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Committee on Transport and Tourism

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*****I**

DRAFT REPORT

Proposal for a directive of the European Parliament and of the Council
amending Directive 97/67/EC concerning the full accomplishment of the
internal market of Community postal services
(COM(2006)0594 – C6-0354/2006 – 2006/0196(COD))

Committee on Transport and Tourism

Rapporteur: Markus Ferber

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members, except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

Proposal for a directive of the European Parliament and of the Council amending Directive 97/67/EC concerning the full accomplishment of the internal market of Community postal services (COM(2006)0594 – C6-0354/2006 – 2006/0196(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2006)0594)¹,
 - having regard to Article 251(2) and Articles 47(2), 55 and 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0354/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinions of the Committee on Economic and Monetary Affairs, the Committee on Employment and Social Affairs, the Committee on Industry, Research and Energy, the Committee on the Internal Market and Consumer Protection and the Committee on Regional Development (A6-0000/2007),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Commission proposal

Amendments by Parliaments

Amendment 1 RECITAL 14

(14) The developments in the neighbouring communications markets have had a varied impact in different regions of the Community and segments of the population and the use of postal services. Territorial and social cohesion should be maintained, and taking into account that Member States may adapt some specific

(14) The developments in the neighbouring communications markets have had a varied impact in different regions of the Community and segments of the population and the use of postal services. Territorial and social cohesion should be maintained, and taking into account that Member States may adapt some specific

¹ Not yet published in OJ.

service features to accommodate local demand by applying flexibility provided in Directive 97/67/EC, it is appropriate to fully maintain the universal service and the associated quality requirements set out in the said Directive. In order to ensure that market opening continues to benefit all users, in particular consumers and small and medium size enterprises, Member States must monitor and supervise market developments. They must take appropriate regulatory measures, available under the Directive, to ensure that accessibility to postal services continues to satisfy the needs of users including, by ensuring, where appropriate, a minimum number of services at the same access point.

service features to accommodate local demand by applying flexibility provided in Directive 97/67/EC, it is appropriate to fully maintain the universal service and the associated quality requirements set out in the said Directive. ***For reasons of clarity it seems appropriate to confirm that the universal service does at the minimum cover the provision of services provided at single piece tariff.*** In order to ensure that market opening continues to benefit all users, in particular consumers and small and medium size enterprises, Member States must monitor and supervise market developments. They must take appropriate regulatory measures, available under the Directive, to ensure that accessibility to postal services continues to satisfy the needs of users including, by ensuring, where appropriate, a minimum number of services at the same access point.

Justification

For single-piece mailings, the universal service should be further developed into an instrument of consumer protection. Bulk mail operators do not need universal service protection; the carriage of bulk mailings can be provided to meet demand through competition.

Amendment 2 RECITAL 18

(18) The external financing of the residual net costs of universal service may still be necessary for some Member States. It is therefore appropriate to explicitly clarify the alternatives available to ensure the financing of the universal service, to the extent that this is needed and is adequately justified, while leaving Member States the choice of the financing mechanisms to be used. ***These alternatives include the use of public procurement procedures and, whenever*** universal service obligations entail net costs of universal service and represent an unfair burden for the designated undertaking, public

(18) The external financing of the residual net costs of universal service may still be necessary for some Member States. It is therefore appropriate to explicitly clarify the alternatives available to ensure the financing of the universal service, to the extent that this is needed and is adequately justified, while leaving Member States the choice of the financing mechanisms to be used. ***Whenever*** universal service obligations entail net costs of universal service and represent an unfair burden for the designated undertaking, ***and no undertaking is committed to provide the service without compensation, Member***

compensation and cost sharing between service providers and/or users in a transparent fashion by means of contributions to a compensation fund. Member States may use other means of financing permitted by Community Law, ***such as deciding that the profits accruing from other activities of the universal service providers outside the scope of the universal service are to be assigned in whole or in part to the financing of the net costs of the universal service***, as long as they are compatible with *the present* Directive.

States shall apply a public procurement procedure in order to select the undertaking to provide the service for compensation. The alternatives for financing include public compensation and cost sharing between service providers and/or users in a transparent fashion by means of contributions to a compensation fund. Member States may use other means of financing permitted by Community law, as long as they are compatible with *this* Directive.

