

ERGP report: Developments in the postal sector and implications for regulation.

Thoughts/Approach from Ombudsman for the Postal Sector Belgium based on individual user complaints.

1. *Consequences of trends and developments, demand, p.8 Definitions and concepts, p.10*
2. *Elements for a new regulatory framework, Users' interests, p.19-20*

Rights of the recipient (receiver) in the postal sector

The postal market will become less sender oriented and more receiver oriented, p.8

It is important to point out that both sender and recipient are postal service users. However, the rights of the recipient are presently at peril. **A certain number of postal companies are directly transferring the recipient (complainer) to the sender** from the vantage point that they (i.e. the postal companies) only have a contractual obligation toward the sender (their customer). Nevertheless, the recipient also has a right to receive information, to file a complaint and, in some cases where it is justified, to receive compensation damage¹. **But most importantly: a solution to the problem lies very often with the concerned postal company and not the sender.**

The Ombudsman generally registers these types of complaints in the context of an e-commerce relationship i.e. the shipment of packages both nationally and internationally. These complaints stem as much from the provider of the universal postal service as from other private courier companies.

Points of attention:

→ Confirmation of the definition of a postal service user as sender AND recipient and rights of the recipient to open an investigation and possible compensation damage from an extra-contractual liability perspective.

→ In the e-commerce context: define the responsibility and liability of e-shops (senders) and/or postal companies.

→ Define return shipments: Who is the sender? Who is the recipient?

3. *Trends and developments, technology, p.6*

Technological improvements, however ...

The consumer of today and tomorrow expects: to be delivered at the speed of lightning, to be able to trace his package (which he is able to do through Track & Trace tools) and to have an immediate solution to his problem.

However:

- T&T-tools are often plagued with accuracy issues. Furthermore, the legal and proof value of these tools when an issue arises, are put into question. For instance: a package has not been delivered according to the recipient, nevertheless the tracing tool mentions that the said

¹ Belgian Postal Law, art.2 and 3 §1, in conjunction with art.19 of the Postal European Directive, as well as UPU convention Parcels art.23.9.

package has been delivered. As a result of the tracking status, the sender will often not reimburse the recipient.

- The postal process has been strongly automated and uses ever so more advanced technology. The last and crucial phase of a streamlined postal process is the delivery itself which still remains under control of mailmen, paper deliverers and couriers. A mailing goes through a full process (which includes more and more technological advancements) but will only be considered as successful once the mailing has been correctly delivered to the recipient. Human capital investment remains therefore an extremely important element.
- The complaint process of postal companies is heavily influenced by technological evolution: customer service access is getting more and more automated: on line forms, chatbots, automated and standardized answers, reference to FAQs, ... This evolution can be viewed as positive and efficient for a large number of queries. Nevertheless, the consumer of today expects a personal approach, especially when an issue arises. The customer expects to be able to tell his side of the story and certainly does not appreciate a standard answer, which in most cases does not solve the issue at hand: this is also known as “intolerance to standardization”². Postal companies should therefore continue to work in reaching an issue solving approach. Moreover, we tend to see a trend whereby customer service access is getting more and more limited.
- The digital divide will still remain a reality in the future.

Points of attention:

- Define the proof/legal value of the track & trace tool in case of dispute.
- Invest in human capital, “labour conditions.”
- Personal approach of user when handling a complaint.
- Guarantee access to customer service for both sender and recipient.

4. Regulatory implications, promoting competition, p.14

Interoperability of networks

Senders and recipients of different postal companies may very well be going to the same postal points (shops/offices) to either send or retrieve their packages. In the case of private senders (mostly in case of return shipments) and recipients, it is not always clear which company will process their shipment. As a result, an increasing number of packages find themselves (intentionally or unintentionally) in the respective networks of postal companies. Moreover, when issuing a complaint of this nature, the customer is often transferred from one postal company to the other.

Points of attention:

- Need for clear agreements in package transfer from one postal company to the other.
- Need for clear agreements regarding complaint handling and liability when using the respective networks.

² Les trois grandes intolérances du client, www.trends.be, 23 août 2018

5. Elements for a new regulatory framework, Clarity of concepts and definitions used, p.21

Registered mail and letters. Complaints regarding failure to follow procedure in the case of registered mail distribution is in sharp increase with the Ombudsman Services in Belgium. The Ombudsman vision: the correct delivery of registered mail is influenced by the sharp increase of (often small) packages entering the registered mail circuit from abroad in Belgium.

6. A future-proof regulatory framework, letter mail volumes / parcel volumes: two different market segments, p.21

From the viewpoint of private and small senders: in the case of Belgium, mail and parcel are predominantly part of the same market: common delivery points, common distributors, common companies, common sites, common customer services, common types of issues, ... Is this because of low competition and low network integration?

This group of private and small sized senders is getting more and more important in the sharp increasing B2C and C2C market.

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Belgian Ombudsman for the Postal Sector