

**Comments by PostEurop to the EU Commission's public
consultation paper
"Review of existing VAT legislation on public bodies and tax
exemptions in the public interest."**

Brussels, 13 February 2014

PostEurop appreciates the opportunity to contribute to the consultation on existing VAT legislation on public bodies and tax exemptions in the public interest. The European Commission has launched this consultation in the context of preparation of a forthcoming impact assessment on this issue and to give all stakeholders the opportunity to give their views.

PostEurop has taken special note of the fact that the consultation document explicitly addresses postal services in a number of contexts. From this PostEurop wishes, on behalf of EU postal operators obliged with providing universal postal service on the basis of the Postal Directive and national legislation in Member States, to forward the following comments in response to the consultation.

The CJEU Ruling

The consultation document (page 5) points to lack of neutrality and argues that VAT exemptions may give rise to distortions in competition. With respect to tax exemptions in the public interest (art. 132 of the VAT Directive) and in particular referring to postal services and public broadcasting, the document notes that exemptions "have been drafted without any reference to anything other than public providers."

PostEurop wishes to express its disagreement with this view. As stated in footnote 5 on page 5 of the consultation document, the Court of Justice of the European Union in its judgement of 23.4.2009, C-357/07, TNT Post UK Ltd, has clarified that a public postal service provider is any provider of universal services irrespective of whether it is a public or private body. This means that in the postal sector VAT exemption clearly depends on the nature of the services (stemming from the Postal Directive); not on the status of the service provider, as there is no distinction between public and private operators to the extent that they provide the universal service.

Changing the existing application of the VAT Directive following the impact assessment will - regardless of content - create changes for postal operators obliged to provide universal postal service.

Market and Regulations

The regulatory and VAT regimes have caused individual postal operators that are obliged to provide public postal services (i.e. universal postal service) to develop business models and services suited to their particular market conditions, customer needs and regulatory demands for affordability and economic viability. The ability of postal operators' to provide public postal services and the way in which they do so are therefore closely bound up with existing VAT and regulatory regimes. An impact assessment consequently needs to include not only economic analysis but also the multiplicity of market conditions and regulatory demands imposed by postal regulators both at community level and in individual member states.

e-Substitution

When assessing the application of VAT to postal services in a market competition context, particular attention also needs to be paid to the rapidly changing role of postal services. Increasingly traditional postal services are being replaced by electronic alternatives. Substitution is particularly pronounced in economically highly developed frontrunner member states where volumes of letter mail markets for some operators already have been reduced near to or more than 50% – and with no signs of stopping. With electronic communication being the driving force for market and communications development – and with traditional postal services continuing to decline in terms of volume, the biggest competitive threat to the continuing provision of postal services no longer comes from alternative postal operators but from e-substitution. For this reason, a comprehensive impact assessment necessarily must take into account the impact of possible changes in VAT rules on letter volumes, prices and affordability to customers. Only in this way will the continued ability of individual public operators to supply obligated universal service on economically viable terms in accordance with the demands set in the Postal Directive be evaluated.

PostEurop wishes to highlight that the Copenhagen Economics Report from 2012, commissioned by the EU Commission as an input to the present consultation, did not take account of e-substitution and a number of other factors in the modeling set up. Consequently e-substitution and other factors are left out of their impact assessment despite their importance.

Further Analysis

PostEurop recognizes the complexity – but also the essential necessity – of making a full impact assessment as a basis for a sound review of the present VAT exemption conditions. Because of this, and recognizing the need to ensure a comprehensive and viable outcome of the assessment and review, PostEurop aligns itself with ERGP, the consultative body of regulators to the EU Commission. In its 2012 “Report on net Cost of USO-VAT exemption as a benefit or burden” ERGP stated (page 19) “...it is obvious that different VAT treatments do affect prices, volumes, cost, labour market and welfare, but the level of those impacts still needs further analysis.”

This position paper is supported by the following Public Postal Operators:

Country	Public Postal Operators
Austria	Österreichische Post AG
Belgium	bpost
Bulgaria	Bulgarian Posts plc
Cyprus	Cyprus Post
Croatia	Hrvatska pošta d.d.
Czech Republic	Česká Pošta
Denmark	Post Danmark A/S
Estonia	Eesti Post Ltd
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Greece	Hellenic Post - ELTA S.A.
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PostEurop is the association which represents the interest of 52 European public postal operators. Committed to supporting and developing a sustainable and competitive European postal communication market accessible to all customers and ensuring a modern and affordable universal service, PostEurop promotes cooperation and innovation bringing added value to the European postal industry. Its members represent 2.1 million employees across Europe and serve to 800 million customers daily through over 175,000 counters. PostEurop is also an officially recognised Restricted Union of the Universal Postal Union (UPU).