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*****I** **REPORT**

on the proposal for a European Parliament and Council directive amending Directive 97/67/EC with regard to the further opening to competition of Community postal services
(COM(2000) 319 - C5-0375/2000 - 2000/0139(COD))

Committee on Regional Policy, 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)

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PROCEDURAL PAGE

By letter of 14 July 2000 the Commission submitted to Parliament, pursuant to Articles 251(2), 47(2), 55 and 95 of the EC Treaty, the proposal for a European Parliament and Council directive amending Directive 97/67/EC with regard to the further opening to competition of Community postal services (COM(2000) 319 - 2000/0139 (COD)).

At the sitting of 4 September 2000 the President of Parliament announced that she had referred this proposal to the Committee on Regional Policy, Transport and Tourism as the committee responsible and the Committee on Budgets, the Committee on Economic and Monetary Affairs, the Committee on Legal Affairs and the Internal Market, the Committee on Industry, External Trade, Research and Energy and the Committee on Employment and Social Affairs, for their opinions (C5-0375/2000).

The Committee on Regional Policy, Transport and Tourism had appointed Markus Ferber rapporteur at its meeting of 11 July 2000.

The committee considered the Commission proposal and draft report at its meetings of 13 September 2000, 12 October 2000 and 22 November 2000 .

At the last meeting it adopted the draft legislative resolution by 42 votes to 8, with 7 abstentions.

The following were present for the vote: Konstantinos Hatzidakis, chairman; Emmanouil Mastorakis, Rijk van Dam and Helmuth Markov, vice-chairmen; Markus Ferber, rapporteur; Sir Robert Atkins, Elspeth Attwooll, Emmanouil Bakopoulos, Rolf Berend, Theodorus J.J. Bouwman, Philip Charles Bradbourn, Martin Callanan, Felipe Camisón Asensio, Carmen Cerdeira Morterero, Luigi Cesaro, Luigi Cocilovo (for Renate Sommer), Gerard Collins, Danielle Darras, Proinsias De Rossa (for Demetrio Volcic pursuant to Rule 153(2)), Francis F.M. Decourrière, Alain Esclopé, Giovanni Claudio Fava, Mathieu J.H. Grosch, Ewa Hedkvist Petersen, Mary Honeyball, Marie Anne Isler Béguin (for Reinhold Messner), Juan de Dios Izquierdo Collado, Georg Jarzembowski, Dieter-Lebrecht Koch, Giorgio Lisi, Sérgio Marques, Erik Meijer, Rosa Miguélez Ramos, Francesco Musotto, Camilo Nogueira Román, Juan Ojeda Sanz, Josu Ortuondo Larrea, Karla M.H. Peijs, Wilhelm Ernst Piecyk, Giovanni Saverio Pittella (for Garrelt Duin), Samuli Pohjamo, Adriana Poli Bortone, Alonso José Puerta, Reinhard Rack, Carlos Ripoll i Martínez Bedoya, Guido Sacconi (for John Hume), Isidoro Sánchez García, Marieke Sanders-ten Holte (for Paolo Costa), Gilles Savary, Agnes Schierhuber (for Dana Rosemary Scallon), Ingo Schmitt, Brian Simpson, Dirk Sterckx, Ulrich Stockmann, Joaquim Vairinhos, Ari Vatanen and Mark Francis Watts.

The opinions of the Committee on Legal Affairs and the Internal Market, the Committee on Industry, External Trade, Research and Energy and the Committee on Employment and Social Affairs are attached. The Committee on Budgets and the Committee on Economic and Monetary Affairs decided on 14 September 2000 and on 7 November 2000 respectively not to deliver an opinion.

The report was tabled on 28 November 2000.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

LEGISLATIVE PROPOSAL

Proposal for a European Parliament and Council directive amending Directive 97/67/EC with regard to the further opening to competition of Community postal services (COM(2000) 319 – C5-0375/2000 – 2000/0139(COD))

The proposal is amended as follows:

Text proposed by the Commission ¹	Amendments by Parliament
(Amendment 1) Recital 2	
<p>(2) Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service⁶ established a regulatory framework for the postal sector at Community level, including measures to guarantee a universal service, the setting of maximum limits for the postal services which Member States may reserve to their universal service provider(s) with a view to the maintenance of the universal service, and a timetable for decision-making on the further opening of the market to competition, for the purposes of creating a single market in postal services.</p>	<p>(2) Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service⁶ established a regulatory framework for the postal sector at Community level, including measures to guarantee a universal service, the setting of maximum limits for the postal services which Member States may reserve to their universal service provider(s) with a view to the maintenance of the universal service.</p>

Justification:

Since impact studies have still not been carried out, it does not make sense to talk about a timetable for opening the market to competition.

(Amendment 2)
Recital 4a (new)

(4a) The measures described must be fashioned in such a way that the social tasks of the Community pursuant to Article 2 of the Treaty - namely, a high level of employment and of social protection – are also achieved as objectives.

¹ OJ C (not yet published)

⁶ OJ L 15, 21.1.1998, p. 14.

Justification:

These objectives should once more be explicitly cited in respect of the postal services field.

(Amendment 3)
Recital 4b (new)

(4b) The rural postal network plays a vital role in integrating rural businesses into the national/global economy, and maintaining social cohesion and employment in rural areas. Further, rural post offices can provide a vital infrastructural network for universal access to new communications technologies.

Justification:

Self-explanatory.

(Amendment 4)
Recital 5

(5) The European Council, meeting in Lisbon, on 23 and 24 March 2000, set out in its Presidency conclusions two decisions applying to Postal services, where action was requested of the Commission, the Council and the Member States in accordance with their respective powers; the requested actions are: first, to set out by the end of 2000 a strategy for the removal of barriers to services, namely Postal services; and second, to speed up liberalisation in areas such as Postal services, ***the stated aim being to achieve a fully operational market in Postal services.***

(5) The European Council, meeting in Lisbon, on 23 and 24 March 2000, set out in its Presidency conclusions two decisions applying to Postal services, where action was requested of the Commission, the Council and the Member States in accordance with their respective powers; the requested actions are: first, to set out by the end of 2000 a strategy for the removal of barriers to services, namely Postal services; and second, to speed up ***the gradual and controlled*** liberalisation in areas such as Postal services.

Justification:

It is important to remind the main conditions that were stipulated in the 97/67/EC Directive adopted by co-decision by the Parliament and the Council, as the Lisbon Summit conclusions didn't mean undermining the existing EU legislation. Moreover, the Feira Summit (19th June 2000) explicitly referred to the proposal of the Commission as "the next stage of postal liberalisation". See also Parliament resolution B5-0587, 0588 and 0590/2000.

(Amendment 5)
Recital 6

(6) The Commission ***has undertaken*** a thorough review of the Community postal sector, including the commissioning of studies ***on the economic, social and technological developments in*** the sector, ***and has consulted extensively with interested parties.***

(6) The Commission ***must still undertake*** a thorough review of the Community postal sector, including the commissioning of studies ***of the sector by consulting all interested parties: consumers, operators, employees, and local and regional authorities, in order to be in a position to produce the assessments specified in Article 23 of Directive 97/67/EC and called for by Parliament in its resolutions of 14 January 1999 (paragraphs 3 and 4) and 18 January 2000 (paragraph 1).***

Justification:

The amended version is a more accurate reflection of the Commission actions to date. Public postal services employ 1 300 000 people in the Union. Post offices are irreplaceable as points of social contact for many people who live in disadvantaged regions and areas. It seems reckless to take liberalisation further when the Commission has not yet supplied the reports, studies and assessments specified and called for.

(Amendment 6)
Recital 7

(7) The Community postal sector requires a modern regulatory framework which aims at ***enhancing*** the internal market for postal services ***in order to enable the sector to compete*** with alternative methods of communication ***and to satisfy the changing and increased demands of users.***

(7) The Community postal sector requires a modern regulatory framework which aims ***in particular at promoting*** the internal market for postal services. ***Increased competitiveness should enable the postal sector to be integrated*** with alternative methods of communication ***and allow the quality of the service provided to ever-more demanding users to be improved.***

Justification:

The general aim should be to make the postal sector competitive as a means of communication and to ensure that this benefits users.

(Amendment 7)
Recital 8

(8) The basic aim of **ensuring** the durable provision of a universal service matching the standard of quality **required** by Directive 97/67/EC on a consistent basis throughout the Community can be secured under conditions of high efficiency ensured by the freedom to provide services in this area.

(8) The basic aim of **safeguarding** the durable provision of a universal service matching the standard of quality **defined** by **the Member States in accordance with Article 3 of** Directive 97/67/EC on a consistent basis throughout the Community can be secured **if, in this area, the possibility of reserving services is maintained and at the same time, there are** conditions of high efficiency ensured by **a sufficient degree of** freedom to provide services.

Justification:

Because of the substance of the proposal, such wording is more appropriate. The question of whether complete freedom to provide services ensures that universal service is safeguarded should not be clarified by Parliament and the Council until after further opening of the market for postal services.

As is already the case in certain Member States, it must be made clear that Member States are free to define a universal service which exceeds the minimum requirements laid down in Article 3 of Directive 97/67/EC, as regards the number of deliveries and collections per week, maintenance of the rural post office network, and any requirement to provide the universal service at a uniform tariff.

(Amendment 8)
Recital 9

(9) The **competitive** advantages provided by a universal postal network which is efficient and responsive to customer demand **can** help to offset **any** additional costs incurred by reason of the obligation to provide a universal service which cannot be self-financing.

(9) The advantages provided by a universal postal network which is efficient and responsive to customer demand **may in some Member States** help to offset additional costs incurred by reason of the obligation to provide a universal service which cannot be self-financing.

Nevertheless, it should be noted that the rules of competition cannot be drawn up in such a way as to ensure equity between postal operators in the universal service and competing operators, as the latter operate mainly within closed networks (without public access points, contracts, contact and collection from sender via call centres, etc.), whereas universal

service operators maintain the contact point density laid down in Article 3 of Directive 97/67/EC, which requires an appropriate reserved service.

Justification:

The amended version makes clear that the Commission proposals will impact differently in some Member States. The adjective 'competitive' is superfluous. The second part of this recital is necessary to achieve a balance by pointing out the true nature of the 'competitive advantages' which new operators enjoy.

(Amendment 9)
Recital 10

(10) Experience has shown that referring only to the price limit as a means of determining the added value of express services is no longer a practical proposition due to the development of added value express services below the price limit. ***deleted***

Justification:

This amendment is intended to ensure the consistency of the proposal.

(Amendment 10)
Recital 10a (new)

(10a) The concept of universal service is dynamic in nature, and it may therefore be necessary in the future, as a result of technical, social and economic processes, to add certain services to universal service which have hitherto not come under universal service obligations.

Justification:

As what society requires of universal service may change as a result of technical, economic or other factors, Member States should have the option of bringing universal service into line accordingly.

(Amendment 11)
Recital 11

(11) It is therefore appropriate to define a category comprising “Special services” fulfilling Special customer needs, this category should include all services with the required Added features.

deleted

Such services should not be reserved, regardless of the weight or the price of such items.

In this context it will not be sufficient to send mail electronically only for distant printing in order to for it to fall outside the reserved area.

Justification:

The debate on the Postal Services Directive contained a contentious element called “new services”. It was agreed that new services do not form part of the universal service and therefore may not be reserved.

(Amendment 12)

Recital 12

(12) The increase in demand within the Postal sector as a whole predicted for the medium term will help to offset the loss of market share that the universal service providers may incur as a result of further market opening and thereby further safeguard the universal service.

(12) ***It is presumed*** that the increase in demand within the European Postal sector predicted for the medium ***and long term may help to increase market volume but may lead to a reduction in revenue, hence questioning the provision of the universal service.***

In the light of the technological advances that have occurred, this increase in demand will have a qualitative impact on postal services which will necessitate a review of the scope of the universal service in order to harmonise the supply of services and take account of changes in consumers' needs and the impact of the development of the information society. Such a review of the scope of the universal service necessitates the maintenance of a reserved service as laid down in Article 7.

Justification:

Increased demand may not occur in all Member States and further market opening may simply squeeze the margins of some USPs to the point where they cannot generate an operational surplus. The existence of high-quality services of general interest necessitates continuous

reappraisal and adaptation of the universal service in order to prevent it from gradually becoming a minimum, second-rate service. It is therefore necessary to exercise caution when adjusting the scope of the reserved services, so as not to render changes irreversible.

(Amendment 13)
Recital 13

(13) Amongst the drivers for change affecting employment in the postal sector, technological development and market pressure for efficiency gains are the most important; ***of the remaining drivers for change, market opening will play a less prominent part. Market opening will help to expand the overall size of the Postal markets; any reductions in staff levels among the universal service providers due to such measures (or their anticipation) are likely to be*** offset by the resulting growth in employment among private operators and new market entrants.

(13) Amongst the drivers for change affecting employment in the postal sector, ***market openings***, technological development and market pressure for efficiency gains are the most important. ***Past market openings have lead to a significant reduction in employment only partially offset by the resulting growth in employment among private operators and new market entrants.***

Justification:

In today's highly labour intensive postal markets, the main negative drive for change can only be significant market openings.

(Amendment 14)
Recital 13 a (new)

(13a) Studies commissioned by the Commission have highlighted poorer quality employment conditions among private operators compared to public operators - including shorter contracts, longer working hours, lower wages, and lower rates of trade union membership - and the gradual spread of such trends to public operators which have been subject to market opening; these trends undermine the efforts of Universal Postal Service operators to invest in personnel; identified as necessary by the Commission's consultants if they are to meet the challenges facing the postal sector. These trends also run counter to the emphasis being placed on quality

employment and partnership by the Lisbon Strategy launched in March 2000 and the New Social Agenda presented by the Commission on 28th June, 2000.

Justification:

The opening of the market to date has resulted in negative trends in both the quantity and quality of jobs, contrary to the explicit objectives of both the Commission and Council.

(Amendment 15)

Recital 15

(15) It is appropriate to ensure that the next phase of market-opening is **both substantial in nature** and achievable in practice for the Member States.

(15) It is appropriate to ensure that the next phase of market-opening is **gradual and controlled** and **also** achievable in practice for the Member States, **particularly in view of the fact that the cost of universal service provision varies greatly amongst the various EU Member States, according to their area, their geographical nature and their population distribution.**

Justification:

Attention should be drawn to the basic principle of Directive 97/67/EC, pursuant to which the parameters of reserved services are defined 'to the extent necessary to ensure the maintenance of universal service' (Article 7(1) of Directive 97/67/EC). In that same directive, universal service is defined as 'the permanent provision of a postal service (...) at all points in their territory at affordable prices for all users'. Delimitation of the reserved service must therefore take into account the geographical and demographic diversity of the individual EU Member States, since the Member States which so wish or which are in a position to do so still have the option of adopting more liberal measures by reducing the weight/price limit applied in the reserved area.

(Amendment 16)

Recital 16

(16) A general reduction to **50** grams in the weight limit of the services which may be reserved to the universal service providers, **combined with opening outgoing cross-border mail and express mail fully to competition**, represents a relatively simple and controlled further phase which is nevertheless significant.

(16) A general reduction to **150** grams in the weight limit of the services which may be reserved to the universal service providers represents a relatively simple and controlled further phase which is nevertheless significant.

