

Position on the Evaluation Report of the Postal Services Directive



PostEurop

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ABOUT POSTEUROP

POSTEUROP is the association which represents European public postal operators. It is 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. Our Members represent **2 million employees** across Europe and deliver to **800 million customers daily** through over 175,000 counters.

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CONTEXT

PostEurop appreciates the comprehensive work done by the Commission in the **Evaluation report on the Postal Services Directive (PSD)**¹, which was also discussed with Commissioner Mr. Thierry Breton during the meeting held in November 2021 with CEOs from twenty EU designated postal operators.

On the **Cross-border Parcel Delivery Regulation Evaluation Report**², PostEurop mostly agrees with the conclusions, and would only like to underline, as stated by the EC, that there is a fierce competition in the parcel market and that prices offered to consumers are affordable. Therefore, there is no need to amend the Regulation or further regulate the subject.

Regarding the PSD Evaluation Report (the “Report”), there are some key topics on which postal operators do not necessarily share the EC views. Thus, the document will explain and further illustrate the views of PostEurop members.

1. General views on the Report and the future of the Postal Services Directive

The Report rightly underlines that the *“main takeaway of the Report is that maintaining some form of universal postal service for all EU citizens is justified, although with an appropriate level of flexibility for Member States to design postal policies at national level”*. PostEurop members consider that a minimum common regulatory framework should remain in place, as it is still relevant.

Future postal USO should consider the speed of development of digital skills by society in each Member State, and the quick shrinking volume of non-electronic communication. This is confirmed by the Staff Working Document, which points out that *“the products included and related features and quality requirements might need to differ between Member States”*³.

Along the same lines, the Report also recognises our sector’s weight in the European economy, both in terms of contribution to GDP and in terms of employment. Despite the shrinking mail market, universal service providers have undertaken measures to maintain sustainable and offer quality employment, in line with the EU’s objective to ensure quality labour and well-paid jobs for all⁴. Hence, they

remain being trusted by society, not only as enablers for the EU economy and its social and territorial cohesion, but also as responsible employers.

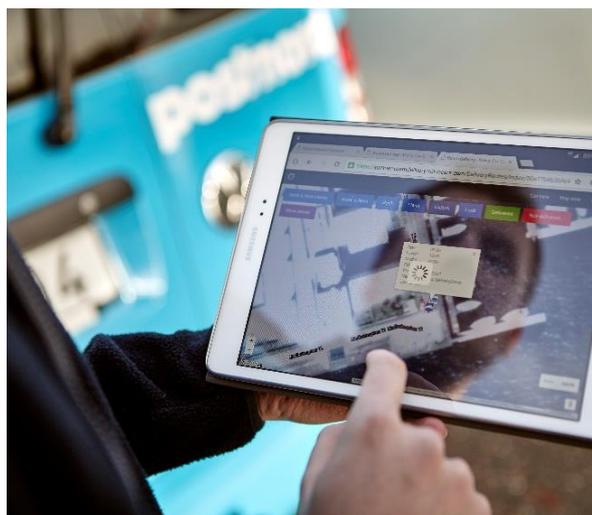
The PSD is still fit for purpose, although the quickly shrinking volume of mail calls for further flexibility in order to ensure that universal services are economically sustainable and adapted to national circumstances. In this context, when considering any adjustment to the USO, the impact on the sustainability of the USO, the needs of consumers (including vulnerable groups) and business customers should be taken into account in order not to leave any citizen behind.

The main objective of the USO is – and should remain – to ensure the provision of services that are relevant both for citizens and the economy.

2. USO: Long-term sustainability assuring the principles of flexibility and subsidiarity

We welcome the Commission’s assessment that the USO should remain central to the Postal Directive, and that the postal service itself is still considered a valuable service for EU citizens.

We agree that an appropriate level of flexibility for Member States must be ensured in order to adapt their national regulation of universal services to domestic circumstances.⁵ Postal markets have a significant national dimension that has been evolving differently in each country.



¹ [Report on the application of the Postal Services Directive \(COM\(2021\) 674 final\)](#).