Amendment 3
RECITAL 21

(21) Member States should be allowed to use authorisation and individual licenses whenever justified and proportionate to the objective pursued. However, as highlighted by the third Report on the Application of Directive 97/67/EC, further harmonisation of the conditions that may be introduced appears necessary to reduce unjustified barriers to the provision of services in the internal market. In this context, Member States may ***for example allow undertakings to choose between the obligation to provide a service or to contribute financially to the costs of this service provided by another undertaking, but should no longer be allowed to impose the concurrent requirement to contribute to a sharing mechanism and the imposition of universal service or quality obligations that are intended to serve the same purpose***. It is also appropriate to clarify that some of the provisions on authorisation and licensing should not apply to designated universal service providers.

(21) Member States should be allowed to use authorisation and individual licenses whenever justified and proportionate to the objective pursued. However, as highlighted by the third Report on the Application of Directive 97/67/EC, further harmonisation of the conditions that may be introduced appears necessary to reduce unjustified barriers to the provision of services in the internal market. In this context, Member States may ***continue to make the granting of authorisations subject to universal service obligations in case of an undertaking to be designated as a universal service provider. For undertakings other than universal service provider(s) Member States should only be allowed to impose an obligation to contribute to a compensation fund. These undertakings should have the possibility to provide the universal service instead of making a financial contribution***. It is also appropriate to clarify that some of the provisions on authorisation and licensing should not apply to designated universal service providers.

Amendment 4
RECITAL 22

(22) In an environment where several postal undertakings provide services within the universal service area, it is appropriate to require all Member States to assess whether some elements of the postal infrastructure or certain services generally provided by universal service providers should be made accessible to other operators providing similar services, in order to promote effective competition, and/or protect users and consumers by ensuring the overall quality of the postal service. As the legal and market situation of these elements or services is different in Member States it is appropriate to only require Member States to adopt an informed decision on the need, extent and choice of the regulatory instrument, including where appropriate on cost sharing. This provision is without prejudice to the right of Member States to adopt measures to ensure access to the public postal network under conditions of transparency and non discrimination.

(22) In an environment where several postal undertakings provide services within the universal service area, it is appropriate to require all Member States to assess whether some elements of the postal infrastructure or certain services generally provided by universal service providers should be made accessible to other operators providing similar services, in order to promote effective competition, and/or protect users and consumers by ensuring the overall quality of the postal service. ***Where several universal service providers with regional postal networks exist, Member States should also assess and, where necessary, ensure their interoperability in order to prevent impediments to the prompt transport of postal items.*** As the legal and market situation of these elements or services is different in Member States it is appropriate to only require Member States to adopt an informed decision on the need, extent and choice of the regulatory instrument, including where appropriate on cost sharing. This provision is without prejudice to the right of Member States to adopt measures to ensure access to the public postal network under conditions of transparency and non discrimination.

Justification

Under Article 4 the Member States can designate different universal service providers for different parts of their territory. A lack of interoperability between these different postal networks could impede the reliable overall provision of universal services in the Member State concerned. So if the universal service providers operating the different networks do not agree on interoperability the Member States will have to take the necessary measures.

Amendment 5
RECITAL 25

(25) In view of the national specificities involved in the regulation of the

deleted

conditions in which the incumbent universal service provider must operate in a fully competitive environment it is appropriate to leave Member States the freedom to decide how best to monitor cross-subsidies.

Justification

Leaving the Member States to monitor cross-subsidies would run counter to the system introduced by the EC Treaty, which makes this task a Commission responsibility.

Amendment 6
RECITAL 26

(26) In view of the transition towards a fully competitive market, it is appropriate to continue to require Member States to maintain the obligation on universal service providers of keeping separate and transparent accounts, subject to the necessary adaptations. This obligation should provide national regulatory authorities, competition authorities and the Commission with the information necessary to adopt decisions related to the universal service and to monitor fair market conditions until competition becomes effective. Cooperation between national regulatory authorities in continuing to develop benchmarks and guidelines in this area, should contribute to the harmonised application of these rules.