Justification:

A reduction in the weight and price limits to 50 grams and two and a half times the basic tariff combined with a total liberalisation of outgoing cross-border mail and express mail is too drastic a measure. It would have a devastating impact on providers of universal postal services.

(Amendment 17)

Recital 17

(17) In the Community, items of ordinary correspondence weighing between 50 grams and 350 grams represent on average approximately 16% of the total postal revenues of the universal service providers, whilst items of outward cross-border correspondence and express services below the price limit represent a further 4% or so, on average, of the total postal revenues of the universal service providers. *deleted*

Justification:

This recital is now redundant on account of proposed changes to the body of the directive.

(Amendment 18)

Recital 18

(18) A price limit for the services capable of being reserved, of **two and a half** times the public tariff for an item of correspondence in the first weight step of the fastest standard category, is appropriate in combination with a **50**-gram weight limit where applicable.

(18) A price limit for the services capable of being reserved, of **four** times the public tariff for an item of correspondence in the first weight step of the fastest standard category, is appropriate in combination with a **150**-gram weight limit where applicable.

Justification:

A reduction in the price limits of two and a half times the basic tariff is too drastic a measure. This would have a devastating impact on providers of universal postal services.

(Amendment 19)

Recital 19

(19) A 50 gram weight limit for items of ordinary domestic correspondence is practical as it does not present a risk of its circumvention by way of an artificial increase in the weight of individual items of correspondence since most items of correspondence are below 20 grams in weight. *deleted*

Justification:

In view of the requirements for the first review, and in view of the data provided by the universal service providers and moreover, in view of the possible political compromise in Council, 150 grams appears to be the most appropriate next step towards market opening in 2003.

(Amendment 20)
Recital 20

(20) Direct mail **already** represents in most Member States a dynamic and growing market with **substantial** growth prospects while in the remaining Member States there is considerable potential for growth; **Direct mail is already largely open to competition in six member States; The improvements in service flexibility and pricing resultant from competition would improve the position of direct mail versus alternative communications media; which in turn would be likely to lead to new postal items as an additional spin-off and strengthen the position of the Postal industry as a whole; Nevertheless, to the extent necessary to ensure** the provision of universal service, direct mail may continue to be reserved within the above weight and price limits of **50 grams and two and a half** times the basic public tariff.

(20) Direct mail represents in most Member States a dynamic and growing market with **satisfactory** growth prospects while in the remaining Member States there is considerable potential for growth;

It is appropriate for the provision of the universal service that direct mail may continue to be reserved within the above weight and price limits of **150 grams and four** times the basic public tariff.

Justification:

The question of existing liberalisation of direct mail needs to be clarified .

(Amendment 21)

Recital 21

(21) Outgoing cross-border mail is already *de facto* open to competition in most Member States; ***its reservation is not needed to ensure universal service representing on average 3% of total postal revenues. Opening this part of the market de jure would allow different postal operators to collect, sort and transport all outgoing cross-border mail and to deliver it in Member States, but only where the domestic regulation in a particular Member State permits this.***

(21) Outgoing cross-border mail is already *de facto* open to competition in most Member States; ***where necessary in order to ensure universal service, cross-border mail may continue to be reserved insofar as this is permitted by the domestic regulations of the Member States and in accordance with the criteria laid down in Article 7.***

Justification:

This amendment proposes to continue to reserve outgoing cross-border mail, if it is within the weight and price thresholds proposed, insofar as this is necessary to ensure provision of the universal service. In other words it is proposed to apply to outgoing cross-border mail the same rules as those laid down for direct mail.

(Amendment 22)

Recital 22

(22) Opening incoming cross-border mail to competition would allow circumvention of the **50-**gram limit through relocation of the posting of a proportion of bulk domestic mail, thereby making its effects unpredictable. Identifying the origins of items of correspondence could present additional enforcement difficulties. A **50-**gram weight limit for items of ordinary incoming cross-border correspondence and direct mail, as for ordinary domestic correspondence, is practical as it does not present a risk of circumvention either in this way or through an artificial increase in the weight of individual items of correspondence.

(22) Opening incoming cross-border mail to competition would allow circumvention of the **150-**gram limit through relocation of the posting of a proportion of bulk domestic mail, thereby making its effects unpredictable. Identifying the origins of items of correspondence could present additional enforcement difficulties. A **150-**gram weight limit for items of ordinary incoming cross-border correspondence and direct mail, as for ordinary domestic correspondence, is practical as it does not present a risk of circumvention either in this way or through an artificial increase in the weight of individual items of correspondence.

Justification:

The reduction in the weight limit to 50 grams would inevitably give rise to problems of circumventing the limit by fraudulently increasing the weight of mail.

(Amendment 23)

Recital 23

(23) Setting a timetable now, aimed at **a further step towards the completion** of the internal market in postal services, is important for both the long-term viability of the universal service and the continued development of modern and efficient posts.

(23) Setting a timetable now, aimed at a **review of the appropriateness and, if necessary, extent of further liberalisation** of the market for postal services, is important for both the long-term viability of the universal service and the continued development of modern and efficient posts.

This review will focus on the need to safeguard a universal service commensurate with the development of posts and on the appropriateness of the reservability of certain services in a competitive market environment.

Justification:

In the interests of a genuine review, this wording is more precise. The deterministic aspect is removed; the substance of the review is made more specific.

(Amendment 24)

Recital 24

(24) It is appropriate to provide for **a further period within which** Member States **may continue** to reserve certain postal services to their universal service provider(s). **This additional period** will enable the universal service providers to complete the process of adapting **their operations and human resources** to conditions of greater competition without upsetting their financial equilibrium and thus without jeopardising the **provision** of universal service.

(24) It is appropriate to **continue to** provide for **the possibility for** Member States to reserve certain postal services to their universal service provider(s). **These arrangements** will enable the universal service providers to complete the process of adapting to conditions of greater competition without upsetting their financial equilibrium and thus without jeopardising the **safeguarding** of universal service.

Justification:

This wording is more appropriate with a view to the proposed review by Parliament and the Council.

(Amendment 25)

Recital 24a (new)

(24a) The introduction of compensation funds both in the postal sector in certain Member States and in other liberalised sectors of activity has given rise to legal uncertainty typified by the development of litigation on a large scale, and therefore the scope of the reserved area should be defined in such a way that universal service providers can, without major difficulties, bear the unfair financial burden on them as a result of providing that service.

Justification:

Directive 97/67/EC made it possible to introduce compensation funds to 'compensate the universal service provider for the provision of services representing an unfair financial burden' (recital 23 of Directive 97/67/EC). What the legislative authority had in mind at the time was that the compensation fund was designed to be a safety net for commensurate funding of universal service and fair sharing of universal service overheads between traditional operators and licensed operators. While we would not challenge that reasoning and that safeguard clause, experience both in the postal field and in other areas (such as telecommunications) shows that the use of such an arrangement should be minimised, since it creates too much legal uncertainty. It is therefore essential to define the scope of reserved services in such a way that universal service providers can carry out their tasks within a legally sound and economically viable environment and to restate that the principle of tariff equalisation is economically and socially a valid one.

(Amendment 26)

Recital 25

(25) It is appropriate both to define the new weight and price limits and the services to which they may apply and to provide for a further review and decision on further ***market-opening***.

(25) It is appropriate both to define the new weight and price limits and the services to which they may apply and to provide for a further review and decision on the ***appropriateness and extent of further market opening***.

Justification:

Parliament and the Council will review the appropriateness and extent of further opening. Such a review, however, need not necessarily result in further opening.

(Amendment 27)

Recital 27

(27) The concept of licensing competitors in the universal service area can be **combined with** requirements obliging such licencees to contribute to the provision of universal service.

(27) The concept of licensing competitors in the universal service area can be **made subject to** requirements obliging such licencees to contribute to the provision of universal service **in particular to accede to the REIMS II agreements, and to offer at least the key working conditions and quality level of training that are customary within universal service provision.**

Justification:

Experience shows that part-time workers, persons in marginal jobs and even full-time workers for postal service licencees usually have to accept considerably worse working conditions than their colleagues working for universal service providers, who are protected by collective bargaining agreements. It can be seen that licence holders achieve nowhere near the level of quality training guaranteed by universal service providers, that crash courses are given and that there is therefore a marked deterioration in service quality.

Full compliance with the REIMS II agreement will contribute to healthier competition, in line with the Court of Justice judgments in joined Cases C-1247/97 and C-148/97, Deutsche Post AG v. GZS and Citicorp.

(Amendment 28)
Recital 27a (new)

(27a) Directive 97/67EC established that Member States shall designate one or more national regulatory authorities for the Postal sector that are legally separate from and operationally independent of the Postal operators.

Whereas, in view of the dynamics of the European Postal markets, the important role National Regulatory Authorities play shall be acknowledged and furthered.

Whereas it is recalled that Article 9 of Directive 97/67/EC allows for Member States to go beyond the objectives of the present Directive.

Justification:

One of the most significant elements resulting from Directive 97/67/EC was that the national regulatory authorities do not appear to play a strong role in policy making. This is unfortunately as it is the national regulatory authorities who are close to the markets and who understand the markets better than the Commission. This role should be acknowledged and furthered.

(Amendment 29)

Recital 28

(28) It is appropriate for national regulatory authorities to link the introduction of all **such** licenses to requirements that consumers of **their** services are to have transparent, simple and inexpensive procedures available to them for dealing with their complaints, regardless of whether they relate to the services of the universal service provider(s) or to those of operators holding authorisations, including individual license-holders. It is further appropriate for these procedures to be available to users of all postal services, whether or not they are universal services.

(28) It is appropriate for national regulatory authorities to link the introduction of all licenses to requirements that consumers of **the licencees'** services are to have transparent, simple and inexpensive procedures available to them for dealing with their complaints, regardless of whether they relate to the services of the universal service provider(s) or to those of operators holding authorisations, including individual license-holders. It is further appropriate for these procedures to be available to users of all postal services, whether or not they are universal services. **Such procedures should include procedures for determining responsibility in case of loss or damage to mail items.**

Justification:

Self-explanatory.

(Amendment 30)

Recital 28a (new)

(28a) It is appropriate for national regulatory authorities to work more closely on a European and international level so as to improve exchange of information.

Whereas, and in view of EU Competition rules, the Commission shall be informed on a regular basis of this cooperation.

Whereas, in view of Article 21 of Directive 97/67/EC, the National Regulatory

Authorities should be more closely associated to the Committee procedure.

Justification:

One of the most significant elements resulting from Directive 97/67/EC was that the national regulatory authorities do not appear to play a strong role in policy making. This is unfortunately as it is the national regulatory authorities who are close to the markets and who understand the markets better than the Commission. This role should be acknowledged and furthered.

(Amendment 31)
Recital 29

(29) The universal service providers normally provide services, for example to business customers, consolidators of mail for different customers and bulk mailers, enabling them to enter the mail stream at different points and under different conditions by comparison with the standard letters service. In doing this, the universal service providers should comply with the principles of transparency and non-discrimination, both as between different third parties and as between third parties and universal service providers supplying equivalent services. It is also necessary for such services to be available to residential customers who post in similar conditions, given the need for non-discrimination in the provision of services. ***deleted***

Justification:

It is considered that this provision makes competition in the sphere of universal services even more unbalanced.

(Amendment 32)
Recital 30

(30) It is appropriate in the light of the complaints which have been raised against certain incumbent operators in recent years to provide for Member States to adopt rules to ensure that universal service providers do not cross-subsidise services outside the reserved area by means of revenues from services in the reserved area, except where it is shown to be strictly necessary to fulfil specific universal service obligations. It is therefore appropriate for national regulatory authorities to adopt rules to this effect and for them to communicate these rules to the Commission.

(30) It is appropriate in the light of the complaints which have been raised against certain incumbent operators in recent years to provide for Member States to adopt rules to ensure that universal service providers do not cross-subsidise services outside the reserved area by means of revenues from services in the reserved area, except where it is shown to be strictly necessary to fulfil specific universal service obligations, **as defined by Member States in accordance with Article 3 of Directive 97/67/EC, as amended by this Directive**. It is therefore appropriate for national regulatory authorities to adopt rules to this effect and for them to communicate these rules to the Commission.

Justification:

As is already the case in certain Member States, it must be made clear that Member States are free to define a universal service which exceeds the minimum requirements laid down in Article 3 of Directive 97/67/EC, as regards the number of deliveries and collections per week, maintenance of the rural post office network, and any requirement to provide the universal service at a uniform tariff.

(Amendment 33)
Recital 31

(31) In view of the amendments, it is appropriate to postpone until 31 December **2006** the date for the expiry of Directive 97/67/EC.

(31) In view of the amendments, it is appropriate to postpone until 31 December **2008** the date for the expiry of Directive 97/67/EC.

Justification:

Experience with the time limits laid down in Directive 97/67/EC and the delays caused by the Commission make it too risky to let the Directive lapse at the end of 2006. The review, by Parliament and the Council, of the appropriateness and, if necessary, extent of further opening, should not take place under the threat of a legal vacuum.

(Amendment 34)

(33a) Article 13 of the EC Treaty refers to the Community's responsibility for combating discrimination on grounds, inter alia, of race and ethnic origin. Pursuant to Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Member States must, under this Directive, take the necessary measures for transposition in the area of postal services.

Justification:

For postal services, which serve communication within society, application of Directive 2000/43/EC is extraordinarily important and should therefore be reflected in a recital.

(Amendment 35)
ARTICLE 1, POINT 1
Article 2 (Directive 97/67/EC)

“20. Special services are services clearly distinct from the universal service, which meet particular customer requirements and which offer additional service features with Added-value not offered by the standard Postal service.

deleted

Additional Added-value service features are, for example, delivery on appointment, the option to effect a change of destination or addressee in transit or if delivery to the primary destination fails, tracking and tracing, guaranteed time of delivery, more than one attempt at delivery, delivery according to the priority or sequence specified by the customer.

Home collection without any such features is not a Special service.

Electronic transmission to and/or electronic receipt by the operator for sorting, printing and/or preparation of mail shall not be regarded as an additional

service feature within the meaning of this article.

Express mail is a Special service, which, in addition to faster and more reliable collection, transportation and delivery, is characterised by the provision of some or all of the following additional service features: collection from the sender's Address, delivery to the addressee in person or his authorised representative, guarantee of delivery by a given date, possibility of a change of destination and addressee in transit, confirmation to the sender of delivery, tracking and tracing, personalised treatment for customers and the offer of a range of services according to requirements."

Justification:

The debate on the Post Directive contained a contentious element called "new services". It was agreed that new services do not form part of the universal services and therefore may not be reserved.

(Amendment 36)

ARTICLE 1, POINT 1a (new)

Article 3(3a)(new) (Directive 97/67/EC)

(1a.) In Article 3, the following point is added:

"(3a) Member States may lay down specific requirements which exceed the minimum requirements laid down in paragraphs 1, 2 and 3 of this Article, as regards the extent of uniformity of tariffs for the universal service, concentration of contact and access points, (including the specification of a minimum density of counter services in proportion to the number of inhabitants), and frequency of clearance and delivery."

Justification:

Member States should be free to define a universal service which exceeds the minimum requirements laid down in Article 3 of Directive 97/67/EC, as regards the number of deliveries

and collections per week, maintenance of the rural post office network, and any requirement to provide the universal service at a uniform tariff.

