

[PostEurop Position Paper on the Directive on the re-use of public sector information](#)

Brussels, 21 January 2019,

Background

The European Commission published its proposal on the recast of the Directive on the re-use of public sector information (PSI Directive) in April 2018. It included documents held by public undertakings produced in the performance of a service of general economic interest in the areas defined in Directive 2014/25/EU in its scope. Directive 2014/25/EU is on procurement by entities operating in the water, energy, transport and postal services sectors.

The Council adopted its general approach in November 2018. It makes some changes to the recitals to make it clearer in which cases public undertakings are obliged to comply with the Directive. But it does not change the scope of the Directive.

The European Parliament's ITRE committee adopted its report in December 2018. It extends the scope to documents held by private undertakings produced in the performance of a service of general economic interest in the areas defined in Directive 2014/25/EU, including postal services.

PostEurop on the directive on the re-use of public sector information

PostEurop represents the interest of the national postal operators across Europe, including the 31 (28+3) national postal operators within the EU/EEA area. These operators provide the universal postal service in their respective countries. Some are public, some are private undertakings.

Regardless of ownership structure, PostEurop's members unitedly call on decision makers not to extend the scope of the directive to private undertakings and to exempt public undertakings exposed to competition, as it is the case for postal operators.

The directive should not be extended to private undertakings

We recognise the EU's objective to find the right legal framework for the European data economy. However, we believe this needs careful consideration. Regardless of ownership structure, PostEurop's members call on decision makers not to extend the scope of the directive to private undertakings.

As the European Commission found in its impact assessment, there is still considerable uncertainty regarding the objectives, justification and practical methods under which the transfer of private sector data for public interest purposes could take place.

The Commission has set up an expert group on access to and re-use of private sector data for public interest purposes. It brings together independent experts to discuss business-to-government (B2G) data-sharing principles and to provide advice on future initiatives. We believe this is the correct place to discuss the potential re-use of private sector data for public interest purposes. The re-use of private sector data requires a different assessment to ensure the right balance between the different interests involved, in compliance with the rights of undertakings. In the postal sector, this should take into account the differences across member states and the need to ensure the long-term sustainability of the universal postal service.

The directive should ensure public undertakings exposed to competition are not disadvantaged

We believe the directive and the re-use of data held by public undertakings also requires careful consideration. We welcome the fact that the Commission's proposal does not extend the directive to the re-use of all documents produced by public undertakings, but also believe that more safeguards are needed to ensure that public undertakings exposed to competition are not disadvantaged. In liberalised markets, public undertakings providing services of general economic interest are in direct competition with private undertakings. A case in point is the postal sector: The postal services directive¹ sets the framework for the postal market. Over the last ten years or so, the directive and its revisions has opened the postal market to intense competition. The European Commission's study on the Main Developments in the Postal Sector from 2013 to 2016 points to declining letter volumes and revenues in the letters market. It concludes that the market shares of postal operators have declined across national letter markets in Europe. It also points to strong competition in the parcels segment. This puts pressure on postal companies – and the sustainability of the universal postal service – around Europe.

PostEurop believes there should be a firm exemption for public undertakings exposed to competition, particularly where it could undermine a sustainable provision of the service of

¹ Directive 97/67/EC of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service and Directive 2002/39/EC of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services and Directive 2008/6/EC of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services

general economic interest the undertaking provides, as is the case for postal operators. Obligations linked to open data should not create distortions of competition between undertakings forced to share their data for reuse (in some cases for free) and those which could reuse the data.

The exemption for activities subject to competition should not be conditional on whether public undertaking is subject to procurement rules pursuant to Article 34 of Directive 2014/25/EU. A public undertaking may be subject to public procurement rules and operate on competitive markets. Decision makers should therefore assess each sector and market segment and reach a decision in consultation with the operators (and their customers) on the market. This should ensure postal operators are better able to serve their customers, including consumers and small businesses across Europe.

Conclusions

PostEurop's members are proud to provide the universal postal service in their respective countries. Some are public, some are private undertakings. Regardless of ownership structure, we call on decision makers to exclude private undertakings from the directive. We also believe there should be a clear exemption for public undertakings exposed to competition, as it is the case for postal operators.

For further information and action please contact:

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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).