(26) In view of the transition towards a fully competitive market ***and in order to ensure that cross-subsidies from universal services to non-universal services do not adversely affect the competitive advantage of the latter***, it is appropriate to continue to require Member States to maintain the obligation on universal service providers of keeping separate and transparent accounts, subject to the necessary adaptations. This obligation should provide national regulatory authorities, competition authorities and the Commission with the information necessary to adopt decisions related to the universal service and to monitor fair market conditions until competition becomes effective. Cooperation between national regulatory authorities in continuing to develop benchmarks and guidelines in this area, should contribute to the harmonised application of these rules.

Justification

Keeping separate accounts (Article 14) is vitally important for operation of the market. There is a need to ensure that shared costs are properly allocated to their causes, so that the costs of services that do not belong to the universal service are not artificially held down by undue allocation to the universal service.

Amendment 7
RECITAL 26 A (new)

(26a) In order to increase legal certainty and to facilitate the investment decisions of all postal operators, the Commission should issue guidance on the application of the competition rules and State aid rules in the postal sector by way of an interpretative communication or other means, including guidance on the cost allocation principles set out in Article 14(3).

Justification

There is a clear need in the postal services market for interpretative guidance from the Commission on the competition rules and/or State aids.

Amendment 8
ARTICLE 1, POINT 2 A (new)
Article 3, paragraph 1 (Directive 97/67/EC)

(2a) Article 3(1) shall be replaced by the following:

“1. Member States shall ensure that users enjoy the right to a universal service involving the permanent provision of a postal service of specified quality at all points in their territory at affordable prices for all users.

The universal service shall at the minimum extend to postal services provided at single piece tariff.”

Justification

For single-piece mailings, the universal service should be further developed into an instrument of consumer protection. Bulk mail operators do not need universal service protection; the carriage of bulk mailings can be provided to meet demand through competition.

Amendment 9
ARTICLE 1, POINT 4
Article 4, paragraph 2 (Directive 97/67/EC)

2. Member States may choose to designate one or more undertakings as universal service providers for a part or all of the national territory and for different elements of universal service. When they do so, they shall determine in accordance with Community law the obligations and rights assigned to them and shall publish these obligations and rights. In particular Member States shall take measures to ensure that the conditions under which universal services are entrusted are based on objective, non-discriminatory, proportionate and least market distortion principles, and that the designation of undertakings as universal service providers is limited in time. Member States shall notify the identity of the universal service provider(s) they designate to the Commission.

2. Member States may choose to designate one or more undertakings as universal service providers for a part or all of the national territory and for different elements of universal service. When they do so, they shall determine in accordance with Community law the obligations and rights assigned to them and shall publish these obligations and rights. In particular Member States shall take measures to ensure that the conditions under which universal services are entrusted are based on objective, non-discriminatory, proportionate and least market distortion principles, and that the designation of undertakings as universal service providers is limited in time. ***Member States shall ensure that no part or element of the universal service obligation is imposed on more than one undertaking.*** Member States shall notify the identity of the universal service provider(s) they designate to the Commission.

Justification

To ensure that Member States do not designate all licensees as universal service providers. It makes clear that each part and/or element of the universal service can be imposed on only one undertaking in each case. This restriction will not affect the secure provision of universal service and also leaves the Member States the option of designating several universal service providers.

Amendment 10
ARTICLE 1, POINT 8
Article 7, paragraph 2 (Directive 97/67/EC)

2. Member States may ensure the provision of universal services by procuring such services in accordance with applicable public procurement rules. ***deleted***

Justification

In cases where a (designated) universal service provider claims financial compensation for providing such a service, a requirement to carry out a competitive tender should be introduced. The purpose of this is to restrict the financial requirement (for compensation

either from public funds or some other source) to that of an efficient service provider. Compensation should be granted only if no undertaking is prepared to provide the universal service without compensation.