(Amendment 37)
ARTICLE 1, POINT 1b (new)
Article 5a (new) (Directive 97/67/EC)

(1b) A new Article 5a is added:

"Article 5a

The carriage of postal items shall be excluded from the universal service provision if it is evident from their external appearance that their content is of a racist nature within the meaning of Article 2 of Directive 2000/43/EC or if it comes to the operator's knowledge in another way that their content is of a racist nature."

Justification:

The concept of universal service must be defined in accordance with Directive 2000/43/EC. There must be no universal service obligation for postal items where it is evident from their external appearance that their content breaches European law.

(Amendment 38)
ARTICLE 1, POINT 2
Article 7 (Directive 97/67/EC)

1. To the extent necessary to ensure the ***provision*** of universal service, ***Member States may continue to reserve certain standard mail services to the universal service provider(s). Those services shall be limited to*** the clearance, sorting, transport and delivery of ***ordinary*** items of domestic correspondence ***and incoming cross border correspondence within both*** of the following weight and price limits. The weight limit shall be ***50 grams. This*** weight limit does not apply if the price is equal or more than ***two and a half*** times the public tariff for an item of correspondence in the first weight step of the fastest category.

In the case of the free postal service for blind and partially sighted persons,

1. To the extent necessary to ensure the ***maintenance*** of universal service, ***the services which may be reserved by each Member State for the universal service provider(s) shall be*** the clearance, sorting, transport and delivery of items of domestic correspondence, ***whether by accelerated delivery or not*** of the following weight and price limits. The weight limit shall be ***150g***. The weight limit does not apply if the price is equal ***to*** or more than ***four*** times the public tariff for an item of correspondence in the first weight step of the fastest category.

In the case of the free postal service for blind and partially sighted persons,

exceptions to the weight and price restrictions may be permitted.

To the extent necessary to ensure the provision of universal service, direct mail may continue to be reserved within the above weight and price limits.

2. Items of outgoing cross-border correspondence, document exchange and special services (including express mail) may not be reserved.

For special services, the sending of mail electronically for distant printing only shall not be sufficient to avoid the monopoly on incoming cross-border mail.

3. As a further step towards the completion of the internal market in postal services, the European Parliament and the Council shall decide ***not later than 31 December 2005*** on a further opening of the postal market ***with effect from 1 January 2007.***

To that end, the Commission shall present a proposal ***by 31 December 2004***, following a Review of the sector which shall focus on the need to ensure the provision of universal service in an appropriate manner in competitive market environment.

Upon request by the Commission, Member States shall provide all the information necessary for completion of this review."

Exceptions to the weight and price restrictions may be permitted.

To the extent necessary to ensure the provision of universal service, direct mail ***and cross-border mail*** may continue to be reserved within the above weight and price limits.

2. Document exchange may not be reserved.

3. As a further step towards the completion of the internal market in postal services, the European Parliament and the Council shall decide on a further opening of the postal market.

To that end, the Commission shall present a proposal, following a review of the sector which shall focus on the need to ensure the provision of universal service in an appropriate manner in competitive market environment. ***Such a review should be presented to the European Parliament and Council not later than 31 December 2003.*** Upon request by the Commission, Member States, ***universal service providers and licensed operators*** shall provide, ***without prejudice to data privacy protection provisions***, all the information necessary for completion of this review."

Justification:

This amendment reverts back to the initial wording of Directive 97/67/EC in order to clarify the issue concerning the items of domestic correspondence against "standard mail service". The most appropriate weight and price limit shall be 150 grams and four times the public tariff for an item of correspondence. As stated in Directive 97/67/EC, direct mail, express mail and cross-border-mail may continue to be reserved. The timetable is altered.

(Amendment 39)

ARTICLE 1, POINT 3
Article 9 (Directive 97/67/EC)

3. In Article 9, *the following paragraph* is added:

"6. Whenever universal service providers apply special tariffs, for example for services for businesses, bulk mailers or consolidators of mail from different customers, they shall apply the principles of transparency and non-discrimination with regard both to the tariffs and to the associated conditions. The tariffs shall take account of the avoided costs compared to the standard service covering the complete range of features offered for the clearance, transport, sorting and delivery of individual postal items and, together with the associated conditions, shall apply equally as between third parties and the equivalent service elements of the universal service providers themselves. Any such tariffs shall also be available to residential customers who post under similar conditions."

3. In Article 12, *a fifth indent* is added:

"- Whenever universal service providers apply special tariffs, for example for services for businesses, bulk mailers or consolidators of mail from different customers, they shall apply the principles of transparency and non-discrimination with regard both to the tariffs and to the associated conditions. The tariffs shall take account of the avoided costs compared to the standard service covering the complete range of features offered for the clearance, transport, sorting and delivery of individual postal items and, together with the associated conditions, shall apply equally as between third parties and the equivalent service elements of the universal service providers themselves. Any such tariffs shall also be available to residential customers who post under similar conditions."

Justification:

It is Article 12 which deals with tariffs.

(Amendment 40)
ARTICLE 1, POINT 4
Article 12 (Directive 97/67/EC)

4. In Article 12, *the following* indent is added:

"-Cross-subsidisation of universal services outside the reserved area out of revenues from services in the reserved area shall be prohibited except to the extent to which it is shown to be strictly necessary to fulfil specific universal obligations imposed in the competitive area; rules shall be adopted to this effect by the national regulatory

4. In Article 12, *a sixth* indent is added:

"-Cross-subsidisation of universal services outside the reserved area out of revenues from services in the reserved area shall be prohibited except to the extent to which it is shown to be strictly necessary to fulfil specific universal obligations imposed in the competitive area; rules shall be adopted to this effect by the national regulatory

authorities who shall inform the Commission of such measures."

authorities who shall inform the Commission of such measures."

Justification:

Related to preceding amendment.

(Amendment 41)
ARTICLE 1, POINT 4a (new)
Article 19.1 (Directive 97/67/EC)

(4a) Article 19, paragraph 1 is replaced by the following:

"Member States shall ensure that transparent, simple and inexpensive procedures are drawn up for dealing with users' complaints, particularly in cases involving loss, theft, damage or non-compliance with service quality standards (including procedures for determining where responsibility lies in cases where more than one operator is involved)."

Justification:

It is important for a consumer to know who is responsible or to whom he/she should address a complaint for loss or damage of a postal item, whether it be in the transfer between 2 different Member States or within a single Member State.

(Amendment 42)
ARTICLE 1, POINT 5a (new)
Article 21 (Directive 97/67/EC)

(5a) Article 21 is replaced by the following:

"1. The Commission shall be assisted by a management committee.

2. Where reference is made to the article, Articles 4, 7 and 8 of Council Decision

1999/468/EC shall be applicable. The period laid down in Article 4(3) of Council decision 1999/468/EC shall be 3 months.

3. The committee shall establish its own rules of procedure."

Justification:

Bringing into line, as is necessary, with the new legislation laying down the procedures for the exercise of powers conferred on the Commission.

(Amendment 43)
ARTICLE 1, POINT 5b (new)
Article 22.3 (Directive 97/67/EC)

(5b) Article 22, paragraph 3 is replaced by the following:

"3. The national regulatory authorities shall have as a particular task ensuring compliance with the obligations arising from this Directive, with particular regard to the universal service obligations as defined by Member States in accordance with Article 3 and the quality standards to be laid down in accordance with Article 16. They may also be charged with ensuring compliance with competition rules in the postal sector."

Justification:

The important role of the national regulator in enforcing universal service obligations and quality standards needs to be underlined.

(Amendment 44)
ARTICLE 1, POINT 6
Article 27 (Directive 97/67/EC)

In Article 27, the date "31 December 2004" is replaced by the date "31 December **2006**".

In Article 27, the date "31 December 2004" is replaced by the date "31 December **2008**".

Justification:

Experience with the time limits laid down in Directive 97/67/EC and the delays caused by the Commission make it too risky to let the Directive lapse at the end of 2006. The review, by

Parliament and the Council, of the appropriateness and, if necessary, extent of further opening, which would come into force on 1 January 2007, should not take place under the threat of a legal vacuum.

(Amendment 45)

ARTICLE 2, POINT 1, FIRST SUBPARAGRAPH

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 31 December **2002**. They shall forthwith inform the Commission thereof.

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 31 December **2004**. They shall forthwith inform the Commission thereof.

Justification:

The deadline has been extended by two years in order to rule out hasty and poor preparation and the resulting negative impact.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a European Parliament and Council directive amending Directive 96/67/EC with regard to the further opening to competition of Community postal services (COM(2000) 319 - C5-0375/2000 - 2000/0139(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2000) 319)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 (C5-0375/2000),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Regional Policy, Transport and Tourism and the opinions of the Committee on Legal Affairs and the Internal Market, the Committee on Industry, External Trade, Research and Energy and the Committee on Employment and Social Affairs (A5-0361/2000),
1. Approves the Commission proposal as amended;
 2. Asks to be consulted again should the Commission intend to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

¹ OJ C (not yet published).

EXPLANATORY STATEMENT

Legal framework

The Community market for postal services is regulated by Directive 97/67/EC¹ on common rules for the development of the internal market of Community postal services and the improvement of quality of service. This Postal Directive, as it is termed, was adopted by Parliament and the Council on 15 December 1997 following intensive discussions between supporters of more extensive liberalisation and those who wanted a controlled and phased opening, with universal service being guaranteed and the social function of the postal services acknowledged.

The minimal provisions for harmonisation of the postal services market in the Community contained in this Directive have their origin in a Member State initiative at the end of the 1980s. The objective then and now – once more confirmed by the Lisbon European Council – is to set up an internal market for postal services. The Green Paper published by the Commission in June 1992, the guidelines proposed by the Commission in June 1993 for the development of postal services in the Community, and the Council resolution of 7 February 1994² map out the course towards the introduction of the provisions adopted in the Postal Directive. The Directive came into force in February 1999; a ten-year gestation period had borne its first fruit.

When the Postal Directive was adopted, the key issues were the safeguarding of a value-added universal service, the establishment of reservable areas, the question of liberalising cross-border mail, direct mail and express and new services. Parliament's and the Council's positions were more or less united, contrasting with the Commission's more expansive approach. However, all three institutions agreed the basic need for the market for postal services in the Community to be opened up. The final outcome reflects the phased and controlled approach preferred by Parliament and the Council:

- the establishment of the minimum characteristics of the universal service, of quality standards for cross-border services, of tariff principles and of basic principles governing transparency of accounts,
- the establishment of common limits for those services which may be reserved by a Member State to its universal service providers,
- conditions for the authorisation/licensing of the provision of non-reserved postal services and the separation of regulatory powers and operational functions,
- setting 1 January 2003 as the start of a second stage of opening up the postal services market.

That date was laid down in Article 7(3) of the Directive (97/67/EC), involving a restrictive procedure for the further opening of the postal sector (review clause with time limits, lapsing of the Directive with the risk of a legal vacuum). The phasing-in plan provided for the Commission to submit proposals, by 31 December 1998, for further gradual and controlled liberalisation of the postal sector, with particular regard to the liberalisation of cross-border and direct mail, as well as for a further review of the price and weight limits. Parliament and the Council had until 1 January 2000 to take a decision so that the measures could take effect from by 1 January 2003.

¹ OJ L 15, 21.1.1998, p. 14.

² OJ C 48, 16.2.1994, p. 3.

On 30 May 2000, almost two years too late, the Commission adopted a proposal for the further opening to competition of postal services¹. The fact that the Commission has already caused such delays, because of the restrictive conditions under the Directive, and that, firstly, the studies put in hand by the Commission have not yet been officially forwarded to Parliament and, secondly, the report to be submitted pursuant to Article 23 is still pending has been criticised by Parliament in two resolutions². The Commission proposal sets out the reasons for the delays; but, basically, they are of no further importance. The fact remains that, in view of this experience, the appropriateness of 'guillotined' procedures is being called into question, the principal reason being the risk that the established harmonisation in this sector (part of the *acquis communautaire*) might simply disappear.

With regard to the content of the postal directive, an added-value universal service for Community postal services has been defined which must be implemented by national law. In addition, services have been opened up to the free market which relate to postal items with a weight exceeding 350g and a rate exceeding five times the public tariff for an item of correspondence in the weight step. This means that areas accounting for far in excess of 70% of universal service providers' revenue, according to estimates, continue to be reservable. This revenue and the profits generated are used to meet the obligation, imposed chiefly on public postal operators, to provide universal service.

The new Commission proposal

The Commission proposal, made pursuant to Article 7(3) of the Directive, effectively involves further opening up averaging 20% of universal service providers' revenue. The adoption process itself within the Commission was clouded in controversy. In order for it to secure adoption in the Commission, the Commissioner's original proposal for a further liberalisation of, potentially, just under 30% of universal service providers' revenue had to be reduced by removing full liberalisation of direct mail involving about 8% and incoming cross-border postal items.

The Commission's actual proposals for the next stage referred to in the current Directive cover:

- reductions in the price/weight limit for the services reserved to universal service providers to 50 g and two and a half times the basic standard tariff
- abolition of the price limit for outgoing cross-border mail and all express mail
- retention of a reserved sector for direct mail up to 50 g and up to two and a half times the basic standard tariff.
- definition of special services, including express services, distinct from universal services and not reservable.
- setting 1 January 2007 as the start of the next stage of postal service liberalisation on the basis of a Council and Parliament decision by 31 December 2005 on a Commission proposal by December 2004 (following a review of the sector).

Your rapporteur's assessment of the Commission proposal: the three key components

¹ Document COM(2000) 319 – forming the basis for this procedure – not yet published in the OJ.

² See Parliament resolutions B4-0025, 0039 and 0040/99 of 14 January 1999, OJ C 104, 14.4.1999, p. 134, and B5-0116 of 18 February 2000 (not yet published in the OJ).

As a guideline for an assessment of the Commission proposal, it would be useful to recall the position taken by the European Parliament on the adoption of the 1997 Postal Directive. The debate, which lasted for several years, gave Parliament several opportunities to set out its unequivocal position¹:

- complete agreement with the main principles set out in the Green Paper and, in particular, the concept of universal service, which should remain in the hands of the public postal administration
- agreement on the need for a reserved service for universal service providers and Community-wide harmonisation of this approach
- direct mail and cross-border mail should remain in the reserved sector in order to ensure that the universal service providers enjoyed the requisite profitability and international delivery capability
- agreement with the distinction between regulatory powers and operational functions and with the setting up of common accounting standards
- agreement that harmonisation at Community level was required for the efficiency of the postal system.
- the opening up of the market for postal services in the Community should be a gradual and controlled process.

If we compare the above with the Commission's current proposals, we see that they are completely in line with the position adopted by the European Parliament.

With a view to the gradual and controlled opening up of the market for postal services, the Commission is proposing a further reduction in the weight/price limit for the reserved sector. Direct mail and incoming cross-border mail are to remain in the reserved sector, with just outgoing cross-border mail (some 3% of the revenue of the universal service providers) and express mail (some 1% of the revenue of the universal service providers) being opened up to the market. Above all, the concept of universal service laid down in the 1997 Directive remains unchanged. In other words, the universal service remains the province of the public postal administration, and it retains the high quality level laid down in the Directive.

