

Response to call for input regarding ERGP Work Programme 2023



PostEurop[°]

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 welcomes the call for input regarding ERGP work programme 2023. This is the opportunity to make a contribution to ERGP's work and to bring out the main issues to tackle in the postal sector. In this context, PostEurop salutes the fact that this programme will be prepared in parallel with the Medium Term Strategy 2023-2025, taking into account *"the long-term challenges and developments of the postal sector, such as digitalisation, the Green Deal, the changes in consumers' needs, in particular due to electronic substitution and e-commerce, and the effects of the pandemic, the duration and intensity of which cannot be predicted."*

Against this background, PostEurop believes ERGP should refocus its priorities for this new term and bring the issue of the sustainability of the provision of the universal service to the core of its agenda, in line with its mission according to the applicable regulatory framework. Given ERGP's important role monitoring the market and its contribution for fact-based policies, as well as harmonising the regulatory enforcement by its members, PostEurop takes this chance to reaffirm some key principles.

Last year, PostEurop contributed to the consultation on the ERGP's work programme for 2022 and on the Commission's evaluation reports on the implementation of the postal service directive and the cross-border parcel delivery services regulation.

As all this delivered input is recent and still very valid, for this new call for input regarding ERGP work programme 2023, PostEurop's Members would like to recall these positions that were already published in previous position papers and consultations¹.

In view of the above, PostEurop's Members would reiterate that:

We support a regulatory framework that leaves space for subsidiarity

The Postal Directive achieved the full opening of the European postal markets in 2011 (in 2013 for some specific countries), organised around common structuring principles such as affordability, accessibility, universality, cost orientation and supervision by independent national regulatory authorities.

Postal markets have significant local and national dimensions and have been evolving differently.

Although all postal operators are faced with a continuous decrease in letter mail volume, the pace of decline varies from Member State to Member State. The Postal Directive allows Member States to adapt the legislative framework to their national specificities and to determine a universal service in accordance with their social needs. For this reason, national regulators may have different powers and scope of intervention. PostEurop Members are therefore in favour of maintaining a high level of subsidiarity in postal regulations.

Member States should continue to be able to adjust their national regulatory framework, including universal service obligations, pursuant to the principle of subsidiarity. There is no "one-size-fits-all" universal service obligation and providers need the ability and flexibility to introduce innovative delivery solutions and provide services adapted to changing customer needs. However, this approach would allow each Member State to structure the obligations of its USP to fit domestic circumstances and ensure the postal services in its home market to remain financially sustainable. Thus, we support a high level of subsidiarity in the design of postal policies and USO requirements.

Universal Service should remain the starting point for legislation on postal services

Universal Service lies at the core of the postal legislative framework and PostEurop Members believe it should remain the focus of legislation. There is no need for further sector-specific regulation. There is other legislation to regulate issues which impact the postal sector - including employment, customs, taxation, consumer rights, data protection, platforms and competition rules.

Universal service should be based on user needs and national market developments. National practices and demands are a strong influence on European postal markets and these specific circumstances can only be fully addressed through greater subsidiarity.

PostEurop Members operate in a fragile ecosystem with an ongoing structural decline in letters and fierce competition in parcels. The Covid-19 pandemic has accelerated these trends. Demand for letter mail has further declined by the economic downturn and by Member States bringing forward measures to digitalise public administrations. "Lockdown" and "stay-at-home" policies have led to an increased demand for parcel services, and the entrance of many new players on the market. Therefore, policy

¹ See PostEurop Position paper on the Evaluation of the Postal Services Directive and on the cross-border parcel delivery services regulation,

makers should carefully balance the encouragement of competition with the sustainability of the USO. A declining market is less attractive to new players. With universal service providers already weakened by the decline in the letter market, promoting competition will not create a level playing field and would be at the expense of the universal service providers and the sustainability of the service.

The USO should respect the principle of economic sustainability, how the universal service is funded is important. Where USO revenues do not or cannot cover the net cost of the service, public resources should fully refund the universal service provider.

Indeed, as rightly stated in the Commission's evaluation report on the PSD, 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".

Nevertheless, the topic of USO long-term sustainability is not sufficiently covered in the report where the EC simply states that "the compensation fund is not working" with no further discussion on the State funding option.

Therefore, one of the key policy objectives for this sector should be to ensure long-term sustainability considering the dramatic drop of volumes and, in this context, we would like to emphasise the non-distortive nature of the State funding which proves to be the most efficient compensation scheme.

More specifically, considering the increasing economic burden suffered by universal service providers, we believe postal policies should support the principle of full compensation of USO net cost (including some markup enabling necessary investments) by Member States with national funding. In most countries, 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 universal service providers.