Amendment 11

ARTICLE 1, POINT 8

Article 7, paragraph 3, introductory sentence (Directive 97/67/EC)

Where a Member State determines that the universal service obligations, as provided for by this Directive, entail a net cost and represent an unfair financial burden for the universal service provider(s), it may:

Where a Member State determines that the universal service obligations, as provided for by this Directive, entail a net cost and represent an unfair financial burden for the universal service provider(s) ***and there is no undertaking willing to provide the universal service without compensation***, it may:

Justification

In cases where a (designated) universal service provider claims financial compensation for providing such a service, a requirement to carry out a competitive tender should be introduced. The purpose of this is to restrict the financial requirement (for compensation either from public funds or some other source) to that of an efficient service provider. Compensation should be granted only if no undertaking is prepared to provide the universal service without compensation.

Amendment 12

ARTICLE 1, POINT 8

Article 7, paragraph 3 (Directive 97/67/EC)

3. Where a Member State determines that the universal service obligations, as provided for by this Directive, entail a net cost and represent an unfair financial burden for the universal service provider(s), it may:

(a) *Introduce* a mechanism to compensate the undertaking(s) concerned from public funds;

(b) *Share* the net cost of universal service obligations between providers of services and/or users.

3. Where a Member State determines that the universal service obligations, as provided for by this Directive, entail a net cost and represent an unfair financial burden for the universal service provider(s), it may:

(a) *introduce* a mechanism to compensate the undertaking(s) concerned from public funds;

(b) *share* the net cost of universal service obligations between providers of services and/or users.

Member States shall ensure that undertaking(s) eligible to receive

compensation are selected by means of a public procurement procedure and that the provision of universal services shall be awarded to the bidder who is able to perform these services at the lowest price.

Justification

In cases where a (designated) universal service provider claims financial compensation for providing such a service, a requirement to carry out a competitive tender should be introduced. The purpose of this is to restrict the financial requirement (for compensation either from public funds or some other source) to that of an efficient service provider. Compensation should be granted only if no undertaking is prepared to provide the universal service without compensation.

Amendment 13

ARTICLE 1, POINT 8

Article 7, paragraph 4 (Directive 97/67/EC)

4. Where the net cost is shared under paragraph 3(b), Member States may establish a compensation fund which may be funded by service providers' and/or users' fees, and is administered for this purpose by a body independent of the beneficiary or beneficiaries. Member States may make the granting of authorisations to service providers under Article 9(2) subject to an obligation to make a financial contribution to that fund ***or to comply with universal service obligations***. Only those services set out in Article 3 may be financed in this way.

4. Where the net cost is shared under paragraph 3(b), Member States may establish a compensation fund which may be funded by service providers' and/or users' fees, and is administered for this purpose by a body independent of the beneficiary or beneficiaries. Member States may make the granting of authorisations to service providers under Article 9(2) subject to an obligation to make a financial contribution to that fund. Only those services set out in Article 3 may be financed in this way.

Justification

See also the rapporteur's amendments to Article 9(2).

Amendment 14

ARTICLE 1, POINT 10

Article 9, paragraph 2, subparagraph 2 (Directive 97/67/EC)

The granting of authorisations may:

Whenever Member States designate one or more undertakings as universal service providers in accordance with Article 4(2),

the granting of authorisations ***for these undertakings*** may:

Justification

This amendment restricts the option of imposing universal or other service provision on undertakings to designated universal service providers. However, only a financial contribution may be required from tenderers. They are also given the option of providing the universal service instead of a financial contribution (see the rapporteur's other amendments to Article 9(2)).

Amendment 15

ARTICLE 1, POINT 10

Article 9, paragraph 2 subparagraph 2 a (new) (Directive 97/67/EC)

The granting of authorisations for service providers other than designated universal service providers may, where appropriate, be subject to an obligation to make a financial contribution to the sharing mechanism referred to in Article 7.

Member States may allow these undertakings to choose between an obligation to contribute to the sharing mechanism or to comply with a universal service obligation.

Justification

This amendment restricts the option of imposing universal or other service provision on undertakings to designated universal service providers. However, only a financial contribution may be required from tenderers. They are also given the option of providing the universal service instead of a financial contribution (see the rapporteur's other amendments to Article 9(2)).

Amendment 16

ARTICLE 1, POINT 10

Article 9, paragraph 2, subparagraph 3, indent 2 (Directive 97/67/EC)

– for the same quality, availability and performance requirements impose on a service provider universal service obligations and, at the same time, financial contributions to a sharing mechanism,

deleted

Justification

This amendment restricts the option of imposing universal or other service provision on undertakings to designated universal service providers. However, only a financial contribution may be required from tenderers. They are also given the option of providing the universal service instead of a financial contribution (see the rapporteur's other amendments to Article 9(2)).

