NOTICE TO MEMBERS


1. Summary of petition

The petitioner complains of serious inefficiencies and delays by the Italian Post Office which in his opinion are contrary to Directive 2008/6/EEC, Article 3 of which provides that ‘Member States shall take steps to ensure that the universal service is guaranteed not less than five working days a week, save in circumstances or geographical conditions deemed exceptional, and that it includes as a minimum one delivery to the home or premises of every natural or legal person or, by way of derogation, under conditions at the discretion of the national regulatory authority, one delivery to appropriate installations’.

2. Admissibility

Declared admissible on 12 January 2015. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 29 September 2015

According to Article 3(3) of Directive 97/67/EC as modified by Directive 2002/39/EC and most recently by Directive 2008/6/EC1 (hereafter the Postal Services Directive) "Member States shall take steps to ensure that the universal service is guaranteed not less than five working days a week, save in circumstances or geographical conditions deemed exceptional [...]". The Postal Services Directive has been transposed in Italy by Legislative Decree 58/2011 that amended Legislative Decree 261/1999 of 22 July 1999 which transposes Directive 97/67/EC (the provision in question is subject of its Article 3). In Italy the postal regulatory authority (AGCOM) is in charge of overseeing that this obligation is respected.

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The problems that the petitioner has pointed out in relation to the sorting centres (centri di meccanizzazione postale) that have occurred after October 2013 are due to strike actions by the companies that had been in charge of the maintenance as reported by Poste Italiane. As a matter of fact, following a public procurement procedure undertaken by Poste Italiane, another company has now been entrusted with the maintenance. As regards the staff reductions referred to by the petitioner, Poste Italiane states that the figures are not correct.

Following newspaper articles, including those the petitioner refers to ("Il Fatto Quotidiano", "La Nazione" and "L'Espresso" published in 2013/14), AGCOM has requested detailed information from the universal service provider and has, after having received the requested information, decided not to start any formal procedure.

Conclusions

In this situation, the Commission takes the view that, despite the significant impact the aforementioned events had on the service, the general quality requirements as set out in the postal legislation have been achieved.

At the end of June the petitioner added to his petition a document by the national regulatory authority (AGCOM) relating to the consultation exercise by that authority that was underway regarding exemptions from the daily delivery frequency (Delibera 163/15/CONS). The Commission will thoroughly analyse if the decision taken by AGCOM subsequent to the above consultation (Delibera 395/15/CONS) that was notified to the Commission on 20 July 2015 respects the legal requirements of the Postal Services Directive and, if necessary, take appropriate action.

In September 2015 the petitioner added to his petition the AGCOM decision 342/14/Cons of 14 June 2014 authorising the change in the number of post offices. In this regard, it should be noted that under Article 3(2) of the Postal Services Directive the density of the points of contact and of the access points must be ensured by Member States taking account of needs of the users. The Commission considers that there are no elements that would allow to conclude that this decision violates the obligations under Article 3 of the Postal Services Directive, notably to provide a postal service of specified quality at all points of the territory.

4. Commission reply (REV.), received on 29 June 2016

According to Article 3(3) of Directive 97/67/EC as modified by Directive 2002/39/EC and most recently by Directive 2008/6/EC1 (hereafter the Postal Services Directive) "Member States shall take steps to ensure that the universal service is guaranteed not less than five working days a week, save in circumstances or geographical conditions deemed exceptional [...]". Article 5(1) fifth indent of the Postal Services Directive states that the [universal service] "shall evolve in response to the technical, economic and social environment and to the needs of users". The Postal Services Directive has been transposed in Italy by Legislative Decree 58/2011 that amended Legislative Decree 261/1999 of 22 July 1999 which transposes Directive 97/67/EC; the provision relating to possible exemptions from daily delivery (Article 3, paragraph 7 of the above Legislative Decree) has been amended further by Legge 23 dicembre 2014, n. 190 that increased the possible scope of this provision to 25% of the population. In Italy the postal regulatory authority (AGCOM) is in charge of implementing

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and overseeing this provision. After a consultation process a framework decision has been taken by AGCOM (395/15/CONS). This decision authorises alternate day delivery for postal universal services in three phases. It is important to note that the decision contains a provision (Article 3) that not only explicitly allows AGCOM to revise the decision in February 2018 but also foresees that all the different phases may be limited or subject to corrective measures. Furthermore, the phases of the implementation of the decision are subject to reporting obligations for Poste Italiane and monitoring by AGCOM.

As far as newspapers are concerned it was decided to establish a round table with editors and the ministry to agree a proposal that incorporates the distribution of daily publications and weekly periodicals in the areas affected alternate-day delivery. It has been established by AGCOM that the proposal must be fair and reasonable, devised to meet the sustainability criteria, and in any event must be consistent with the principle of affordable prices for end users. On this basis Poste Italiane has submitted an offer to continue to provide daily newspaper delivery in 65% of the alternate day delivery areas; in relation to the initial hypothesis of 23.2% of the population that would be in phase three subject to alternate day delivery this would result in a substantial reduction to 14%-16% of the population. In absolute figures the Commission understands that this would mean that in the whole of Italy around 20 000 persons would not be provided daily delivery of newspapers. As for this affected group AGCOM has insisted that (a) the municipalities affected are given priority in measures foreseen in the stability law 2016 for the promotion of digital subscriptions (this includes notably the use of fund from frequency auctions) and that (b) Poste Italiane would provide a complementary offer relating to a digital offer to this group.

Conclusion

In this situation, the Commission takes the view that the implementation of the measures authorised by the AGCOM decision will require further monitoring, in particular to ensure that a viable digital solution is also found for those newspaper subscribers that are not subject to the above offer provided by Poste Italiane. The Commission positively notes the engagement of the AGCOM to ensure the continuation of an affordable universal postal service that remains sustainable. The respect of the reporting obligation and close monitoring should ensure the implementation of a solution that respects the legal requirements of the Postal Services Directive.