Question 17: improving interoperability - interconnection:

Question 17) Better interconnection:

17 a) Could logistics platforms for groups of operators better meet the needs of e-retailers? If yes, how?

Generally logistic platforms and their further use would be welcomed by all respondents replying to this question. These respondents pointed out that various logistic platforms already exist. However, there were differences of opinion when it comes to their effects. For example, it was argued that while the sharing of resources/tools brings advantages, it also adds costs. As opposed to that, some respondents argue that such platforms could contribute to better handling of demand in peak periods and therefore reduce costs (e.g. the rationalisation of warehouse cost). Some respondents question whether sellers have sufficient volumes/resources to justify having access to logistic platforms. Operators took the position that market based cooperation and interconnection was an efficient way to meet the needs of e-retailers.

17 b) Could an industry task force contribute to promoting innovation and increasing the use of new technologies to facilitate greater levels of interconnection? If so, how?

A majority was in favour of creating an (international) industry task force and that any such task force shall have clear governance rules, a defined scope and competence to take action. Some respondents were not in favour of the creation of such a task force pointing out that other bodies (e.g. CERP, IPC, UPU) are in place and could cover these issues.

17 c) Should the processes used to return goods (both domestically and cross border) be improved? If so, how?

Postal operators pointed to the Europe wide return solution set up by IPC (Easy Return Solution) and regional solutions (Nordic Return Solution – mypack) as a way to improve return procedures. The work of UPU in this regard was also cited. Representatives of alternative operators pleaded in favour of access to the network of existing return options. NRAs pointed out that the competence to oblige providers to negotiate on transparent, non-discriminatory terms could be used.

17 d) Are interoperability requirements and the promotion of new technologies difficult for SMEs operating in the delivery chain? What actions could help mitigate such difficulties?

The very few respondents who replied mentioned the role of integrators and the possibility to use EU funds for SMEs where necessary.

17 e) What are (if any) the main three actions which could improve interoperability across EU borders for moving goods ordered on line? What could be done to improve the situation in the short term, what initiatives could be taken in the medium to long term? Also what needs to be done to improve interoperability at the international level?

Postal operators pointed to the on-going activities within international postal organisations and notably the cooperation arrangements such as the E Parcel Group, technical solutions for returning goods, relevant standards such as EMSEVT v3 (extended item e-Tracking) which supports all traceable postal products. Alternative operators and e-sellers pointed in particular to the (standardised) label formats (including for returns), standardised box sizes, tracking cross borders, common scan-points, access to network (hubs) and the opening up of return points.

Questions 18-19: governance

Question 18) Are there areas which could be effectively tackled by the industry to address the issues identified in this Green Paper? How could this be promoted? How to involve both e-commerce and delivery industry associations?

Question 19) How should current governance aspects of standardisation and interoperability be addressed? Is there a need to increase involvement of representatives of e-commerce, notably SMEs, and consumers?

The replies to these questions very much reflect the opinions already expressed in relation to question 6. Most respondents insist on the need to involve consumers in all aspects of governance. Respondents involved in standardisation also indicated their readiness to work further on industry (voluntary) standards.