Amendment 17

ARTICLE 1, POINT 10

Article 9, paragraph 3 a (new) (Directive 97/67/EC)

3a. This Directive does not affect Member States' responsibilities for regulating working conditions in the postal sector.

In particular Member States may take measures in the previously reserved area of items of correspondence in accordance with Community law in order to preserve working conditions in this area.

Justification

Fair competition in a Member State can only function if a minimum standard of social security is assured for all those employed in this sector.

Amendment 18

ARTICLE 1, POINT 13

Article 11a (Directive 97/67/EC)

Whenever necessary to protect the interest of users and/or to promote effective competition, and in the light of national conditions, Member States shall ensure that transparent and non-discriminatory access conditions are available to the following elements of postal infrastructure or services: postcode system, address database, post office boxes, collection and delivery boxes, information on change of address, re-direction service, return to sender service.'

Whenever necessary to protect the interest of users and/or to promote effective competition, and in the light of national conditions, Member States shall ensure that transparent and non-discriminatory access conditions are available to the following elements of postal infrastructure or services: postcode system, address database, post office boxes, collection and delivery boxes, ***distribution services***, information on change of address, re-direction service, return to sender service.'

Justification

Access to a large and dense distribution network can be an important criterion for selecting a postal service provider, particularly in the case of business customers. So to safeguard effective opening of the market, access to the distribution system should be included in the list in Article 11a.

Amendment 19

ARTICLE 1, POINT 14

Article 12 indent 1 (Directive 97/67/EC)

– prices must be affordable and must be such that all users have access to the services provided. Member States may maintain or introduce free postal service for blind and partially sighted persons,

– prices must be affordable and must be such that all users have access to the services provided. ***National regulatory authorities shall clearly define affordability for an item of correspondence.*** Member States may maintain or introduce free postal service for blind and partially sighted persons,

Justification

It is important for consumer protection purposes that the requirement of affordable prices remains enshrined in the postal services directive. But the concept of ‘affordable’ prices should be clearer. This cannot be clarified at European level but only by the regulatory authorities at national level.

Amendment 20

ARTICLE 1, POINT 14

Article 12, indent 2 (Directive 97/67/EC)

– prices must be cost-oriented and stimulate efficiency gains; ***whenever necessary for reasons relating to the public interest, Member States may decide that a uniform tariff should be applied throughout their national territory and/or to the territories of other Member States,*** to services provided at single piece tariff ***and to other items,***

– prices must be cost-oriented and stimulate efficiency gains; ***national regulatory authorities may impose a uniform tariff within the territory under their responsibility*** to services provided at single piece tariff,

Justification

The concept of ‘the public interest’ does nothing to improve the wording’s clarity and so should be avoided here.

Amendment 21
ARTICLE 1, POINT 15
Article 14, paragraph 3, point b (iii a) (new) (Directive 97/67/EC)

(iiia) common costs which are necessary to provide both universal services and non-universal services may not be entirely allocated to universal services; the same cost drivers must be applied to both universal services and non-universal services.

Justification

There is a need to ensure that shared costs are properly allocated to their causes, so that the costs of services that do not belong to the universal service are not artificially held down by undue allocation to the universal service.

Amendment 22
ARTICLE 1, POINT 15
Article 14, paragraph 8 (Directive 97/67/EC)

8. Where a given Member State has not established a financing mechanism for universal service provision, as permitted under Article 7, and where the national regulatory authority is satisfied that none of the designated universal service providers in that Member State is in receipt of State assistance, hidden or otherwise, and that competition in the market is fully effective, the national regulatory authority may decide not to apply the requirements of this Article. The national regulatory authority shall inform the Commission in advance of taking any such decision.

8. Where a given Member State has not established a financing mechanism for universal service provision, as permitted under Article 7, and where the national regulatory authority is satisfied that none of the designated universal service providers in that Member State is in receipt of State assistance, hidden or otherwise, and that competition in the market is fully effective, the national regulatory authority may decide not to apply the requirements of this Article. ***However, this Article shall apply to incumbent universal service providers so long as no other universal service providers have been appointed.*** The national regulatory authority shall inform the Commission in advance of taking any such decision.