Your rapporteur therefore:

- considers that the extent to which the postal services market has been opened up as a result of Directive 97/67/EC and the degree of competition which has emerged from it are too limited to permit genuinely meaningful comment on the consequences of opening up for the sector, on the provision of universal service and on the market behaviour of private and public-sector operators;
- regards emerging market developments (expansions, embryonic anti-competitive behaviour), in spite of a lack of genuine competition, as questionable and as providing sufficient justification for encouraging a greater degree of transparency, opening up and competition;
- continues to support the intention of creating an environment for the postal sector, in the context of the need to safeguard added-value universal service, which is fundamentally commensurate with the internal market and with freedom to provide services, and therefore still supports the approach consisting of a controlled and gradual opening up of the postal services market;

¹ See, for example, the explanatory statement to report A4-0105/96 (rapporteur: Brian Simpson).

- regards the proposed reduction in the weight and price threshold to 50 g and two and a half times the basic tariff as controlled and, as regards extent, necessary in order to achieve a partial opening up of the market, with a view to ensuring the modernisation of the sector and hence survival in a constantly shifting communications environment;
- regards it as warranted to treat new/special services as unreservable services distinct from universal service, and considers that this is in line with Directive 97/67/EC and Court of Justice case-law;
- believes that there should be a comprehensive review by Parliament and the Council, in 2005, of the provisions governing this sector, with a view to determining how to proceed further;
- states that such a review must address the safeguarding of an appropriate and modern universal service in the context of evolving postal services, the appropriateness and extent of the reservability of certain postal services in order to safeguard universal service provision plus the appropriateness and extent of further opening up;
- states that that review need not necessarily result in complete liberalisation and that any automatic mechanism now being proposed which involves a risk of a retrograde step with regard to the *acquis communautaire* must therefore be avoided.

The compromise supported by your rapporteur and a majority of committee members

The members of the Committee on Regional Policy, Transport and Tourism tabled a total of 240 amendments, which once again highlights how important this subject is. In addition, three other parliamentary committees, the Committee on Employment and Social Affairs, the Committee on Legal Affairs and the Internal Market and the Committee on Industry, External Trade, Research and Energy, have delivered opinions on the Commission proposal.

What all these amendments had in common was that, with a few exceptions, they reflected the view that the Commission's proposals concerning weight and price limits, special services, express services, outgoing cross-border mail and the timetable for the next stage go too far and pose a risk to the maintenance of the universal service. The debate in committee on the further opening up of the postal services market produced a similar picture.

Your rapporteur was therefore obliged to seek a compromise which, in the light of the votes held in the other committees, took the greatest possible account of the concerns expressed in the amendments. In order to establish a position which would secure majority support in the committee, it has therefore been necessary to depart considerably from your rapporteur's own views and from the Commission proposal.

The outcome of the negotiations may be summed up as follows:

- instead of the Commission's proposed weight and price limit of 50 gr/2.5 times the basic tariff, your rapporteur, and consequently the committee, is now proposing 150 gr/4 times the basic tariff;
- the Commission's proposed definition of special services, including express services, ought to be deleted, owing to the concerns it raised;
- the weight and price limit should continue to apply to outgoing cross-border mail and express services;
- the Commission's proposed timetable has been made less rigid, and a review of the sector is to be carried out, possibly accompanied by fresh Commission proposals, by 2003; the

directive is to expire at the end of 2008, and a further decision should be taken on postal services by then;

- the Commission proposals regarding special tariffs and cross-subsidisation were accepted, but both indents should be inserted in Article 12 of Directive 97/67/EC.

Your rapporteur considers that this compromise could be accepted, although many concessions have had to be made in reaching it. Nevertheless, the proposed approach does further open up the postal services market and, in respect of a number of problems that have emerged, provides legal clarity as regards the relationship between universal service providers and private operators. Maintenance of the universal service remains fully safeguarded, and Member States can still go beyond the minimum standards laid down in Directive 97/67/EC and lay down a universal service in a way which best meets their respective national and regional needs.

Your rapporteur would lastly like to point out that he remains convinced of the need for rapid progress towards the next stage. The line the committee is now proposing will lead to a further opening up of the market, but, given that experience has shown that universal service providers are able to retain about 80% of the liberalised market, a potential opening up of the market equivalent to about 10% of universal service providers' total revenue can be but a further step in the gradual and controlled opening up of the postal services market.

The rapporteur wishes to thank all members for their valuable work on this very important subject and thus recommends that Parliament adopt this proposal.

27 November 2000

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

for the Committee on Regional Policy, Transport and Tourism

on the proposal for a European Parliament and Council directive amending Directive 97/67/EC with regard to the further opening to competition of Community postal services (COM(2000) 319 – C5-0375/2000 – 2000/0139(COD))

Draftsman: Luis Marinho

PROCEDURE

The Committee on Legal Affairs and the Internal Market appointed Luis Marinho draftsman at its meeting of 13 September 2000.

It considered the draft opinion at its meetings of 17 October 2000 and 21 November 2000.

At the last meeting it adopted the amendments below by 26 votes to 1, with 1 abstention.

The following were present for the vote: Ana Palacio Vallelersundi, chairman; Ward Beysen and Willi Rothley, vice-chairmen; Luis Marinho, draftsman; Luis Berenguer Fuster, Maria Berger, Enrico Boselli, Carlos Candal, Willy C.E.H. De Clercq, Bert Doorn, Francesco Fiori (for Antonio Tajani pursuant to Rule 153(2)), Marie-Françoise Garaud, Bruno J.-J.M. Gollnisch, Françoise D. Grossetête, Heidi Anneli Hautala, The Lord Inglewood, Kurt Lechner, Klaus-Heiner Lehne, Donald Neil MacCormick, Arlene McCarthy, Véronique Mathieu, Manuel Medina Ortega, Bill Miller, Guido Viceconte, Diana Paulette Wallis, Joachim Wuermeling, Matti Wuori and Stefano Zappalà.

SHORT JUSTIFICATION

Introduction

The postal service, in some Member States one of the last to remain within the public sector, is of fundamental importance because it takes in all the European Union's economic and social activities.

Nowadays new technologies such as email are developing on a large scale, and in time may threaten traditional postal services. Therefore, with a view to improving the quality and efficiency of these services, a new regulatory framework should now be adopted, with a view to modernising services.

Postal markets can only be opened to competition gradually and in a controlled manner, as recommended by Parliament and the Council. In fact, estimates in the Commission's Green Paper of 11 June 1992 state that postal services account for 60% and private operators 40% of the market in terms of revenue; in terms of volume, public postal services represent 96% of the market, and private operators only 4%. Encouraging a gradual and controlled liberalisation of the postal sector therefore needs to be coupled with a lasting guarantee of the provision of universal service.

The Lisbon European Council (23/24 March 2000) requested the Commission, the Council and the Member States 'to set out by the end of 2000 a strategy for the removal of barriers to postal services' and 'to speed up liberalisation in areas such as ... postal services', so as to achieve a fully operational internal market.

Thus, under Article 7(3) of European Parliament and Council Directive 97/67/EC of 15 December 1997, a new directive must be adopted, with a view to further pursuing the process while ensuring that universal service is maintained and preserving employment rates in the postal sector as a whole. This 'Postal Directive' lays down common rules for the development of the Community's internal market in postal services and the improvement of the service, as well as a gradual and controlled opening of the markets to competition; it has been almost completely incorporated in all the Member States.

Legal basis

The competition rules of the Treaty on European Union apply to the postal sector, as the Court of Justice has recognised in one of its judgements (CJEC 1990 – Kingdom of the Netherlands and others v Commission of the European Communities). The Treaty provisions on free provision of services therefore cover the postal sector (Council Resolution of 7 February 1994). The directive under discussion does not affect the implementation of the Treaty rules on competition or free provision of services (Articles 47(2), 55 and 95 of the EC Treaty).

Proposal for a directive

The aim of the proposed directive should be to complete the internal market in postal services while ensuring the maintenance of universal service. It should be pointed out that Parliament had already given its agreement in principle to this new opening. The proposal for a directive makes provision for the opening of 20% of the EU postal market to competition, compared with 3% today with the Postal Directive.

According to estimates, irrespective of any new liberalisation measures taken there will be a drop of approximately 8.4% in employment throughout the sector between 1997 and 2007. Of the five forces for change (namely demand, use of electronic communication methods instead of postal services, organisational changes, automation/new technologies and liberalisation), opening to competition will have the smallest effect on employment.

According to the Commission, the process of liberalising postal markets will have a positive effect on the overall level of economic activity as well as contributing to strengthening the economic integration and social cohesion of the Union. The state bodies providing a universal service, however, fear the completion of the internal market, which is scheduled for 2007. This universal service, which is defined as a quality service throughout the Community at affordable prices for all, must remain viable and compatible with the opening to competition that the directive proposes.

Thus, the new proposal attempts to reinforce the guarantees already set out in the Postal Directive. Member States will retain the possibility of setting up a compensation fund to compensate universal service providers for unfair financial burdens resulting from their provision of the service. This fund, which constitutes a basic guarantee, must not impede or prevent competitors from having access to the market.

On the other hand, the proposal extends the scope of the Postal Directive to new areas, such as special services, which are 'services clearly distinct from the universal service' (Article 2, point 20).

In addition, Article 7 of the proposal for a directive restricts the scope of the reserved area, while leaving Member States a certain discretion in continuing to reserve certain standard mail services to the universal service provider(s). So it will be possible for mail shots and advertising or marketing communication to continue to be reserved, but only under certain conditions. It should be noted that this sector and cross-border mail are profitable, which enables the postal service's loss-making sectors to be counterbalanced.

Outgoing cross-border mail, document exchange and special services may not be reserved. For incoming cross-border mail, on the other hand, there will be no opening to competition in the next stage.

A new paragraph on special tariffs is also inserted into Article 9. In this area, universal service providers are required to observe the principles of transparency and non-discrimination.

Finally, the proposal for a directive adds the possibility of universal service providers cross-subsidising services in the competitive area and services in the reserved area.

Evaluation

In spite of its importance, the 1997 Postal Directive only required a very limited opening of the market, and this did not lead to real competition. As significant discrepancies remained, modernisation and liberalisation did not progress at the same speed in the various Member States. With regard to opening of the markets, seven Member States went well beyond the provisions of the Postal Directive. In order to avoid destabilising the internal market, it is therefore advisable to take further steps towards the harmonisation which the gradual and controlled opening of postal markets to competition aims to achieve.

The proposal for a directive should be seen in this context; it takes account of the conclusions of the Lisbon European Council and was drawn up following a review of the sector in order to include the development of email and the impact on employment of the liberalisation measures under consideration. However, it cannot be said with any certainty that the idea of a gradual and controlled opening of the postal market to competition is being adhered to as provided for in the Council resolution of 7 February 1994, which clearly set as the objectives of Community postal services policy to *guarantee universal service*, to *achieve economic and financial viability*, and to *reconcile the promotion of the gradual and controlled liberalisation of the postal market with permanent guarantees on universal service provision*.

Similarly, with respect to the package of measures proposed and the timetable for their implementation, one may legitimately doubt whether the postal service, considered as a service of general economic interest, is in practice occupying its due place among the shared values of the Union under Article 16 of the EC Treaty.

CONCLUSION

The Committee on Legal Affairs and the Internal Market calls on the Committee on Regional Policy, Transport and Tourism, as the committee responsible, to incorporate the following amendments in its report:

AMENDMENTS

Text proposed by the Commission

Amendments by Parliament

(Amendment 1)

Recital 2

Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service established a regulatory framework for the postal sector at Community level, including measures to guarantee a universal service, the setting of maximum limits for the postal services which Member States may reserve to their universal service provider(s) with a view to the maintenance of the universal service, and a timetable for decision-making on the further opening of the market to competition, for the purposes of creating a single market in postal services.

Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service established a regulatory framework for the postal sector at Community level, including measures to guarantee a universal service, the setting of maximum limits for the postal services which Member States may reserve to their universal service provider(s) with a view to the maintenance of the universal service, and a timetable for decision-making on the further opening of the market to competition, ***in a gradual and controlled form avoiding market distortions which would be unfavourable to the clients and users of the services***, for the purposes of creating a single market in postal services.

Justification:

Opening the services to competition must not run against consumers' interests or have the effect of financially marginalising undertakings that provide a universal service.

(Amendment 2)

Recital 5

The European Council, meeting in Lisbon, on 23 and 24 March 2000, set out in its Presidency conclusions two decisions applying to postal services, whereby action was requested of the Commission, the Council and the Member States in accordance with their respective powers. The requested actions are: first, to set out by the end of 2000 a strategy for the removal of barriers to services, namely postal services, and secondly, to speed up liberalisation in areas such as postal services, the stated aim being to achieve a fully operational market in postal services.

The European Council, meeting in Lisbon, on 23 and 24 March 2000, set out in its Presidency conclusions two decisions applying to postal services, whereby action was requested of the Commission, the Council and the Member States in accordance with their respective powers. The requested actions are: first, to set out by the end of 2000 a strategy for the removal of barriers to services, namely postal services, and secondly, to speed up liberalisation in areas such as postal services, the stated aim being to achieve a fully operational market in postal services, ***without prejudice to the principles and values of Article 16 of the EC Treaty.***

Justification:

See Article 16 of the EC Treaty.

(Amendment 3)

Recital 6

The Commission has undertaken a thorough review of the Community postal sector, including the commissioning of studies on the economic, social and technological developments in the sector, and has consulted extensively with interested parties.

The Commission has undertaken a thorough review of the Community postal sector, including the commissioning of studies on the economic, social and technological developments in the sector, and has consulted extensively with interested parties. ***It is nonetheless necessary to obtain a clearer and more precise idea of the economic and social impact of the liberalisation scenarios and to evaluate the economic efficiency and service quality of the liberalising measures for the postal sector as a whole, so as to enable the European Parliament to come to a clear decision.***

Justification:

The proposal has little to say on the consequences of the measures proposed. This suggests that no detailed impact assessments are as yet available for Parliament's use at the due moment.

(Amendment 4)
Recital 7

The Community postal sector requires a modern regulatory framework, which aims at enhancing the internal market for postal services in order to enable the sector to compete with alternative modes of communication and to satisfy the changing and increasing demands of users.

The Community postal sector requires a modern regulatory framework, which aims at enhancing the internal market for postal services in order to enable the sector to compete with alternative modes of communication and to satisfy the changing and increasing demands of users, ***whilst providing Member States with the necessary instruments to safeguard a rural network of counter services.***

Justification:

In those Member States with remote rural areas, rural counter services are an important instrument of social cohesion. In this respect, Member States should have the freedom to safeguard these services by way of specific requirements, when defining domestic universal service obligations.

(Amendment 5)
Recital 8

The basic aim of ensuring the durable provision of a universal service matching the standard of quality required by Directive 97/67/EC on a consistent basis throughout the Community can be secured under conditions of high efficiency ensured by the freedom to provide services in this area.

The basic aim of ensuring the durable provision of a universal service matching the standard of quality ***defined by the Member States in accordance with Article 3 of Directive 97/67/EC*** on a consistent basis throughout the Community can be secured under conditions of high efficiency ensured by the freedom to provide services in this area, ***without prejudice to their economic and financial viability.***

Justification:

As is already the case in certain Member States, it must be made clear that Member States are free to define a universal service which exceeds the minimum requirements laid down in Article 3 of Directive 97/67/EC, as regards the number of deliveries and collections per week, and maintenance of the rural post office network.

