

# **ERGP MEDIUM TERM STRATEGY 2020-2022**

## **(for public consultation)**

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## 1. ABOUT ERGP

The European Regulators Group for Postal Services (ERGP) was established by Commission Decision 2010/C 217/07 of 10 August 2010.

The Group serves as a body for reflection, discussion and advice to the Commission in the postal services field. It facilitates consultation, coordination and cooperation between the independent national regulatory authorities in the Member States (MS), as well in EEA and accession countries and between those authorities and the Commission, with a view to consolidating the internal market for postal services and ensuring the consistent application in all MS of Directive 97/67/EC.

ERGP's tasks, as outlined in Article 2 of the Decision establishing it, are to advise and assist the Commission:

- i)* on any matter related to postal services within its competence;
- ii)* in consolidating the internal markets for postal services;
- iii)* on the consistent application in all MS of the regulatory framework for postal services.

The ERGP carries out its tasks through consultation, in agreement with the Commission and stakeholders, in an open and transparent manner.

## 2. BACKGROUND

Since its inception, ERGP has done a significant work within its competences. Within ERGP's current MTS 2017 – 2019 [ERGP (16) 16] which was the first one, ERGP contributed to the consistent application of the regulatory framework for postal services in all MS and the exchange of information by producing a number of documents on different regulatory issues and exchanging best regulatory practices. ERGP has provided also assistance and technical advice to the European Commission on issues related to the implementation of the Postal Services Directive and the Regulation (EU) 2018/644 on cross-border parcel delivery services. An Opinion on the future regulatory framework has been also submitted to the EC. In addition to public consultations ERGP has also organized open workshops and conferences with market stakeholders for a more efficient exchange of views.

As the current MTS will expire by the end of this year, ERGP is drafting the next three years MTS 2020 – 2022 containing the broad strategic lines of ERGP work in the years to come.

The MTS 2020 – 2022 draws in particular on the Report on developments in the postal sector and implications for regulation [ERGP (18) 49] as well as the Opinion on the review of the regulatory framework for postal services [ERGP (19) 12] and reflects the need for a more proactive and forward-looking regulatory approach and for engaging actively with all relevant stakeholders and international organisations.

The MTS 2020 – 2022 aims at reflecting the effects of digitalisation on the postal sector (decrease of traditional mail volumes and increase of parcels from e-commerce). This implies a shift from a letter-post oriented universal service obligation to a regulation that focuses on achieving competitive letter and parcel markets and innovative high-quality services for the benefit of all users.

Finally, it constitutes the basis for the annual Work Programme (WP) of the ERGP in the coming years.

## 3. CHALLENGES AND OPPORTUNITIES IN THE EUROPEAN POSTAL SECTOR

It is clear that technology and changing consumer needs are the main drivers of changes in the postal sector in multiple ways. Innovation in digitalisation combined with the continuous increase of citizens having broadband access (fixed or mobile) modifies consumer behaviour and business practice.

The abundance of digital communication options, together with cost reduction policies and environmental concerns of the mailers, cause a significant decline in letter post services, as a communication means (letter post market revenue share of the European postal and express market is significantly less than parcels, 42%, in 2016<sup>1</sup>)

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<sup>1</sup> CE, Main Developments in the Postal Sector (2013-2016)

On the other hand the substantive increase of e-commerce deliveries is forming a new landscape where different business models under different regulatory frameworks are evolving. B2C e-commerce has grown at rapid pace in all Member States. Average growth rates were 14 per cent per year, and stakeholders expect continued robust growth for the near future<sup>2</sup>.

This represents a unique opportunity for NRAs to contribute to the EU Single Postal Market (digital or physical) and to contribute to a legislative and regulatory framework that allows for the offering of new and innovative services with high quality at a reasonable price to European citizens. However significant challenges have to be faced.

### **Harmonisation of the conditions governing the provision of letter post and especially parcel delivery services**

A significant number of new business models for parcel delivery services has emerged and it is necessary to have a clear and consistent understanding throughout all EU Member States on their definitions and the regulatory framework.

The same is also valid for letter services, which are becoming a part of new added value and digital services.

These developments have to be taken into account to avoid the application of different regulatory frameworks which may in practice create distortions of the market. The aim is to provide a level playing field for all providers, whether they are courier and express providers, universal service providers that also fall under the UPU framework, transport and logistics providers or on-line platforms as far as the EU postal regulatory framework is concerned, which supersedes other frameworks and is fundamental for harmonisation and creating a competitive single postal market in the EU.