Justification

Article 14 is of central importance for the allocation of costs and thus ultimately for effective

competition. Even if no other universal service provider has been designated, the Article 14 rules must be complied with, to ensure that cost allocation does not create barriers to market access.

Amendment 23
ARTICLE 1, POINT 20
Article 22a, paragraph 1 b (Directive 97/67/EC)

(b) for clearly defined statistical purposes. ***deleted***

Justification

The essential information should already have been obtained by the regulatory authorities. So in the interest of simplicity and less red tape Point (b) should be dispensed with.

Amendment 24
ARTICLE 1, POINT 21
Article 23 (Directive 97/67/EC)

Every ***three*** years, on the first occasion no later than 31 December 2011, the Commission shall submit a report to the European Parliament and the Council on the application of this Directive, including the appropriate information about developments in the sector, particularly concerning economic, social, employment patterns and technological aspects, as well as about quality of service. The report shall be accompanied where appropriate by proposals to the European Parliament and the Council.

Every ***four*** years, on the first occasion no later than 31 December 2011, the Commission shall submit a report to the European Parliament and the Council on the application of this Directive, including the appropriate information about developments in the sector, particularly concerning economic, social, employment patterns and technological aspects, as well as about quality of service. The report shall be accompanied where appropriate by proposals to the European Parliament and the Council.

No later than 31 December 2008, the Commission shall issue guidance on the application of the competition and State aid rules to the postal sector.

Justification

On completion of the single market for postal services, and also in the interest of less red tape, a reporting requirement every four years ought to be enough.

The Commission's 'Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain State measures relating to postal services' (98/C 39/02) is rather out of date. Investors need legal certainty, so new Commission

guidelines are required.

EXPLANATORY STATEMENT

1. Background

At the end of 2006 the Commission submitted:

1. a Proposal for a directive amending Directive 97/67/EC concerning the full accomplishment of the internal market of Community postal services (COM(2006) 594),
2. a Prospective study on the impact on universal service of the full accomplishment of the postal internal market in 2009 (COM(2006) 596),
3. two documents containing the results of the impact assessment (SEC (2006) 1291 and 1292),
4. a report on the on the application of the Postal Directive (COM(2006) 595).

By submitting documents 1 and 2 above, the Commission has complied with its obligations under Article 7(3) of the Postal Services Directive.

2. Commission's preparatory work and studies

The Commission proposal is based on a large number of studies. Since 1997, 14 studies were commissioned which were then supplemented by six larger studies between 2004 and 2006. Ten open workshops and a Eurobarometer survey on consumer satisfaction followed. The Commission also carried out a public consultation exercise, during which 2295 questionnaires and 103 other written contributions were submitted.

2.1. Prospective study

The prospective study is based essentially on the results of a 2006 sector study by PriceWaterhouseCoopers (PWC) on the Impact on Universal Service of the Full Market Accomplishment of the Postal Market. This study may be inspected in full on the Internet at http://ec.europa.eu/internal_market/post/studies_en.htm.

This study does not expect any further significant change following full market opening as regards access to postal services. It merely notes, for remote regions, that there may be a need for assisting measures if insufficient alternatives are offered by market actors.

On quality of service, it expects standards to be maintained; however, it mentions that regulatory controls could be necessary for less attractive market segments.

In general, it assumes that the services on offer will be more closely geared to customer needs and willingness to pay. As regards the criterion of affordable prices, the Commission feels that upper price limits might be considered.

On the financing of the universal service, the Commission assumes that, following full market opening, market forces will contribute to a more efficient universal service provision and limit costs, though at the same time it stresses that future of universal service cannot be put solely in the hands of market forces. The possible need for ad hoc financing and regulatory measures is mentioned.

Employment: The Commission assumes that the opening of the market will lead to an expansion of postal markets and ultimately contribute to maintaining sustainable employment within universal service providers and creating new jobs with new operators.