(Amendment 6)
Recital 10

Experience has shown that referring only to the price limit as a means of determining the added value of express services is no longer a practical proposition due to the development of added value express services below the price limit.

deleted

Justification:

This amendment is intended to ensure the consistency of the proposal.

(Amendment 7)
Recital 11

It is therefore appropriate to define a category comprising "special services" fulfilling special customer needs, this category should include all services with the required added features. Such services should not be reserved, regardless of the weight or the price of such items. Sending mail electronically for distant printing only will not be sufficient to take it outside the reserved area.

deleted

Justification:

The purpose of this amendment is to do away with the concept of 'special services' which invalidates the concept of universal service and makes it economically unsustainable for operators.

(Amendment 8)
Recital 12

The increase in demand within the postal sector as a whole, predicted for the medium term, **will** help to offset the loss of market share that the universal service providers may incur as a result of further market-opening and will thereby further safeguard the universal service.

The increase in demand within the postal sector as a whole, predicted for the medium term, **may** help to offset the loss of market share that the universal service providers may incur as a result of further market-opening and will thereby further safeguard the universal service.

Justification:

Categorical statements in fields like this one are generally misleading.

(Amendment 9)

Recital 16

A general reduction to **50** grams in the weight limit of the services which may be reserved to the universal service providers, ***combined with opening outgoing cross-border mail and express mail fully to competition***, represents a relatively simple and controlled further phase which is nevertheless significant.

A general reduction to **150** grams in the weight limit of the services which may be reserved to the universal service providers represents a relatively simple and controlled further phase which is nevertheless significant.

Justification:

A reduction in the weight and price limits to 50 grams and two and a half times the basic tariff combined with a total liberalisation of outgoing cross-border mail and express mail is too drastic a measure. It would have a devastating impact on providers of universal postal services.

(Amendment 10)

Recital 18

A price limit for ***the services capable of being reserved***, of ***two and a half*** times the public tariff for an item of correspondence in the first weight step of the fastest standard category, is appropriate in combination with a **50**-gram weight limit where applicable.

A price limit for ***reserved*** services of ***four*** times the public tariff for an item of correspondence in the first weight step of the fastest standard category, is appropriate in combination with a **150**-gram weight limit where applicable.

Justification:

A reduction in the price limits of two and a half times the basic tariff is too drastic a measure. It would have a devastating impact on providers of universal postal services (cf. Amendment 36).

(Amendment 11)

Recital 19

A **50-gram** weight limit for items of ordinary domestic correspondence is practical, since it does not present a risk of its circumvention by way of an artificial increase in the weight of individual items of correspondence, most items of correspondence being below 20 grams in weight.

A **150-gram** weight limit for items of ordinary domestic correspondence **ensures operators' economic and financial viability and** is practical, since it does not present a risk of its circumvention by way of an artificial increase in the weight of individual items of correspondence, most items of correspondence being below 20 grams in weight.

Justification:

Viability must be ensured.

(Amendment 12)
Recital 21

Outgoing cross-border mail is already *de facto* open to competition in most Member States; ***its reservation is not needed to ensure universal service representing on average 3% of total postal revenues. Opening this part of the market de jure would allow different postal operators to collect, sort and transport all outgoing cross-border mail and to deliver it in Member States, but only where the domestic regulation in a particular Member State permits this.***

Outgoing cross-border mail is already *de facto* open to competition in most Member States; ***where necessary in order to ensure universal service, cross-border mail may continue to be reserved insofar as this is permitted by the domestic regulations of the Member States and in accordance with the criteria laid down in Article 7.***

Justification:

This amendment proposes to continue to reserve outgoing cross-border mail, if it is within the weight and price thresholds proposed, insofar as this is necessary to ensure provision of the universal service. In other words it is proposed to apply to outgoing cross-border mail the same rules as those laid down for direct mail.

(Amendment 13)
Recital 22

Opening incoming cross-border mail to competition would allow circumvention of

Opening incoming cross-border mail to competition would allow circumvention of

the **50**-gram limit through relocation of the posting of a proportion of bulk domestic mail, thereby making its effects unpredictable. Identifying the origins of items of correspondence could present additional enforcement difficulties. A **50**-gram weight limit for items of ordinary incoming cross-border correspondence and direct mail, as for ordinary domestic correspondence, is practical as it does not present a risk of circumvention either in this way or through an artificial increase in the weight of individual items of correspondence.

the **150**-gram limit through relocation of the posting of a proportion of bulk domestic mail, thereby making its effects unpredictable. Identifying the origins of items of correspondence could present additional enforcement difficulties. A **150**-gram weight limit for items of ordinary incoming cross-border correspondence and direct mail, as for ordinary domestic correspondence, is practical as it does not present a risk of circumvention either in this way or through an artificial increase in the weight of individual items of correspondence.

Justification:

The reduction in the weight limit to 50 grams would inevitably give rise to problems of circumventing the limit by fraudulently increasing the weight of mail.

(Amendment 14)
Recital 25a (new)

In accordance with Article 16 of the Treaty, given that postal services are of a general economic interest, it is appropriate that, should there be any future requirement to apply VAT to postal services, Member States be permitted to levy it at the reduced rate provided for in Directive 77/388/EEC.

Justification:

In order to avoid a significant stamp price increase following further liberalisation (as occurred in Sweden), if it becomes necessary, Member States should be allowed to apply a lower VAT rate to postal services if they wish.

(Amendment 15)
Recital 28

It is appropriate for national regulatory authorities to link the introduction of all

It is appropriate for national regulatory authorities to link the introduction of all

such licenses to requirements that consumers of *their* services are to have transparent, simple and inexpensive procedures available to them for dealing with their complaints, regardless of whether they relate to the services of the universal service provider(s) or to those of operators holding authorisations, including individual license-holders. It is further appropriate for these procedures to be available to users of all postal services, whether or not they are universal services.

licenses to requirements that consumers of *the licencees'* services are to have transparent, simple and inexpensive procedures available to them for dealing with their complaints, regardless of whether they relate to the services of the universal service provider(s) or to those of operators holding authorisations, including individual license-holders. It is further appropriate for these procedures to be available to users of all postal services, whether or not they are universal services. ***Such procedures should include procedures for determining responsibility in case of loss or damage to mail items.***

Justification:

Self-explanatory.

(Amendment 16)
Recital 30

It is appropriate in the light of the complaints which have been raised against certain incumbent operators in recent years to provide for Member States to adopt rules to ensure that universal service providers do not cross-subsidise services outside the reserved area by means of revenues from services in the reserved area, except where it is shown to be strictly necessary to fulfil specific universal service obligations. It is therefore appropriate for national regulatory authorities to adopt rules to this effect and for them to communicate these rules to the Commission.

It is appropriate in the light of the complaints which have been raised against certain incumbent operators in recent years to provide for Member States to adopt rules to ensure that universal service providers do not cross-subsidise services outside the reserved area by means of revenues from services in the reserved area, except where it is shown to be strictly necessary to fulfil specific universal service obligations, ***as defined by Member States in accordance with Article 3 of Directive 97/67/EC, as amended by this Directive.*** It is therefore appropriate for national regulatory authorities to adopt rules to this effect and for them to communicate these rules to the Commission.

Justification:

As is already the case in certain Member States, it must be made clear that Member States are

free to define a universal service which exceeds the minimum requirements laid down in Article 3 of Directive 97/67/EC, as regards the number of deliveries and collections per week, and maintenance of the rural post office network.

(Amendment 17)
Article 1(1), FIRST PARAGRAPH
Article 2 (Directive 97/67/EC)

1. In Article 2, the following point is added:

“20. **Special** services are services clearly distinct from the universal service, which meet particular customer requirements and which offer additional service features with added-value not offered by the **standard postal service**. **Additional added-value service features are, for example, delivery on appointment, the option to effect a change of destination or addressee in course of transit or if delivery to the primary destination fails, tracking and tracing, guaranteed time of delivery, more than one attempt at delivery, delivery according to the priority or sequence specified by the customer.**

1. In Article 2, the following point is added:

“20. **New** services are services clearly distinct from the universal service, which meet particular customer requirements and which offer additional service features with added-value not offered by the **universal service provider as part of its obligation to provide a universal service**. **This definition shall be without prejudice to the universal service providers' freedom to modernise conventional letter services.**

Justification:

In addition to the points made by the rapporteur that it is more appropriate and coherent with Directive 97/67 to refer to "new services", it should be clear that a universal service provider may still upgrade and improve conventional services without the risk of them being excluded from the reserved area.

(Amendment 18)
ARTICLE 1(1), SECOND PARAGRAPH
Article 2 (Directive 97/67/EC)

Home collection **without any such features** is not a special service.

Simple home collection **linked to the universal service** is not a special service.

Justification:

Drafting amendment designed to remove any ambiguity regarding the legal status of home collection. Home collection in itself is not a criterion sufficient to determine whether a postal service does or does not form part of the universal service.

(Amendment 19)
ARTICLE 1 (1), THIRD PARAGRAPH
Article 2 (Directive 97/67/EC)

Electronic transmission to and/or electronic receipt by the operator for sorting, printing and/or preparation of mail shall not **be regarded as** an additional service feature within the meaning of the first subparagraph.

Electronic transmission to and/or electronic receipt by the operator for sorting, printing and/or preparation of mail shall not **constitute** an additional service feature within the meaning of the first subparagraph **for the purposes of this article. The delivery of correspondence generated by electronic means shall be reserved for universal service providers within the weight/price limits laid down in Article 7.**

Justification:

A drafting amendment intended to eliminate any ambiguity with regard to the legal rules governing the delivery of items of correspondence, since messages transmitted or received in electronic form are transformed into material objects to be delivered to the address indicated on the mail.

(Amendment 20)
ARTICLE 1(1), FOURTH PARAGRAPH
Article 2 (Directive 97/67/EC)

Express mail **is a special service, which**, in addition to faster and more reliable collection, transportation and delivery, **is characterised by** the provision of **some or all** of the following additional service features: collection from the sender's address, delivery to the addressee in person or to his authorised representative, guarantee of delivery **by a given date**, possibility of a change of destination and addressee in transit, confirmation to the sender of delivery, tracking and tracing, personalised treatment for customers and the offer of a

Express mail **ensures**, in addition to faster and more reliable collection, transportation and delivery, the provision of **all or most** of the following additional service features **contractually agreed between the provider and the customer**: collection from the sender's address, delivery to the addressee in person or to his authorised representative, guarantee of delivery **within 24 hours anywhere within the country**, possibility of a change of destination and addressee in transit, confirmation to the sender of delivery, tracking **from collection to delivery into the hands of the recipient** and tracing

range of services according to requirements."

throughout the journey, personalised treatment for customers and the offer of a range of services according to requirements.

Express mail is reservable if the additional services are offered within the price limit laid down for the reserved area."

Justification:

The proposed amendment clarifies a number of points in the definition of the express mail service, with particular reference to tracking and tracing from start to finish (i.e. from the time of collection to that of delivery to the addressee) and is in line with the definition in the Commission Communication (point 2.4, paragraph 3) which identifies extremely clearly the characteristics of the product and sanctions its reservability.

(Amendment 21)

ARTICLE 1(1a) (new)

Article 3(2) (Directive 97/67/EC)

2. To this end, Member States shall take steps to ensure that the density of the points of contact and of the access points takes account of the needs of users.

2. To this end, Member States shall take steps to ensure that the density of the points of contact, and of the access points ***including counter services*** takes account of the needs of users.

Justification:

Member States should be able to set minimum requirements in relation to the geographical concentration of counter services, in particular with a view to safeguarding the rural network.

(Amendment 22)

ARTICLE 1(1a) (new)

Article 3(3a) (new) (Directive 97/67/EC)

In Article 3, the following point is added:

"3a. Member States may lay down specific requirements which exceed the minimum requirements laid down in paragraphs 1, 2 and 3 of this Article, as regards concentration of contact and access points,

(including the specification of a minimum density of counter services in proportion to the number of inhabitants), and frequency of clearance and delivery."

Justification:

Member States should be free to define a universal service which exceeds the minimum requirements laid down in Article 3 of Directive 97/67/EC, as regards the number of deliveries and collections per week, and maintenance of the rural post office network.

(Amendment 23)

ARTICLE 1(2), first subparagraph

Article 7, paragraph 1

To the extent necessary to ensure the provision of universal service, Member States may continue to reserve certain standard mail services to the universal service provider(s). Those services shall be limited to the clearance, sorting, transport and delivery of ordinary items of domestic correspondence and incoming cross border correspondence within both of the following weight and price limits. The weight limit shall be **50 grams**. This weight limit does not apply if the price is equal or more than **two and a half times** the public tariff for an item of correspondence in the first weight step of the fastest category.

To the extent necessary to ensure the provision of universal service, Member States may continue to reserve certain standard mail services to the universal service provider(s). Those services shall be limited to the clearance, sorting, transport and delivery of ordinary items of domestic correspondence and incoming cross border correspondence within both of the following weight and price limits. The weight limit shall be **150 grams**. This weight limit does not apply if the price is equal or more than **three times** the public tariff for an item of correspondence in the first weight step of the fastest category.

Justification:

Concerning the revision of the price/weight thresholds, the Commission proposal does not permit a gradual and controlled viabilisation of the liberalisation process: it would inevitably lead to the effective disappearance of the reserved service.

At present, the application of the thresholds for the reserved area under the existing Directive (350 grams/five times the basic tariff) is already exposing some 30% of post office revenue to competition. The reduction in the reserved area proposed in the Commission text would make this distortion of the market still more unacceptable when the aim is to introduce the total liberalisation of outgoing international mail

(Amendment 24)

ARTICLE 1(2), FIRST PARAGRAPH, THIRD SUBPARAGRAPH

Article 7(1) (Directive 97/67/EC)

To the extent necessary to ensure the provision of universal service, direct mail may continue to be reserved within the weight and price limits *referred to in the first subparagraph*.

To the extent necessary to ensure the provision of universal service, direct mail **and cross-border mail** may continue to be reserved within the weight and price limits **applied by the regulatory authority within the limits and according to the criteria laid down in Article 7**.

Justification:

The aim of this amendment is to continue to reserve outgoing cross-border correspondence, if it is within the proposed weight and price thresholds, to the extent necessary to ensure provision of the universal service. This means that the system envisaged for direct mail should also apply to cross-border correspondence.

The liberalisation of outgoing cross-border mail would in fact have a serious economic impact on a number of Member States (for example Spain, Ireland, Luxembourg, Greece, Portugal and Italy) both because of the volume of outgoing international mail, for which reason such correspondence is of fundamental importance for funding universal service obligations, and because the reserved sector is even now insufficient to cover these obligations. Furthermore, such liberalisation would have an extremely limited effect at European level. According to the Commission it accounts for 3% of revenue.

(Amendment 25)
ARTICLE 1(2), SECOND PARAGRAPH, FIRST SUBPARAGRAPH
Article 7(2) (Directive 97/67/EC)

***Items of outgoing cross-border
correspondence, document exchange and
special services (including express mail)
may not be reserved.***

deleted

Justification:

This provision is superfluous.