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

No justification for promoting competition through sector-specific regulation

In the European Union, the postal sector is subject to general European and national competition law and there is nothing to suggest that competition enforcement tools are not sufficient. Even in dealing

with future developments, like the rise of vertically integrated platforms, new pieces of legislation like the DSA/DMA are specifically designed to address such developments and therefore adequate. Any additional application of regulation for promoting competition needs further justification. Sector-specific regulation applies only where competition law alone is seen to inadequately address proven market failure. This is usually the case in market situations characterised by an absence of effective competition, which especially might occur when undertakings control bottleneck infrastructures resulting in high and non-transitory barriers to market entry. In comparison to competition law, sector-specific regulation is more intrusive, it applies without infringement of law, regulates market behaviour and is thus an instrument of last resort. In this respect, PostEurop's Members do not see a need for sector-specific regulation either in the letter or parcel market. The end-to-end letter sector is strongly disciplined by e-substitution, and increasingly so. In the presence of these strong competitive pressures, general competition law regime has proved to be sufficient. In these circumstances, ex-ante obligations are unnecessary to ensure the development of a competitive sector and would be detrimental to a sustainable and affordable universal service.

E-commerce delivery does not need further regulation. In many Member States, several competing parcel operators offer parallel delivery networks. Third-party access to the incumbent's network, which might be plausible in fixed-line industries such as telecommunication services, is not justified in the parcel market as typically there is no infrastructure "bottleneck" for delivering parcels to consumers. The parcel market works well as it is, and we should rely on market forces to provide the best solution. In line with the principle that regulatory intervention is only justified in situations of identifiable market failure, and since no market failure has been determined, there is no justification for further European regulation of the cross-border parcel delivery market. More regulation would have an adverse impact on reactivity and innovation.

The parcel delivery sector is extremely competitive with high pressure on prices and a constant drive for innovation. The rise of e-commerce and cross-border shopping has been made possible due to the significant involvement of delivery operators. PostEurop Members invested widely to seize the opportunity: increasing processing capabilities, developing up-to-date IT systems and offering customers new services and innovative solutions.

Technical standards

We believe that the main source of postal standardisation shall remain the Universal Postal Union, which ensures basic postal services worldwide. EU standards should stay voluntary and be the outcome of a test and improve the process to promote efficiency and avoid being a barrier to entry. In some cases, Postal Standards have not been implemented because they do not result in a benefit for the end customer.

Environmental and social responsibility

PostEurop Members are committed to environmental sustainability – and fully aligned with the UN Sustainable Development Goals on resource efficiency, procurement and waste management and air quality among others.

Ahead of other sectors of the economy, the postal sector has invested heavily for over a decade in innovative solutions to make operations more sustainable, i.e. by implementing sustainable transport and delivery alternatives to reduce greenhouse gasses emissions or by fostering resource efficiency and circular economy in our processes.

Indeed, operators are continuously adapting their business models in order to further reduce their environmental footprint, which, as rightly acknowledged by ERGP in its *Report on Green Deal and the Postal Sector*, is challenging given the changes in the product mix with higher operational and logistic costs resulting from the shift from letters to parcels.

PostEurop Members will, of course, be impacted by the Green Deal and the regulatory initiatives under its Fit for 55 package regarding transport decarbonisation, energy efficiency and circular economy. We believe this legislative framework will strongly stimulate operators to adopt further measures towards enhanced environmental protection, and therefore, no sector-specific provisions are needed at this stage.

Moreover, we agree with ERGP's conclusion that the current regulatory framework does not allow NRAs to intervene in issues concerning sustainability and that "NRAs have therefore little to no experience with incorporating environmental sustainability aspects in the regulation of the postal sector".² In this context, we consider that intervention from NRAs to promote environmental sustainability should not be a task for

ERGP and its members in the future, especially considering that competition is not being negatively affected by the implementation of sustainability measures and that postal operators are heavily investing and working on achieving common targets without needing any specific sector regulation. Despite the challenges already mentioned, postal operators have been able to systematically reduce their carbon footprint for some years now and voluntarily aim³ at achieving a 20% carbon emissions reduction per letter mail and per parcel by 2025, from a 2013 baseline year. For more details on sustainability measures from PostEurop Members, please see our [2021 Edition CSR Brochure of good practices "The Postal Sector, leading the way in Corporate Social Responsibility"](#), which has a specific section on environmental best practices.

² ERGP Report on Green Deal and the Postal Sector (2021) page 38.

³ <https://www.ipc.be/news-portal/sustainability/2020/11/25/09/45/ipc-publishes-first-online-sustainability-report>

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