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[PostEurop contribution to the ERGP's consultation on their mid-term strategy 2020-2022/work programme 2020](#)

Brussels, 20 September 2019

The draft mid-term strategy 2020-2022 and the draft work programme 2020 are based on the ERGP's opinion delivered to the European Commission on the review of the European regulatory framework, the postal services directive.

In its Opinion, the ERGP calls "*for a reorientation from universal service provision to a proper functioning of the postal market and of competition as the main focus of a fit for purpose regulatory framework*".

PostEurop members strongly disagree with such a reorientation of the EU postal services directive. The focus must remain the universal service provision, and in particular on ensuring Member States ample flexibility to adjust service requirements to evolving market developments and changing customer needs at the national level. We see no justification for introducing a competition-focused sector-specific regulation regime for the postal sector.

Universal services must remain the focus of the European framework

PostEurop members are concerned about the lack of focus on the universal service which we believe should be at the core of European postal policy. Across Europe, universal mail and parcel services are valued by our customers, including consumers and small businesses. They are intrinsic to social and economic inclusion. Moreover, finding solutions for a sustainable universal mail service is and will continue to be a pressing question for (postal) policy makers and universal service providers given shrinking mail markets.

In this respect, we consider that the promotion of a sustainable provision of the universal service (the first pillar of the ERGP's strategy in previous years) should continue to remain at the core of postal regulation. According to the ERGP, the future regulatory framework must be flexible enough to tackle particular national circumstances and should allow innovative solutions for the provision of postal services. PostEurop fully agrees with this. We also believe that innovative delivery solutions are essential to ensuring relevant and sustainable postal services in the future.

No justification for promoting competition through sector specific regulation

ERGP does not properly deduct or justify the need for a sector specific regulation for the postal sector from the fundamental aspects of regulation and competition law.

Indeed, 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. The 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 bottle neck 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.

In the letter market, monopolies have been fully removed. Some member states have end-to-end competition or in the upstream market; letter mail is mainly in fierce competition with e-substitutions across all Member States. Limited competition in the (end-to-end) letter market does not result from the insufficiency of the general competition law but from the ongoing e-substitution on that market and the falling level of demand. In these circumstances, ex-ante obligations would in no way ensure the development of a competitive market or otherwise affect its competitive dynamics.

Moreover, in a context of shrinking volumes and future digitization, competition through sector specific regulation would only happen at the expense of a sustainable universal service. More competition will not generate more volume.

The parcel market is highly competitive. Studies commissioned by the European Commission recently have proved that "The landscape for parcel delivery services is competitive and it evolves towards an integrated European delivery market."<sup>1</sup> In a market with already existing competition, there is no need for further promotion of competition without proven market failure. The ERGP does not prove the existence of any specific market failure. It simply justifies its call for promoting competition through ex-ante regulation with a few potential future changes (such as consolidation, dominant market players leveraging their power on a neighboring market, bargaining power on the demand side). These can be addressed under the existing general competition law regime. General concerns regarding future innovation of already innovative postal markets are not actual market failures that justify an intervention in the market by regulation.

New successful market entrants from the e-commerce business (such as Amazon with their own parcel delivery networks) show, that for the parcel market there is no bottle neck infrastructure with non- transitory barriers to market entry.

The measures proposed by the ERGP would have potential adverse effects, for example it discourages the development of alternative delivery networks, investments in innovative delivery modes and the development of end-to-end competition. Regulated access policy would also endanger the sustainability of the universal service. As we said, the NRAs' primary objective must be the safeguarding of the universal service.

We are also concerned that the ERGP already recommends introducing regulation seen in the telecoms sector without having analysed the suitability of the telecom regulatory regime for the

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<sup>1</sup> See WIK study "Development of cross- border e-commerce through parcel delivery" 2019, pages XVIII and XIX

postal sector, an analysis they plan to undertake only next year<sup>2</sup>. This should take into account the fundamental differences between the telecoms and postal sector.

The ERGP should remain an advisory body to the European Commission

The ERGP recommends strengthening the current institutional framework for ensuring cooperation between the NRAs'. As the role and powers of the ERGP necessarily needs to be aligned with the European regulatory framework and there is no justification for a reorientation of the postal services directive, we see no need for a greater role and competencies of the ERGP. We therefore recommend that the ERGP remain an advisory body to the European Commission as laid down in Commission's Decision 2010/C 217/07.

For further information and action please contact:

**Mr Denis Joram**

Chair of the PostEurop Postal Services Directive Working Group

E: [denis.joram@laposte.fr](mailto:denis.joram@laposte.fr)

**Ms Elena Fernandez-Rodriguez**

Chair of the European Union Affairs Committee at PostEurop

E: [elena.fernandez@correos.com](mailto:elena.fernandez@correos.com)

**Association of European Public Postal Operators AISBL**  
**Association des Opérateurs Postaux Publics Européens AISBL**

*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).*

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<sup>2</sup> See ERGP work program 2020 draft, page 5/6