(Amendment 26)
ARTICLE 1(2), THIRD PARAGRAPH
Article 7(3) (Directive 97/67/EC)

As a further step towards the completion of the internal market in postal services, the European Parliament and the Council shall decide, not later than **31 December 2005**, on a further opening of the postal market with effect from **1 January 2007**.

To that end, the Commission shall present a proposal by **31 December 2004**, following a review of the sector which shall focus on the need to ensure the provision of universal service in an appropriate manner in a competitive market environment.

Upon request by the Commission, Member States shall provide all the information necessary for completion of this review.

As a further step towards the completion of the internal market in postal services, the European Parliament and the Council shall decide, not later than **31 December 2007**, on a further opening of the postal market with effect from **2009**.

To that end, the Commission shall present a proposal by **the end of 2006**, following a review of the sector which shall focus on the need to ensure the provision of universal service in an appropriate manner in a competitive market environment.

(final subparagraph deleted)

Justification:

The chronology of the proposal needs to be completely reformulated. This must be done on the basis of all the information which has not yet been obtained on the consequences of the application of the policy defined in the first version of Directive 97/67/EC.

It is therefore clear that the date suggested for submission of the proposal is inappropriate: it is only two years since the publication of Directive 97/67/EC, and only one year since the expiry of the deadline laid down in that directive for its incorporation by the Member States, certain of which (e.g. Ireland) have not yet so much as completed the incorporation procedure.

(Amendment 27)
ARTICLE 1(3)
Article 7(2) (Directive 97/67/EC)

In Article 9 the following paragraph is added: *deleted*

6. Whenever universal service providers apply special tariffs, for example for services for businesses, bulk mailers or consolidators of mail from different customers, they shall apply the principles of transparency and non-discrimination with regard both to the tariffs and to the associated conditions. The tariffs shall take account of the avoided costs, as compared to the standard service covering the complete range of features offered for the clearance, transport, sorting and delivery of individual postal items and, together with the associated conditions, shall apply equally both as between different third parties and as between third parties and universal service providers supplying equivalent services.

Any such tariffs shall also be available to residential customers who post under similar conditions.

Justification:

The provision proposed by the Commission, which concerns tariff principles, should if necessary be included in Article 12 of Chapter 5, under the heading 'Tariff principles and transparency of accounts'. It is, however, considered that such a provision aggravates the competitive asymmetry, within the area of unreserved universal services, between private providers (who are under no obligation to provide comprehensive services and are not subject to any price restraints) and universal providers. The provisions of Article 12 of Directive 97/67 are sufficient in themselves to ensure that a transparent and non-discriminatory pricing scheme prevails.

The new requirement introduced by the Commission should be added to the above provision, pursuant to which prices must be geared to costs and universal service providers are granted the right to conclude individual price agreements with their own customers (Recital 14 and Article 12) in accordance with a general principle of transparency and non-discrimination which requires that 'an identical service [be offered] to users under comparable conditions' (Article 5).

(Amendment 28)
ARTICLE 1(4)
Article 12 (Directive 97/67/EC)

In Article 12, the following indent is added:

"- cross-subsidisation of universal services outside the reserved area out of revenues from services in the reserved area shall be prohibited except to the extent to which it is shown to be strictly necessary to fulfil specific universal service obligations imposed in the competitive area; rules shall be adopted to this effect by the national regulatory authorities who shall inform the Commission of such measures."

In Article 12, the following indent is added:

"- cross-subsidisation of universal services outside the reserved area out of revenues from services in the reserved area shall be prohibited except to the extent to which it is shown to be strictly necessary to fulfil specific universal service obligations, **as defined by Member States in accordance with Article 3, and** imposed in the competitive area; rules shall be adopted to this effect by the national regulatory authorities who shall inform the Commission of such measures."

Justification:

As is already the case in some Member States, it must be made clear that Member States are free to define a universal service which exceeds the minimum requirements laid down in Article 3 of Directive 97/67/EC, as regards the number of deliveries and collections per week, and maintenance of the rural post office network. If necessary, the universal service provider(s) must then be in a position to cross-subsidise from the non-reserved sector in order to fulfil any universal service obligations imposed on it by Member States, which are in excess of the minimum provisions laid down in Article 3.

(Amendment 29)
ARTICLE 1(4a) (new)
Article 16 (Directive 97/67/EC)

In Article 17, the following sentence is added to the last paragraph:

"Any failure to meet the quality standards established by the relevant regulatory authorities shall result in an appropriate financial penalty or, in the case of repeated failure to meet these standards, removal of the licence."

Justification:

In order to ensure that both public and private operators improve and maintain the quality of service to consumers, penalties for failure to meet clearly set standards are necessary, including, ultimately the removal of the licence.

(Amendment 30)

ARTICLE 1(5a) (new)

Article 19, first paragraph (Directive 97/67/EC)

Member States shall ensure that transparent, simple and inexpensive procedures are drawn up for dealing with users' complaints, particularly in cases involving loss, theft, damage or non-compliance with service quality standards.

Member States shall ensure that transparent, simple and inexpensive procedures are drawn up for dealing with users' complaints, particularly in cases involving loss, theft, damage or non-compliance with service quality standards **(including procedures for determining where responsibility lies in cases where more than one operator is involved)**.

Justification:

It is important for a consumer to know who is responsible or to whom he/she should address a complaint for loss or damage of a postal item, whether it be in the transfer between 2 different Member States or within a single Member State.

(Amendment 31)

ARTICLE 1(5b) (new)

Article 22, third paragraph (Directive 97/67/EC)

The national regulatory authorities shall have as a particular task ensuring compliance with the obligations arising from this Directive. They may also be charged with ensuring compliance with competition rules in the postal sector.

The national regulatory authorities shall have as a particular task ensuring compliance with the obligations arising from this Directive, **with particular regard to the universal service obligations as defined by Member States in accordance with Article 3 and the quality standards to be laid down in accordance with Article 16**. They may also be charged with ensuring compliance with competition rules in the postal sector.

Justification:

The important role of the national regulator in enforcing universal service obligations and

quality standards needs to be underlined.

(Amendment 32)

ARTICLE 1(6)

Article 9(6)

In Article 27, the date '31 December 2004' is replaced by the date '**31 December 2006**'.

In Article 27, the date '31 December 2004' is replaced by the date '**31 December 2008**'.

Justification:

See preceding justification.

(Amendment 33)

ARTICLE 2(1)

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than **31 December 2002**. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than **31 December 2004**. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Justification:

Time is needed if these measures are to be implemented smoothly (see earlier justifications).

13 November 2000

OPINION OF THE COMMITTEE ON INDUSTRY, EXTERNAL TRADE, RESEARCH AND ENERGY

for the Committee on Regional Policy, Transport and Tourism

on the proposal for a European Parliament and Council directive amending Directive 97/67/EC with regard to the further opening to competition of Community postal services (COM(2000) 319 – C5-0375/2000 – 2000/0139(COD))

Draftsman: Gilles Savary

PROCEDURE

The Committee on Industry, External Trade, Research and Energy appointed Gilles Savary draftsman at its meeting of 13 September 2000.

It considered the draft opinion at its meetings of 12 October and 7 November 2000.

At the last meeting it adopted the amendments below by 29 votes to 24.

The following were present for the vote: Carlos Westendorp y Cabeza, chairman, Renato Brunetta, vice-chairman, Nuala Ahern, vice-chairman, Peter Michael Mombaur, vice-chairman, Gilles Savary, draftsman, Maria del Pilar Ayuso González (for Concepció Ferrer), Ward Beysen (for Willy C.E.H. De Clercq), Massimo Carraro, Gérard Caudron, Giles Bryan Chichester, Claude J.-M.J. Desama, Harlem Désir, Francesco Fiori (for Guido Bodrato), Colette Flesch, Christos Folias, Jacqueline Foster (for Godelieve Quisthoudt-Rowohl), Pat the Cope Gallagher, Neena Gill (for Mechtild Rothe), Norbert Glante, Alfred Gomolka (for Werner Langen), Michel Hansenne, Malcolm Harbour, Philippe A.R. Herzog, Hans Karlsson, Wolfgang Kreissl-Dörfler (for Glyn Ford, pursuant to Rule 153(2)), Bernd Lange (for Reino Kalervo Paasilinna), Rolf Linkohr, Caroline Lucas, Eryl Margaret McNally, Nelly Maes, Erika Mann, Véronique Mathieu (for Yves Butel, pursuant to Rule 153(2)), Marjo Tuulevi Matikainen-Kallström, Elizabeth Montfort, Angelika Niebler, Giuseppe Nisticò (for Umberto Scapagnini), Hervé Novelli (for Anders Wijkman), Samuli Pohjamo (for Nicholas Clegg), John Purvis, Daniela Raschhofer, Imelda Mary Read, Christian Foldberg Rovsing, Paul Rübig, Ilka Schröder, Konrad K. Schwaiger, Esko Olavi Seppänen, Astrid Thors, Claude Turmes (for Yves Piétrasanta), Jaime Valdivielso de Cué, W.G. van Velzen, Alejo Vidal-Quadras Roca, Dominique Vlasto, François Zimeray and Myrsini Zorba.

SHORT JUSTIFICATION

1. Postal services in the EU: a key sector with many functions

With a turnover of some EUR 80 bn (accounting for some 1.4% of the EU's GDP) and employing a little under 1.3 m people, the postal sector occupies a very important position in the EU both in economic and social terms.

Unlike most other major economic sectors, the postal sector is distinguished by three essential features:

- it is a logistics and communications infrastructure essential to the overall competitiveness of the EU's economy and businesses;
- it is a market which is already competitive, offering a range of services and products which are diversifying and multiplying and which are subject to competition in many areas as a result of technological progress, developments in the Internet and numerous communication channels separate from letters or parcels;
- it is a sector with major social implications, not only because of the considerable number of people it employs and the geographical cover of the network, but also because of the multi-functional services provided and the role these play in local, regional and social life.

It is now absolutely essential for the postal sector to modernise and adapt in the light of the diversification of business and individual needs, the constant technological progress affecting the sector and its services and the context of a Europe without frontiers which is resulting in the *de facto* abolition of national monopolies. The maintenance of the historic functions of the postal sector in social and regional life are at stake.

2. Postal services in the EU: the present state of affairs

The EU has embarked upon a controlled and gradual opening up of the postal sector, in order to give it a European dimension in the context of the completion of the internal market.

Directive 97/67 marks the first step in this process. It is based on the idea that the essential objective of Community policy is to supply a universal service including the collection, transport, sorting and distribution of certain national and international items at any point in the EU, at least 5 days a week, at a set level of quality and an affordable price. The Member States are required to:

- ensure that the density of the points of contact and of the access points, as well as an appropriate timetable of collection and distribution, takes account of the needs of users;
- offer a service guaranteeing compliance with the essential requirements, to all users without any form of discrimination and ensuring continuity;

and

- contribute to the evolution of the universal service in response to the technical, economic and social environment and to the needs of users.

The universal service is administered by a public or private entity or entities which provide the service in all or part of the territory of a Member State.

The Member States are authorised to reserve services for the universal service provider where this is necessary to the latter's economic and financial operation, but are free to adopt more liberal measures than those provided in the directive.

Directive 97/67 has been implemented in varying ways in the Member States: the historic operators retain a central place, but in very widely differing liberalisation environments. Sweden and Finland have opened up the whole market to competition but their historic operators have managed to retain a *de facto* monopoly or near-monopoly. In Spain, inter-city mail is completely liberalised and direct mail is partially open to competition. In the Netherlands, the reserved services are restricted to 100g and three times the basis tariff, direct mail proper is not part of the reserved sector and the status of the historic operator has evolved to enable it to implement price increases above the increase in costs. In Germany, the weight limit is currently 200g for ordinary post (50g for direct mail).

Most of the historic operators have embarked on international acquisition and merger strategies with foreign post or logistics firms.

3. Assessment of the proposal for the amendment of Directive 97/67

It was at the insistence of the Lisbon European Council (March 2000) that the Commission submitted the proposal seeking to move on to the second stage in the process of opening up postal services.

The proposal seeks to:

- reduce the scope of the reserved services (weight/price limit);
- introduce a new category of services (special services) which will fall outside the scope of the reserved sector;
- strengthen competition;
- speed up liberalisation by proposing a third stage from 1 January 2007.

3.1. The revision of the directive was carried out **without an in-depth study of the present state of the postal sector**. The studies carried out in 1997 and 1998 are disputed on the grounds of gaps in their methodology gaps, and do not provide an in-depth view of the economic, social and regional impact of the 1997 directive. The proposal's explanatory memorandum does not constitute a solid analysis, presenting both sides of the argument, of the situation in the sector.

Parliament has repeatedly asked the Commission to produce a complete report on the impact of the implementation of the 1997 directive, but no action has been taken.

3.2 The Council's resolution of 7 February 1994 called on the Commission to base its proposals for a regulation on measures which were transparent, simple and easy to manage. The step-by-step reduction of **weight-price thresholds determining the limits of the reserved services** was regarded as a gradual and controlled approach.

The proposal to cut the threshold to 50 g and 2 ½ times basic tariff (from the current levels of 350 g and 5 times basic tariff) represents a reduction which goes against the principle of gradual opening of postal services. A majority of universal service operators expressed the view that a cut from 350 g to 150 g would be reasonable, and that feasibility studies were necessary before a greater cut was envisaged. In Sweden the postal operator announced major losses in spite of the fact that Sweden Post had retained its dominant market position, had cut staff by 30% and steeply increased postal rates for the public (the cost of sending a letter of under 20g rose from SKR 2.90 to SKR 5 between 1993 and 2000).

The consequences of the proposal have been underestimated. The Commission stresses that only a further 16% of the market would be opened to competition. It is working on the basis of averages. It does not ask about possible loss of margins occasioned by the opening of the market; what about the behaviour of new entrants into the market attracted by the potential turnover of a wider market? what about entry strategies to the only profitable segments of the market? It is well known that the cost of the universal service varies with geography and population distribution, but this matter is not touched on. And yet the equalisation of tariffs for all services supplied on a competitive basis.

3.3 The Commission proposes drawing the distinction between basic services (falling within the scope of the universal service) and **special services, a new category defined as added-value services which are not universal and therefore cannot be reserved.** For items of correspondence, the weight-price limits are therefore in danger of being discontinued in practice for the purposes of defining – and thus funding – the universal service.

This approach threatens the very existence of the universal service and does not accord with the desire for transparency expressed by the Commission in its communication of 6 February 1998 on the application of competition rules to the postal sector. The Commission is thus jeopardising the provision of an affordable high-quality universal service, capable of being adapted to new technology and the needs of all users (contrary to Art. 5 of Directive 97/67). The universal service currently provides added-value services such as the computer monitoring of registered mail by means of a bar-code system. The provision of these services to all customers would be seriously threatened, and this would go against the principle that services should be able to be adapted to technical progress in the interest of all users, not just those with specific needs.

The definition of 'special services' introduces a legal uncertainty, since any additional service feature could transform a service covered by the universal service into a special service not covered by the universal service. Whether a service is defined as a basic or a special service would therefore depend entirely on the definition which the service provider wished to give to his activity. Similarly, any competitor defining his service as a special service could easily circumvent the rules governing the reserved service. Such a competitor would be interested only in the profitable markets, in which the collection and distribution costs are already low, regardless of any added-value service, and would distribute the profitable urban mail while the universal service operator would be left with the unprofitable activities. The regulation of the

market would apply solely to service providers, whatever the consequences. This would inevitably lead to the proliferation of demarcation disputes.