The PWC study comes to the conclusion that the opening of the market in 2009 would not endanger the provision of the universal service in any of the Member States – a view which is expressed in other studies too. Flanking measures are regarded as necessary in individual cases, but it is not felt to be either necessary or appropriate to postpone the date for market opening.

The study fears that a delay in market opening would send the wrong signal to the market. The lack of regulatory certainty might discourage the investments needed to meet the new challenges of the market.

The study considers that appropriate flanking measures to guarantee the provision of the universal service can best be taken at Member State level.

2.2. Impact assessment

The impact assessment (SEC(2006) 1291 and 1292) begins by setting out four basic options:

- Option A – no legislative proposal. It is important to remember that the Postal Services Directive contains a “sunset clause” in Article 27, whereby the directive will expire on 31 December 2008. In other words, if no new proposal has entered into force by then, the postal sector would be governed primarily by EC Treaty rules (in particular the competition rules under Article 86 and Commission decisions and/or directives under Article 86(3)).
- Option B – a substantially new and comprehensive postal services directive.
- Option C – prolongation of the existing Postal Directive beyond 2009 – in this option only the sunset clause ("expiry clause") in Article 27 would be deleted
- Option D – adapting the existing Directive. Under this option, the framework already established would be maintained and built on. This is the strategy pursued in the proposed directive.

Options A and B were expressly rejected in the study, while further consideration was given to options C and D. The Commission then worked out ten specific (detailed) political options, in which, by way of experiment, it varied different parameters such as the extent of the universal service, universal standards, access to essential facilities, financing mechanisms, uniform tariffs, etc. Owing to lack of space it is not possible to go into further detail on this

analysis here: your rapporteur recommends reading the study. The results of the impact assessment are of course ultimately reflected in the proposal for a directive.

3. The Commission proposal in detail

The aim of the Commission proposal is:

- to accomplish the internal market in postal services, i.e. to remove exclusive and special rights in the postal sector, while at the same time
- to sustainably safeguard high-quality universal services at affordable prices, and
- to set harmonised principles for the regulation of postal services.

Individual points:

Timetable: The Commission confirms the date of 1 January 2009 for full market opening laid down in the existing Postal Services Directive: from that date there are to be no more exclusive or special rights for individual undertakings.

Flanking measures:

- The mandatory ex-ante designation of universal service provider(s) (Article 4 of the current version of the Postal Services Directive) is also to be abolished. The Member States themselves are to determine the most efficient and appropriate mechanism for the provision – by one or more undertakings – of the universal service. The conditions under which the universal services are entrusted must be based on the principles of objectivity, transparency, non-discrimination, proportionality and least market distortion.
- Universal service tariffs must be oriented to costs. Only in clearly defined exceptional cases is it permitted to deviate from the principle that prices for postal services must be cost-oriented. The Commission proposes that the Member States should limit tariff uniformity to items subject to single piece tariffs, i.e. to the services which are mostly used by consumers and small enterprises (Article 12, second indent).
- Financing of the universal service. The new Article 7 lists the alternatives open to the Member States for financing the universal service after the abolition of exclusive rights. This list comprises:
 - public compensation,
 - public procurement procedures,
 - possibility of introducing a compensation fund.

Other features of the proposal:

- The Member States may continue to use authorisation and individual licenses (Article 9), though the proposal is stricter in specifying which conditions are allowed and which are prohibited.
- Access to central postal infrastructures and services: A new Article 11a is proposed which permits the Member States to ensure, under certain conditions,

that transparent and non-discriminatory access conditions are available to particular elements of postal infrastructure (postcode system, post office boxes, collection and delivery boxes etc.).

- Reinforcing consumer protection (Art. 19). To this end, the application of minimum principles concerning complaint procedures is extended beyond universal service provider(s).
- National regulatory authorities: The role of national regulatory authorities is likely to remain crucial, in particular during the transition to competition. Article 22 calls for the authorities' regulatory functions to be separated from activities associated with ownership of postal operators, and for greater transparency in the allocation of regulatory duties.

4. Your rapporteur's assessment and recommendations

Apart from the confirmation of 2009 as the target date for the reserved sector, the key topics at issue are now the following:

- Extent of the universal service – its evolution into a consumer protection instrument
- Financing mechanisms – following the abolition of the reserved sector, is there a need for alternative financing mechanisms?
- Access to specific postal infrastructure facilities: are special rules needed?