² [Report on the application and implementation of the Regulation on cross-border parcel delivery services \(COM\(2021\) 675 final\)](#).

³ PSD Staff Working Document, page 64.

⁴ Fair working conditions are key for the EU, this is reflected in the [European Pillar of Social Rights](#) and in the latest [Commission proposal of a Directive on improving working conditions in platform work](#).

⁵ Report on the application of the Postal Services Directive, page 2, third paragraph.

For example, in the Nordic countries the use of digital communication and digitally supported services has soared and is preferred by a large majority of the population. This development creates both opportunities and challenges to the postal operators as well as to the governments and National Regulatory Authorities (NRAs). In order to face the challenges, the universal service requirements in the Nordics have been adjusted, e.g. changes in delivery frequency and delivery (routing) time. In parallel, the postal operators have modernised the existing services and developed new innovative ones in an evolving and competitive environment. This development is expected to intensify in line with further digitalisation.

The PSD allows Member States to adapt the legislative framework to their national specificities and to determine a universal service in accordance with their social needs. Member States should continue to have enough flexibility to adjust their national regulatory framework, including universal service obligations, pursuant to the principle of subsidiarity. The definition of the universal service at EU-level should not prevent the emergence of new and innovative solutions that fit evolving customer needs. Thus, we support a PSD that maintains a high level of subsidiarity in the design of postal policies and USO requirements while ensuring that postal services remain financially sustainable.

State financing should fully cover the increasing net cost of the service

We appreciate the Commission acknowledgement of the importance of the USO and its recognition that the provision of the service has become increasingly costly. Therefore, one of the key policy objectives for this sector should be to ensure long-term sustainability considering the dramatic drop of mail volumes.

The topic of USO long-term sustainability is not sufficiently covered in the Report, and not even referred to in the main conclusions.

The Report rightly explains that provision of USO entails a net cost. It reminds that Member States may “*compensate the universal service provider for the net cost through State aid*” and “*may also set up so-called compensation funds to finance the net costs*”. The EC analysis on the compensation fund mechanism concludes that “*the compensation fund is not working*”. However, the PSD offers several instruments for financing the USO, like the state funding option, which might also require further

assessment. The EC rightly points out in the Report that “*there are weaknesses in relation to how compensation funds operate*”⁶ and currently, compensation fund schemes are neither cost-effective nor efficient to fund the USO and hence, are very rarely used by Member States. PostEurop members believe experiences with compensation funds to date have proven not to be successful, and therefore see no point in further exploring funding through this alternative.



The USO aims at satisfying the user needs, thereby fulfilling an essential public service⁷ as well as acting as an instrument of social cohesion. Considering the wide benefits USO delivers to society, it should be sufficiently financed.

Given that the USO should respect the principle of economic sustainability, how the universal service is funded is vital. Where USO revenues do not or cannot cover the net cost of the service, public resources should fully refund the Universal Service provider (USP). Indeed, as stated by the EC, this “*net cost of USO provision can be substantial, and, if the Universal Service provider had to bear such costs on its own, it would put that provider in a disadvantaged position vis-à-vis its competitors*”⁸.

Considering the increasing economic burden suffered by the USO providers, the Commission should support, as it is done for Services of General Economic Interest, the principle of full compensation of the net cost (including some markup enabling necessary investments) of USO by Member States with national funding. Without public funding, net cost under-compensation would inevitably have a regressive impact on the Universal Service quality and unfairly affect the financial stability of the Universal Service providers.

⁶ Report on the application of the Postal Services Directive, page 7, third paragraph.

⁷ “COVID-19 has shown the essential nature of postal services”, EC SWD, page 74.

⁸ Idem, page 7, second paragraph.

Consequently, we would like to emphasise the importance of state funding and the non-distortive nature of this option, which proves to be the most efficient compensation scheme.

Besides, state funding procedures should be shorter and less burdensome, as in their current form, they are often too long and some universal service providers are experiencing financial difficulties due to the long wait to receive state compensation for the Universal Service.