3.4 The Commission considers that the turnover still reserved for the universal service is sufficient to guarantee its economic and financial stability. Where this is not the case, the national authorities are authorised to set up **a compensation fund, to which other licensed operators may be asked to contribute, with a view to ‘mutualising’ the burdens of the universal service.**

This approach is not convincing since the compensation fund begs a number of questions:

- the size of the compensation fund: this presupposes a consensus on the cost to be shared. It is therefore necessary to calculate this cost at the outset and then to revise it annually. This is a long, costly, complicated exercise, susceptible to disputes as to its methods and the arrangements for arriving at it;
- the definition of the status of contributors to the fund and the basis used for calculations. How will it be possible to avoid the distortions of competition which could arise from a calculation method which disadvantaged one operator as against another?
- the identification and authorisation of all operators; unlike telecommunications, there is no automatic information system. It is very difficult to obtain the necessary information, in particular from small operators.

The theoretical problems linked to the creation of a compensation fund are borne out by the facts: Spain and Greece have provided for such an arrangement in transposing Directive 97/67 and are now being questioned by the Commission and by market operators about the methods of its implementation. It is very unwise to advocate such a solution, since it has not been shown to be appropriate or feasible.

3.5 The Commission considers that a new stage in the opening of postal services to competition will be reached on 1 January 2007 on the basis of a new proposal at the end of 2004. It is risky to commit oneself at this stage on **such a short-term timetable** which would amount to launching a new liberalisation process less than two years after the previous one, without sufficient time to take account of the implications of the earlier process. A prior assessment of the implementation of the current phase of opening the market to competition is essential. It must be transparent, must hear both sides of the argument, must involve all the operators concerned and must take into account matters of employment (both quantity and quality), network density and coverage particularly in countries with complex geographical and demographic situations, the quality of services provided, the adaptability of the universal service to technological progress and the needs of all users.

AMENDMENTS

The Committee on Industry, External Trade, Research and Energy calls on the Committee on Regional Policy, Transport and Tourism, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

(Amendment 1)
Recital 2

Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service established a regulatory framework for the postal sector at Community level, including measures to guarantee a universal service, the setting of maximum limits for the postal services which Member States may reserve to their universal service provider(s) with a view to the maintenance of the universal service, and a timetable for decision-making on the further opening of the market to competition, for the purposes of creating a single market in postal services.

Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service established a regulatory framework for the postal sector at Community level, including measures to guarantee a universal service, the setting of maximum limits for the postal services which Member States may reserve to their universal service provider(s) with a view to the maintenance of the universal service, and a timetable for decision-making on the further **gradual and controlled** opening of the market to competition, for the purposes of creating a single market in postal services.

Justification:

It is important to stress in this paragraph the principle of a gradual and controlled liberalisation of the market, as set out in Article 7(3) of Directive 97/67.

(Amendment 2)
Recital 5

¹ OJ C not yet published.

The European Council, meeting in Lisbon, on 23 and 24 March 2000, set out in its Presidency conclusions two decisions applying to postal services, whereby action was requested of the Commission, the Council and the Member States in accordance with their respective powers. The requested actions are: first, to set out by the end of 2000 a strategy for the removal of barriers to services, namely postal services, and secondly, to speed up liberalisation in areas such as postal services, the stated aim being to achieve a fully operational market in postal services.

The European Council, meeting in Lisbon, on 23 and 24 March 2000, set out in its Presidency conclusions two decisions applying to postal services, whereby action was requested of the Commission, the Council and the Member States in accordance with their respective powers. The requested actions are: first, to set out by the end of 2000 a strategy for the removal of barriers to services, namely postal services, and secondly, to speed up liberalisation in areas such as postal services, the stated aim being to achieve a fully operational market in postal services. ***The European Council also reaffirmed its intention to take full account of the Treaty provisions relating to services of general economic interest, and to the undertakings entrusted with operating such services.***

Justification:

It is important that reference should be made to all the conclusions of the European Council, including paragraph 19 thereof.

(Amendment 3)
Recital 6

The Commission has undertaken a thorough review of the Community postal sector, including the commissioning of studies on the economic, social and technological developments in the sector, and has consulted extensively with interested parties.

deleted

Justification:

The Commission has not been able to submit the result of these evaluations.

(Amendment 4)
Recital 11

It is ***therefore*** appropriate to define a category comprising "special services" fulfilling special customer needs, ***this***

It is (***one word deleted***) appropriate to define a category comprising "special services" fulfilling special customer needs ***which are***

*category should include all services with the required added features. Such services should not be reserved, regardless of the weight or the price of such items. Sending mail electronically for distant printing only will not be sufficient to **take it outside the reserved area.***

*not covered by the universal service (within the meaning of the term) which is already provided to consumers. Such services shall not be included in the reserved category unless this would jeopardise the financial stability of the universal service provider. Sending mail electronically for distant printing only will not be sufficient **for it to be categorised as a special service.***

Justification:

In the Directive, special services are defined in terms of weight and price limits. This definition should not undermine what is already provided to consumers by way of universal service, since certain services such as express mail are currently included within the meaning of universal service.

(Amendment 5)
Recital 12

The increase in demand within the postal sector as a whole, predicted for the medium term, **will** help to offset the loss of market share that the universal service providers may incur as a result of further market-opening and will thereby further safeguard the universal service.

The increase in demand within the postal sector as a whole, predicted for the medium term, **should** help to offset the loss of market share that the universal service providers may incur as a result of further market-opening and will thereby further safeguard the universal service.

Justification:

There is no study demonstrating irreversibly the development of the market in postal services. A more prudent wording should therefore be used.

(Amendment 6)
Recital 13

Amongst the factors which bring about change affecting employment in the postal sector, technological development and

Amongst the factors which bring about change affecting employment in the postal sector, technological development and

market pressure for efficiency gains are the most important; ***of the remaining factors for change, market-opening will play a less prominent part.*** Market-opening will help to expand the overall size of the postal markets, and any reductions in staff levels among the universal service providers due to such measures (or their anticipation) are likely to be offset by the resulting growth in employment among private operators and new market entrants.

market pressure for efficiency gains are the most important (***14 words deleted***). Market-opening ***should*** help to expand the overall size of the postal markets, ***and to increase overall employment levels. An effort must be made to ensure that the opening up of the market does not lead to any deterioration of the working conditions prevailing among postal service providers.***

Justification:

In some countries, there has been talk of replacing post office employees with workers on temporary contracts, freelancers or students.

(Amendment 7)
Recital 14

(14) It is appropriate to provide at Community level a timetable for a gradual and controlled opening of the letters market to competition which allows all universal service providers sufficient time to put in place the further measures of modernisation and restructuring required to ensure their long-term viability under the new market conditions. An appropriate period of time is also needed to enable Member States to adapt their regulatory systems to a more open environment. It is therefore appropriate to provide for a step-by-step approach to further market-opening, consisting of an intermediate step representing a significant but controlled opening of the market, followed by a review and proposal for a further step.

(14) It is appropriate to provide, at Community level, ***detailed guidelines based on*** a timetable for a gradual and controlled opening of the ***postal communications*** market to competition which allows all universal service providers sufficient time to put in place the further measures of modernisation and restructuring required to ensure their long-term viability under the new market conditions. An appropriate period of time is also needed to enable Member States to adapt their regulatory systems to a more open environment. It is therefore appropriate to provide for a step-by-step approach to further market-opening, consisting of an intermediate step representing a significant but controlled opening of the market, followed by a review and proposal for a further step.

Justification:

Objectives must be set for each stage in the timetable for the opening up of the letters market to competition. These objectives should take the form of detailed guidelines so that the targets to be met within certain deadlines can be defined in advance.

(Amendment 8)

Recital 15

(15) It is appropriate to ensure that the next phase of market-opening is both substantial in nature and achievable in practice **for** the Member States.

(15) It is appropriate to ensure that the next phase of market-opening is both substantial in nature and achievable in practice **by the postal operators of** the Member States.

Justification:

It should be specified that those involved in the opening up of the market are the postal operators themselves and that, in practice, it is their job to effect such opening up within the individual Member States.

(Amendment 9)

Recital 16

A general reduction to 50 grams in the weight limit of the services which may be reserved to the universal service providers, combined with opening outgoing cross-border mail and express mail fully to competition, represents a relatively simple and controlled further phase which is nevertheless significant.

deleted

Justification:

This statement is not based on any specific study enabling the impact of different liberalisation scenarios on employment to be assessed.

(Amendment 10)

Recital 17

In the Community, items of ordinary correspondence weighing between 50 grams and 350 grams represent on average approximately 16% of the total postal revenues of the universal service providers, whilst items of outward cross-

deleted

border correspondence and express services below the price limit represent a further 4% or so, on average, of the total postal revenues of the universal service providers.

Justification:

This recital becomes redundant owing to proposed changes in the body of the directive.

(Amendment 11)

Recital 18

A price limit for the services capable of being reserved, of ***two and a half*** times the public tariff for an item of correspondence in the first weight step of the fastest standard category, is appropriate in combination with a ***50***-gram weight limit where applicable.

A price limit for the services capable of being reserved, of ***three*** times the public tariff for an item of correspondence in the first weight step of the fastest standard category, is appropriate in combination with a ***150***-gram weight limit where applicable.

Justification:

This amendment needed to bring the recitals into line with the amendments proposed to the body of the directive.

(Amendment 12)

Recital 19

A ***50***-gram weight limit for items of ordinary domestic correspondence is practical, since it ***does not present a risk of its circumvention by way of an artificial increase in the weight of individual items of correspondence, most items of correspondence being below 20 grams in weight.***

A ***150***-gram weight limit for items of ordinary domestic correspondence is practical, since it ***ensures economic and financial viability for operators.***

Justification:

This amendment needed to bring the recitals into line with the amendments proposed to the body of the directive.

(Amendment 13)

Recital 20

Direct mail already represents in most Member States a dynamic and growing

Direct mail already represents in most Member States a dynamic and growing

market with substantial growth prospects while in the remaining Member States there is considerable potential for growth. Direct mail is already largely open to competition in six Member States. The improvements in service flexibility and pricing resultant from competition would improve the position of direct mail versus alternative communications media, which, in turn, would be likely to lead to new postal items as an additional spin-off and strengthen the position of the postal industry as a whole. Nevertheless, to the extent necessary to ensure the provision of universal service, it should be provided that direct mail may continue to be reserved within the above weight and price limits of **50** grams and *two and a half* times the basic public tariff.

market with substantial growth prospects while in the remaining Member States there is considerable potential for growth. Direct mail is already largely open to competition in six Member States. The improvements in service flexibility and pricing resultant from competition would improve the position of direct mail versus alternative communications media, which, in turn, would be likely to lead to new postal items as an additional spin-off and strengthen the position of the postal industry as a whole. Nevertheless, to the extent necessary to ensure the provision of universal service, it should be provided that direct mail may continue to be reserved within the above weight and price limits of **150** grams and *two and a half* times the basic public tariff.

Justification

This amendment needed to bring the recitals into line with the amendments proposed to the body of the directive.

(Amendment 14) Recital 21

(21) Outgoing cross-border mail *is already de facto open to competition in most Member States; its reservation is not needed* to ensure universal service representing on average 3% of total postal revenues. *Opening this part of the market de jure would allow different postal operators to collect, sort and transport all outgoing cross-border mail and to deliver it in Member States, but only where the domestic regulation in a particular Member State permits this.*

(21) *In general, there is no need for outgoing cross-border mail to be reserved in order to ensure universal service since this service represents on average only 3% of total postal revenues in most countries. However, opening up the market would at this stage have a not-insignificant impact on the provision of universal service in certain countries which, on account of their specific geographical situation, have a flow of outgoing cross-border mail which greatly exceeds the abovementioned average. It should be possible for the outgoing cross-border mail of such countries to be reserved within the above weight and price limits of 150 grams and three times the basic public tariff for the duration of a transitional period running until 31 December 2007.*

Justification:

In certain EU countries, cross-border mail represents a percentage of the total amount of mail and of postal companies' income which is significantly above the average recorded in the EU countries as a whole, for which reason the postal companies in those countries should be granted a transitional period. This kind of phased liberalisation would make it possible to avoid undesirable effects on employment in those countries and on the financial situation of the companies concerned.

(Amendment 15)
Recital 22

Opening incoming cross-border mail to competition would allow circumvention of the 50-gram limit through relocation of the posting of a proportion of bulk domestic mail, thereby making its effects unpredictable. Identifying the origins of items of correspondence could present additional enforcement difficulties. A **50-**gram weight limit for items of ordinary incoming cross-border correspondence and direct mail, as for ordinary domestic correspondence, is practical as it does not present a risk of circumvention either in this way or through an artificial increase in the weight of individual items of correspondence.

Opening incoming cross-border mail to competition would allow circumvention of the 50-gram limit through relocation of the posting of a proportion of bulk domestic mail, thereby making its effects unpredictable. Identifying the origins of items of correspondence could present additional enforcement difficulties. A **150-**gram weight limit for items of ordinary incoming cross-border correspondence and direct mail, as for ordinary domestic correspondence, is practical as it does not present a risk of circumvention either in this way or through an artificial increase in the weight of individual items of correspondence.

Justification

This amendment needed to bring the recitals into line with the amendments proposed to the body of the directive.

(Amendment 16)
Recital 25

It is appropriate both to define the new weight and price limits and the services to which they may apply and to provide for a further review and decision on further market-opening.

It is appropriate both to define the new weight and price limits and the services to which they may apply and to provide for a further review and decision on further market-opening. ***An analysis of the sector must precede any further liberalisation of***

the market, and will be forwarded in good time to the European Parliament.

Justification

It is important to stress the principle that an analysis should precede any decision on the further opening of the postal market.

(Amendment 17)

Recital 30

It is appropriate in the light of the complaints which have been raised against certain incumbent operators in recent years to provide for Member States to adopt rules to ensure that universal service providers do not cross-subsidise services outside the reserved area by means of revenues from services in the reserved area, except where it is shown to be ***strictly*** necessary to fulfil specific universal service obligations. It is therefore appropriate for national regulatory authorities to adopt rules to this effect and for them to communicate these rules to the Commission.

It is appropriate in the light of the complaints which have been raised against certain incumbent operators in recent years to provide for Member States to adopt rules to ensure that universal service providers do not cross-subsidise services outside the reserved area by means of revenues from services in the reserved area, except where it is shown to be ***(one word deleted)*** necessary to fulfil specific universal service obligations. It is therefore appropriate for national regulatory authorities to adopt rules to this effect and for them to communicate these rules to the Commission.

Justification:

The qualifier 'strictly' could be the source of unnecessary confusion.

(Amendment 18)

Recital 30a (new)

(30a) Since the postal and postal services sector is a sensitive, technical one, private and business users should receive appropriate information on a regular basis regarding current developments and new services available.

Justification:

Users must have access to adequate information regarding technological progress and the new

products available on the postal services market. Depending on current practices in the Member States, such information could, for example, be provided by independent authorities set up for the purpose or directly by postal operators.