### **Promoting competition**

The challenges of a transitioning market require that regulators need to establish a level playing field allowing innovative services to emerge, and promote a fair and competitive European postal single market. To achieve that, existing and new regulatory instruments and methods, need to be introduced, while constantly monitoring the evolution of the market. NRAs need to have the competence to apply pro-competitive regulatory tools like access to postal networks and services.

### **Users' interests**

The postal market is experiencing a gradual transition from the traditional “sender oriented” to a “receiver oriented” model. ERGP will need to focus on the impact on the users' needs and preferences of new delivery solutions and the development of e-commerce and consider the regulatory adjustments necessary, to ensure that consumers and SME's interests are adequately served and

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<sup>2</sup> WIK, Development of Cross-border E-commerce through Parcel Delivery

protected.

#### 4. ERGP STRATEGIC PILLARS 2020-2022

##### ERGP Strategic focus

Stemming from the three principles outlined above – harmonization, promotion of competition and users’ needs, the MTS 2020-2022 identified three strategic pillars:

- Strategic Pillar I – Revisiting the postal sector;
- Strategic Pillar II – Promoting a competitive EU postal single market;
- Strategic Pillar III – Empowering end-users and ensuring a user oriented universal service

In the course of pursuing the activities stemming from Strategic Pillars I, II & III, ERGP will focus on the provision of proactive and forward-looking support and advice to the European Commission in drafting a fit for purpose regulatory framework for the postal sector reflecting best regulatory practices. To ensure ERGP input will be duly taken into account, it is important to reference formal requests for ERGP input from the Commission explicitly in the legislation.

ERGP will pursue this goal through enhanced engagement with relevant stakeholders and international organisations.

Furthermore, ERGP will be supporting the three strategic pillars with the primary objective of efficiently carrying out its tasks.

##### Strategic Pillar I- Revisiting the postal sector

Strategic Pillar I focuses on the future postal regulatory framework and the input ERGP will provide to the Commission as well as to the co-legislators. To that end, valuable input from Strategic Pillars II&III also will be used.

- Provide input to the Commission on the review of the Postal Services Directive and Follow-up on the ERGP Opinion on the future regulatory framework for postal services;
- Explore the definitions suitable for the postal sector, especially considering the numerous technological evolutions, changing users’ needs, the emergence of new business models and the rapid growth of e-commerce;
- Assess the effect of ‘neighbouring markets’ and new business models on the provision of postal services (e.g. transportation, platforms).

The role of postal services is significantly changing. Their significance as a means of communication or exchange of information is diminishing due to e-substitution. In contrast, the relevance of postal services as a means to deliver goods is continually increasing due to the growth of e-commerce.

The changes in users' needs and the number of new business models and services that have already emerged, for both letters and parcels call for the ERGP to assess the current state of play, compare it with the current regulatory regime(s) and ensure a regulatory framework for the postal sector with a forward-looking approach incl. up-to-date definitions..

The ERGP with its expertise and understanding of the market will provide technical assistance to the EC, the European Parliament and the Council in all regulatory aspects of the future postal legislative framework.

### **Strategic Pillar II - Promoting a competitive EU postal single market**

The Strategic Pillar II focuses on harmonization and competition. It will look at the regulatory measures to promote a competitive EU postal single market and powers NRAs need to create an environment for competition and innovation.

- Assess the regulatory instruments necessary to promote national and cross border competition and their relation to inter-disciplinary regulatory fields (electronic communications, GDPR, customs etc.) and ensure well-functioning markets;
- Assess the complementarity between regulatory instruments and competition law oversight;
- Assess the different legal frameworks applied to different operators (universal service providers, private postal and courier operators, transportation, platforms) and their effect on competition, especially in the growing parcel market;
- Assess the numerous technological evolutions, changing users' needs, the emergence of new business models and the rapid growth of e-commerce and their effect on competition in the relevant markets;
- Promote transparency especially in the context of Regulation (EU) 2018/644 on cross-border parcel delivery services.

Since the liberalization of the postal markets, NRAs based on the Postal Services Directive, have conducted the full market opening process in the direction of a more competitive postal market. Legal monopolies in the letter post segment were fully abolished, but the disappearance has not always led to truly competitive markets. Promoting a competitive postal market is therefore still a crucial task for national regulators in the years to come as the letter post segment still represents a fairly large portion of the market for which a lack of competition can be detrimental to the price and quality and innovation in different postal market segments.