Last but not least, the PSD must also allow Member States sufficient flexibility to adjust the USO scope and service level to national circumstances and thus to balance service requirements with the need for funding.

USO geographical fragmentation would lead to higher costs

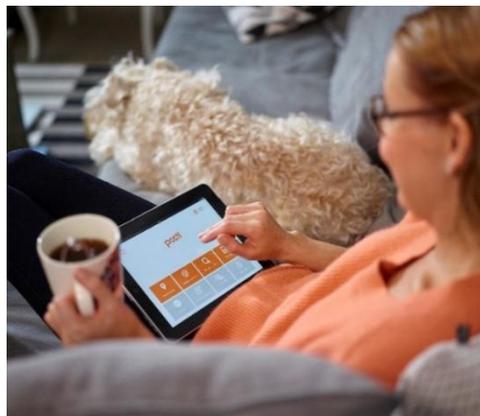
Given the importance of the economies of scale in the postal sector, and the shrinking volume trend, tendering geographic parts of the USO would make the cost of the service too high and question the sustainability of the service. Therefore, we would not support tendering the basic services within USO, especially in low-density areas or outermost regions where distribution costs are particularly disproportionate.

On the other hand, tendering of Services of General Economic Interest could be useful in specific cases, as it has been proven in some countries.

3. Competition

Policymakers should carefully balance sustainability against encouraging effective competition. We appreciate the European Commission's understanding that continuous declining mail volumes in a market that relies on economies of scale, urges USPs to keep adapting their business models to ensure an affordable and qualitative universal service. As USPs, this is one of our biggest concerns.

Nowadays, the strongest competitors of postal operators are digital means of communication. In this context, using regulatory tools, like access, trying to promote competition will not generate new postal demand. We fail to see the evidence supporting the need for such a bureaucratic burden in companies operating in a shrinking market. We are convinced that promoting competition through access regulation is in contradiction with ensuring the sustainability of the universal service which must be the priority.



Digitalisation, access and competition

The report incorrectly assumes that in countries where provisions to grant network access have been established, letter volume decline has been less severe due to the extra competition generated on these markets. The rather slower decline in letter volumes in countries such as Germany does not derive from competition, but mainly from the different uptake of digitalisation by society.

Where the population is hesitant to use digital means of communication, e.g. due to concerns on data protection or where the state authorities are slow in switching to digital communication, demand for letters remains higher than in “digitalised societies” such as Nordic countries. For instance, when all citizen-to-administration communications migrated to the digital world in Denmark, about 10% of population asked for or needed to maintain the postal channel.

The pandemic, however, has led to a “digitisation push” in societies traditionally relying on physical mail. It is clear that the introduction of network access provisions in domestic postal regulation competition will not lead to a “recovery” of physical mail volume from the digital world.

Competition in the parcel market is increasing and new business models appear on the market regularly. Lately we have seen e-commerce platforms vertically integrating their parcel delivery services. This is a cause of concern for postal operators as they are at the same time “business partners” of marketplace platforms, and competitors to these platforms when they vertically integrate into parcel delivery services. The European Commission has already issued a Digital Markets Act (DMA) proposal addressing the challenges that arise when gatekeeper platforms vertically integrate. However, PostEurop members believe the DMA should be more ambitious. PostEurop’s Position Paper on Digital Markets Act advocates for the adoption of strong provisions to eliminate gatekeepers’ unfair practices effects on ancillary markets including parcel delivery services (which PostEurop asks to be included in the definition of ancillary services within the DMA).

This is a unique opportunity for a digital leadership making societies more inclusive, with benefits for European citizens and companies of all sizes, by promoting a level playing field.

Evidence goes against an enhanced access framework

PostEurop strongly disagrees with the EC statement that “*the absence of harmonised rules allowing national regulatory authorities to set terms for access [...] as well as the absence of procedural access rules [...] may also have contributed to the low uptake of competition*”.

This statement is contrary to all the evidence made available to the EC. In fact, several Member States imposed access obligations on USPs and the results were counterproductive.