Your rapporteur has held numerous detailed discussions with operators in the postal sector and has formed a comprehensive overview of their ideas. In the light of the wide-ranging material available in the form of studies, your rapporteur considers that Parliament now has plenty of documentary evidence on which to base a decision and that there is no need for further hearings, etc.

Your rapporteur is convinced that the Commission is basically pursuing the right course and supports the broad lines of the proposal:

The 2009 deadline should come as no surprise to postal operators: it is already in the existing version of the Postal Services Directive and is thus already based on a conscious decision by the European legislator. Plenty of preparatory time was allowed, and your rapporteur considers that it is now important to send a clear and reliable signal on market opening. Any further delays would create uncertainty, make market actors uneasy and ultimately penalise those countries and undertakings which have acted as pioneers in this field. Your rapporteur also recalls the positive conclusion which Parliament drew, in an own-initiative report back in February 2006, on developments in the market so far and the harmonisation framework put in place (P6_TA(2006)0040).

Your rapporteur has, nonetheless, tabled a number of amendments on individual points requiring addition or clarification. The key points of these amendments are:

a) A balanced solution needs to be found to the question of the extent of the universal service. Small private customers still need protection and guarantees of the kind offered by Article 3 if they are to send and receive small quantities of letters under reasonable conditions, while different conditions apply to larger business customers: under competition, bulk mailing services are provided in accordance with demand; providers react flexibly and develop new services. Your rapporteur proposes that this dichotomy should be taken into account and that the universal service be converted into an instrument of consumer protection – in other words, it should be restricted to individual items. Large business customers and bulk mailers do not require any such protection, and so it would be possible to avoid unnecessary interventions in the provision of these services can be avoided (cf. amendments to recital 14 and Article 13(1)).

b) Your rapporteur is aware of the importance to the consumer of affordable prices for postal services. It is right that this point should remain enshrined in the revised version of the directive. However, two amendments to Article 12 seek to clarify these concepts and underline the options for the national regulatory authorities in this connection.

c) Another important complex of issues relates to the status and rights of workers in the postal sector. To that end, your rapporteur calls for the inclusion of a new Article 9(3a) clarifying the Member States' options for regulating the conditions of employment.

d) The question of accounting (new version of Article 14) is of crucial importance, since imprecise accounting can easily lead to distortions of the market. Your rapporteur has tabled an amendment seeking to define more precisely the allocation of common costs (costs which cannot be allocated directly to a particular service or product). A further amendment seeks to guarantee the application of Article 14 even when no other universal service providers have been appointed, since even where there is only one provider, distorted accounting by this provider could effectively act as a barrier to market access.

e) A further complex of issues related to accounting is that of cross-subsidy. On this topic your rapporteur has tabled two amendments to recitals. The first seeks to make clear that the monitoring of cross-subsidy falls within the Commission's sphere of competence: Recital 25 should therefore be deleted. The second amendment, to Recital 26, seeks to achieve a clear allocation of common costs on the basis of their origin in order to avoid cross-subsidy.

f) Clear rules on competition law and state aids are another important element in an operational postal market. To that end your rapporteur has tabled two amendments (on Recital 26a and Article 23) which urge the Commission to provide interpretative communications on these matters.

g) The amendments on the collection of statistics (on Article 22a (1b)) and on a longer interval between Commission reports (Article 23) are intended to contribute to the dismantling of administrative / bureaucratic burdens.

h) Further amendments relate to access to the distribution network (Article 11a) and interoperability (Recital 22).

On the matter of financing, your rapporteur considers that the Commission's list (Article 7) offers the Member States appropriate solutions. Additional solutions which go beyond this list have been suggested to your rapporteur during the course of his consultations, but no convincing alternative concepts have been put forward. Your rapporteur has therefore not tabled any amendments on this point.

Finally, your rapporteur would draw attention once again to the expiry clause (“sunset clause”) with a cut-off point of 21 December 2008. This deadline stands as a warning to Parliament and Council to take decisive action, so that we are not faced with the risk of the Directive expiring at the beginning of 2009 and having to resort to primary law, thereby relinquishing our legislative competence.