Numerous technological evolutions, changing users' needs the emergence of new business models and the rapid growth of e-commerce influence competition in the postal markets. In that context it is relevant for national regulators to monitor and measure the different levels of competition in order to further promote the dynamics of the postal market when and where needed. To carry out such analyses, regulators should fully share their expertise within ERGP and exercise their powers –

including additional powers where needed in order to map out all aspects that may influence market situations.

Further insights are required as well in order to investigate what could cause market distortions. For instance, different legal frameworks for different operators can constitute reasons of market distortions especially in the growing parcel market. UPU terminal dues, especially for small packets containing goods, might affect fair competition on European postal markets. In addition, VAT rules and customs procedures are well-known issues that augment imperfect market evolutions and have remained largely beyond regulatory reach up until now.

The ERGP will investigate the available regulatory instruments to pursue the goal of completing the single postal market. ERGP will continue its work on the appropriate regulatory approaches to promote a competitive single market for postal items, where regulated access to the postal network remains a crucial instrument for fostering competition. Applying the principles of transparency, non-discrimination and proportionality is not always sufficient to safeguard access conditions and competition in the postal market. ERGP will look deeper into the interconnection models in the postal sector and interoperability of postal networks in terms of standards and agreements between network operators. Where needed additional powers/instruments should be made available to NRAs (including monitoring powers).

Finally, the increased transparency, market oversight, and the addressing of certain unreasonably high tariffs, stemming from Regulation (EU) 2018/644 on cross-border parcel delivery services will be a key priority for the ERGP and will need its continued attention.

Moreover, based on general developments of e-commerce, the ERGP will have a closer look at the parcel market of today: to compare and cluster different business models of parcel service providers (both domestically and cross-border) in the different Member States, to analyse their role on the parcel market and on e-commerce in general.

### **Strategic Pillar III - Empowering end-users and ensuring a user oriented universal service**

The Strategic Pillar III focuses on empowering the end-user ensuring the end-user can make an informed choice and benefit from changing business models while being protected. Also related to end-users is the universal service which will also be looked at in this pillar.

- Address the gradual transition from the traditional “sender oriented” to the “receiver oriented” postal market in the e-commerce era and the impact on the users as well as the need to safeguard users’ rights;
- Promote choice, information, quality and innovation for end-users;
- Assess the relevance and review the scope of the universal service obligation, taking into account and without prejudice to the principle of subsidiarity, the changing user needs (behavior and demand), the numerous technological evolutions, the decline of letter post and the rapid growth of e-commerce;
- Review the concept of the universal service compensation mechanism and revisit the net cost calculation methodology with a view to efficiency and simplicity.



Empowering both individual and business end-users is one of the most important regulatory objectives. It is essential to guarantee the inclusion of all the consumers in the digital economy and that the communications needs of the consumers are satisfied with a particular emphasis on the protection of the more vulnerable ones. The postal/delivery services are an essential means of communication and the ERGP will look closely at the availability of these services to all consumers, with a specific focus on the small and medium enterprises (SME), which have an essential economic role.

A focus will be developed by ERGP to address the gradual transition from traditional “sender oriented” to “receiver oriented” transformation of the postal market, to new delivery solutions, to the development of e-commerce and its impact on the users’ needs and preferences as well as the need to safeguard user’s rights.

Issues such as delivery quality, mode of delivery, inter-carrier agreements and standardization, choice, social cohesion and consumer protection [pricing, compensation, complaints] in light of the gradual transition from the traditional ‘sender oriented’ to a ‘receiver oriented’ postal market, need to be addressed to foster innovation in the sector.

In line with its assessment regarding the impact technological developments have on the provision of the postal services and on end-users needs the ERGP will analyse if it is necessary to make adjustments in terms of regulation to ensure that consumers are adequately empowered.

Given the market developments and its impact on regulatory decisions, understanding the market dynamics is critical and the consistent monitoring of the evolution of the market is of utmost importance for NRAs and ERGP. ERGP will continue monitoring the postal market with a focus on the different needs of the end-users and considering that the boundaries of the market are changing. In this context, ERGP will discuss with the Commission and stakeholders the most effective way to monitor quality of service levels, prices, complaints procedures and the development of the market in terms of market concentration, employment, volumes and revenues.

ERGP will also address issues such as choice (transparency of offers, limitations in delivery) and the need to foster innovation in the sector and promote the digital economy. ERGP will also look into transparency measures, not only of prices but also of all delivery options.