Such a statement is not supported by the principles of economics or relevant market data. On the contrary, the reality shows that, in a clearly shrinking market, access regulation is not efficient to improve competition.

The main drivers for the decrease of letter mail volumes, and subsequently for competition, are digitalisation and changes in users’ needs, not entry cost. The Report incorrectly assumes that in countries where provisions to grant network access were in place, letter volume decline was less intense due to the competitive pressure generated. For instance, in Spain, regulated access was approved in 2006. The economic crisis in 2008 hit the postal sector so strongly that the main operator using access went bankrupt in 2017. In those 10 years half of postal volumes migrated to digital communication⁹.

There is no need for further access rules since access is already granted. From the analysis carried out by external consulting firms¹⁰ and publicly available data, it is evident that in many countries, there is already access in place.

The access forms used in the different markets are a mix of some sort of mandated access and commercial access with NRAs guaranteeing the principles of transparency and non-discrimination and in many countries also with dispute resolution powers.

Tentative conclusions in the Report are not always in line with current market realities, and lack background data especially concerning the promotion of competition in a declining mail market.

With the current speed of changing market trends and continued digitalisation of the letter market, most of the statements in the Report in this regard will soon be outdated and cannot form the base of any decision on potential PSD adaptations a few years from now.

Therefore, we urge the European Commission to place the USO sustainability at the core of any potential future policy recommendations and reconsider stimulating competition in the (declining) postal mail market.

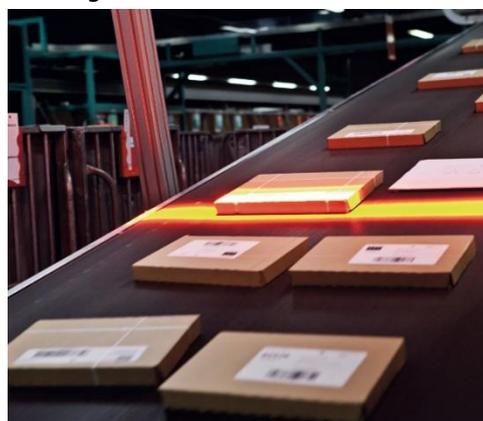
4. Standards

PostEurop members have been major contributors to the development of postal standards in CEN, providing resources, knowledge and testing possibilities.

As the EC states, “*The Directive is based on minimum harmonisation and is principle-based rather than relying on fully harmonising rules. [...] these divergences have not had a major disruptive effect on the effectiveness of the Directive*”¹¹ there is no evidence that the lack of use of European standards reduces clarity and legal certainty and may lead to unnecessary costs and interoperability issues. Therefore, PostEurop does not see a case for assessing the use of standards beyond the work being done by CEN.

EC, as well as representatives from all postal sector stakeholders, has been part of the standardisation work carried out by CEN. Any difficulty deriving from the non-use of standards should be discussed there.

In this context the worldwide efforts to create and use common universal standards must be respected, as all the EU countries are also members of the UPU. Hence, all initiatives to harmonise the European standards should be aligned and compatible with existing and future UPU standards.



⁹ CNMC: *Panel de Hogares: uptake of electronic invoices.*

¹⁰ Cullen International (2020): *Downstream access (access to the postal network and special tariffs) and access to elements of the infrastructure.*

¹¹ PSD Staff Working Document, page 38.

CONCLUSIONS

The USO should remain central to the Postal Services Directive and that the postal service itself is still considered a valuable service for EU citizens as an essential public service and an instrument of social cohesion.

A sufficient level of flexibility for Member States must be ensured in order to adapt their national regulation of universal services to domestic circumstances, especially in terms of frequency or delivery time, among others.

Where the USO entails a net cost and revenues do not or cannot cover the net cost of the service, public resources should fully refund the Universal Service provider (USP).

The introduction of harmonised rules for network access in postal regulation will not lead to a “recovery” of physical mail volume from the digital world, but only put at risk the sustainability of the universal service.

Any difficulty deriving from the non-use of standards should be discussed at CEN TC 331.



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