(Amendment 19)

ARTICLE 1 (1) FIRST PARAGRAPH

Article 2 (19a) (new), first paragraph (Directive 97/67/EC)

In Article 2, the following point is added:
"20. Special services: services clearly distinct from the universal service, which meet particular customer requirements and which offer additional service features with added-value not offered by the standard postal service. Additional added-value service features are, for example, delivery on appointment, the option to effect a change of destination or of addressee in course of transit or if delivery to the primary destination fails, tracking and tracing, guaranteed time of delivery, more than one attempt at delivery, delivery according to the priority or sequence specified by the customer.

In Article 2, the following point is added:
"20. ***Special services are specific services clearly dissociable from the universal service, which meet particular requirements not covered by the universal service. The universal service develops in line with the technical, economic and social environment and with the needs of users. Special services are placed outside the reserved sector only in so far as they do not compromise the economic balance of the universal service provider. The price of these special services shall be proportionate to the extra cost the user is prepared to pay. This price must be higher than the price limit of the reserved sector.***

Justification:

This proposal by the Commission, which has not been the subject of any prior study of its economic consequences, calls into question the principle that the universal service should be adaptable, and would be the source of serious legal uncertainty. The reference to price as the most important factor in the assessment of the added value appears in recital 18 of Directive 97/67/EC and the principle of adaptability is stated in Article 5 of that directive. The notion of a specific service dissociable from the universal service in the general interest is mentioned in the Corbeau judgment. These services may be offered in competition if they do not jeopardise the economic balance of the service in the general economic interest and its provider.

(Amendment 20)

ARTICLE 1 (1) SECOND PARAGRAPH

Article 2 (19a) (new), second paragraph (Directive 97/67/EC)

Home collection ***without any such features is not*** a special service.

Home collection ***associated with the universal service is not an additional characteristic permitting a service to be defined as*** a special service.

Justification

This is an editorial change to remove any ambiguity as to the regulatory status of home collection. The mere fact of home collection cannot determine whether a service forms part of the universal service or not.

This amendment is justified only if Amendment 1 above is not adopted.

(Amendment 21)

ARTICLE 1(1), THIRD PARAGRAPH

Article 2 (19a) (new), third paragraph (Directive 97/67/EC)

Electronic transmission to and/or electronic receipt by the operator for sorting, printing and/or preparation of mail ***shall not be regarded as an additional service feature within the meaning of the first subparagraph.***

Electronic transmission to and/or electronic receipt by the operator for sorting, printing and/or preparation of mail ***associated with the universal service are not additional characteristics permitting a service to be defined as a special service within the meaning of this article.***

Justification

This is an editorial change to remove any ambiguity as to the regulatory status of mail once it has taken physical form for distribution to the address shown on the mail item.

This amendment is justified only if Amendment 1 above is not adopted.

(Amendment 22)

ARTICLE 1(1), PARAGRAPH 4

Article 2(19a) (new), fourth subparagraph (Directive 97/67/EC)

Express mail is a special service, which, in addition to faster and more reliable collection, transportation and delivery, is characterised by the provision of some or all of the following additional service features: collection from the sender's address, delivery to the addressee in person or to his authorised representative, guarantee of delivery ***by a given date***, possibility of a change of destination and addressee in transit, confirmation to the sender of delivery, tracking and tracing, personalised treatment for customers and the offer of a range of services according to requirements.

Express mail is a special service, which, in addition to faster and more reliable collection, transportation and delivery, is characterised by the provision of some or all of the following additional service features: collection from the sender's address, delivery to the addressee in person or to his authorised representative, guarantee of delivery ***within 24 hours anywhere within the country***, possibility of a change of destination and addressee in transit, confirmation to the sender of delivery, tracking and tracing, personalised treatment for customers and the offer of a range of services according to requirements.

Justification:

The provision proposed by the Commission, which concerns tariff principles, should if necessary be included in Article 12 of Chapter 5, under the heading 'Tariff principles and transparency of accounts'. It is, however, considered that such a provision undermines the competitive asymmetry, within the area of unreserved universal services between private providers (who are under no obligation to provide comprehensive services and are not subject to any price restraints) and universal providers. The provisions of Article 12 of Directive 97/67 are sufficient in themselves to ensure that a transparent and non-discriminatory pricing scheme prevails. The new requirement introduced by the Commission should be added to the above provision, pursuant to which prices must be geared to costs and universal service providers are granted the right to conclude individual price agreements with their own customers (Recital 14 and Article 12) in accordance with a general principle of transparency and non-discrimination which requires that 'an identical service [be offered] to users under comparable conditions' (Article 5).

(Amendment 23)

ARTICLE 1 (2), PARAGRAPH 1
Article 7 (1) (Directive 97/67/EC)

1. To the extent necessary to ensure the **provision** of universal service, **Member States may continue to reserve certain standard mail services to** the universal service provider(s). **Those services shall be limited** to the clearance, sorting, transport and delivery of ordinary items of **domestic** correspondence and incoming cross border correspondence within both of the following weight and price limits. The weight limit shall be **50** grams. This weight limit does not apply if the price is equal or more than **two and a half** times the public tariff for an item of correspondence in the first weight step of the fastest category.

1. To the extent necessary to ensure the **maintenance** of universal service, **the services which may be reserved by each Member State for** the universal service provider(s) **shall be** the clearance, sorting, transport and delivery of ordinary items of **national** correspondence and incoming cross-border correspondence, **whether by accelerated delivery or not**, within both of the following weight and price limits. The weight limit shall be **150** grams. This weight limit does not apply if the price is equal or more than **three** times the public tariff for an item of correspondence in the first weight step of the fastest category.

Justification

The proposed amendment reinstates the wording of Article 7 of Directive 97/67 as regards the justification of the reserved sector, which remains the same. The new and undefined notion of 'standard mail' is thus deleted. Also reinstated is the notion of delivery whether accelerated or not in order to give full application to the weight/price limits while guaranteeing full legal certainty. The principle of the liberalisation of outgoing cross-border mail, proposed by the Commission, is retained. However, it is more precise to use the terms 'items of national correspondence' than 'items of domestic correspondence'. A weight limit of 150 g and a price

limit of three times the basic tariff would be more in accordance with the stated intention to employ a gradual and measured approach.

(Amendment 24)

ARTICLE 1(2)(2), first subparagraph
Article 7(2)(2) (Directive 97/67/EC)

2. Items of outgoing cross-border correspondence, ***document exchange and special services (including express mail) may not be reserved.***

2. Items of outgoing cross-border correspondence ***may be reserved under certain conditions. Countries with a flow of outgoing cross-border mail which greatly exceeds the average of three percent of their total postal revenues may reserve such mail for the duration of a transitional period running until 31 December 2007.***

Justification:

In certain EU countries, cross-border mail represents a percentage of the total amount of mail and of postal companies' income which is significantly above the average recorded in the EU countries as a whole, for which reason the postal companies in those countries should be granted a transitional period. This kind of phased liberalisation would make it possible to avoid undesirable effects on employment in those countries and on the financial situation of the companies concerned.

(Amendment 25)

ARTICLE 1(2)(2), second subparagraph a (new)
Article 7(2)(2a) (new) (Directive 97/67/EC)

The Member States shall take the necessary action to ensure that working conditions prevailing amongst universal service providers do not deteriorate following the opening up of the market.

Justification:

In certain countries it has been suggested that all post office staff could be replaced by

temporary or self-employed workers or by students.

(Amendment 26)
ARTICLE 1, (2), PARAGRAPH 2
Article 7 (3), (Directive 97/67/EC)

3. As a further step towards the completion of the internal market in postal services, the European Parliament and the Council shall decide, not later than 31 December 2005, on a further opening of the postal market with effect from 1 January 2007. To that end, the Commission shall present a proposal by 31 December 2004, following a review of the sector which shall focus on the need to ensure the provision of universal service in an appropriate manner in a competitive market environment. Upon request by the Commission, Member States shall provide all the information necessary for completion of this review.

3. *Three years from the date of the transposition of the directive in all the Member States, the Commission shall consider the consequences of its application, consulting all operators in the postal service. Subsequently, and at any rate no later than 31 December 2007, the Commission shall submit its proposals to the Council and the European Parliament with a view to possible further opening of the postal market to competition based on impact studies, assessing the consequences for the universal service, in order to take account of technological developments and the needs of users .*

Upon request by the Commission, Member States shall provide all the information necessary for completion of this review.

Justification

Liberalisation measures, in view of their irreversible nature, deserve to be carefully studied. It is thus proposed, before embarking on a further step, that a period of at least three years should be allowed to permit the effects of measures due to enter into force in 2003 to be properly assessed, in consultation with all interested parties and in particular the European Parliament as called for in its resolutions B4-0025/99, B4-0039/99 and B4-0040/99 of 14 January 1999 and B5-0116/2000 of 18 February 2000, of which no notice has been taken by the Commission.

(Amendment 27)
ARTICLE 1 (4)
Article 12 (Directive 97/67/EC)

(4) In Article 12, the following indent is added:

(4) In Article 12, the following indent is added:

- cross-subsidisation of universal services outside the reserved area out of revenues from services in the reserved area shall be prohibited except to the extent to which it is shown to be *strictly* necessary to fulfil specific universal service obligations imposed in the competitive area; rules shall be adopted to this effect by the national regulatory authorities who shall inform the Commission of such measures.

- cross-subsidisation of universal services outside the reserved area out of revenues from services in the reserved area shall be prohibited except to the extent to which it is shown to be necessary to fulfil specific universal service obligations imposed in the competitive area; rules shall be adopted to this effect by the national regulatory authorities who shall inform the Commission of such measures.

Justification

The qualifier 'strictly' adds nothing to the sense but might lead to problems in the application of the principle.

7 November 2000

OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS

for the Committee on Regional Policy, Transport and Tourism

on the proposal for a European Parliament and Council directive amending Directive 97/67/EC with regard to the further opening to competition of Community postal services (COM(2000) 319 – C5-0375/2000 – 2000/0139(COD))

Draftsman: Proinsias De Rossa

PROCEDURE

The Committee on Employment and Social Affairs appointed Proinsias De Rossa draftsman at its meeting of 5 July 2000.

It considered the draft opinion at its meetings of 11 October and 7 November 2000.

At the last meeting it adopted the amendments below by 29 votes to 15, with 3 abstentions.

The following were present for the vote: Michel Rocard, chairman; Winfried Menrad, vice-chairman; Marie-Thérèse Hermange, vice-chairman; José Ribeiro e Castro, vice-chairman; Proinsias De Rossa draftsman; Sylviane H. Ainaridi, Elspeth Attwooll (for Daniel G.L.E.G. Ducarme), María Antonia Avilés Perea, Regina Bastos, Theodorus J.J. Bouwman (for Jillian Evans), Philip Rodway Bushill-Matthews, Gunilla Carlsson (for Rodi Kratsa-Tsagaropoulou), Chantal Cauquil (for Arlette Laguiller), Luciano Emilio Caveri, Luigi Cocilovo, Harlem Désir (for Jan Andersson), Carlo Fatuzzo, Ilda Figueiredo, Francesco Fiori (for Mario Mantovani pursuant to Rule 166(3)), Hélène Flautre, Fiorella Ghilardotti, Marie-Hélène Gillig, Anne-Karin Glase, Roger Helmer (for Raffaele Lombardo), Ian Stewart Hudghton, Stephen Hughes, Karin Jöns, Piia-Noora Kauppi (for Thomas Mann), Dieter-Lebrecht Koch (for James L.C. Provan), Ioannis Koukiadis, Jean Lambert, Elizabeth Lynne, Toine Manders (for Luciana Sbarbati), Riitta Myller (for Alejandro Cercas Alonso), Mauro Nobilia, Neil Parish (for Tokia Saïfi), Manuel Pérez Álvarez, Guido Podestà, Bartho Pronk, Gilles Savary (for Elisa Maria Damião pursuant to Rule 166(3)), Gerhard Schmid, Peter William Skinner (for Harald Ettl), Miet Smet, Ilkka Suominen, Helle Thorning-Schmidt, Ieke van den Burg and Barbara Weiler.

SHORT JUSTIFICATION

Postal services are of vital importance to Europe, economically, socially and culturally. EU postal services 135 billion separate items a year, generating a turnover of Euro 80 billion or 1.4% of GDP (p.4, Explanatory Memorandum). Approximately 1.7 million people are employed in the postal sector while the postal service is of vital importance to rural, remote and sparsely populated regions and disadvantaged urban areas.

The Lisbon Summit in March 2000 in a direct reference to postal services called on the Commission to “*speed up liberalisation*” in postal services and says that the aim is to achieve a “*fully operational internal market*” (point 17 of conclusions). The conclusions also called on EU institutions to set out by the end of 2000 a “*strategy for the removal of barriers to services*”.

On 30 May 2000, the Commission produced its proposals for further opening to competition of Community postal services by amending Directive 97/67/EC.

The 1997 ‘Postal Directive’ sought to establish an internal market in the postal sector and to guarantee the maintenance of a good quality universal service. It dealt with issues such as tariff principles and the transparency of accounts for the provision of the universal service, the setting of quality standards for the provision of that service, and the creation of independent national regulators.

Article 7 of the Postal Directive stated that the European Parliament and the Council were to decide, by January 2000, on the basis of a Commission proposal to be presented before the end of 1998, on the further gradual and controlled liberalisation of the Postal Market, in particular with a view to the liberalisation of cross-border and direct mail, as well as a further review of the price and weight limits, with effect from January 2003.

The Commission missed the December 1998 deadline by 17 months. Reasonably, it attributed its delay to the resignation of the previous Commission and by the need of the new Commission to re-examine the issue.

However, the Commission proposal under examination now seeks to implement the foreseen further liberalisation in accordance with the 1997 timetable, despite the late proposal. This is to be done by proposing a substantial step as of January 2003 and by providing a timetable for further liberalisation as of January 2007 on the basis of further Commission proposals due by December 2004.

The Commission proposal seeks to lower the weight limit for ordinary letters and direct mail from 350 grams to 50 grams and five times the basic price to 2.5 times the basic price; to fully open out-going cross border post to competition (while retaining weight and price limits on inward cross-border post), and to abolish the price limit for express post. It also introduces the concept of “special services” i.e. “new” Service, which are to be fully open to competition.

The Commission estimates that this would open an additional 20% of the revenue of universal service postal providers to competition, in addition to the 30% already open under the 1997 Postal Directive.

There are a number of specific concerns of importance regarding the Employment and Social impact of these proposals.

Since the Commission was 17 months late in bringing forward these proposals it is clear that the January 2003 deadline cannot be met. Given that the Postal Directive took two-and-a-half years to agree and that this is one of the most controversial issues to come before the EP and Council.

The implications for employment give rise to very serious concern.

It is widely acknowledged that employment levels in the European postal service have been falling over recent years. The Commission acknowledges that liberalisation is one of a number of factors affecting employment levels in the postal sector, yet it has failed to provide an assessment of these. The Postal Directive provided for a Commission assessment of the impact of the 1997 Postal Directive, including on employment, by the end of 2000. The Commission says its proposal represents a balanced, step-by-step approach. How can legislators make crucial decisions without reliable information about the impact of previous initiatives? Serious concerns have to be expressed about the Commission's intentions in this regard. Speaking before the Committee on Regional Policy, Transport and Tourism on 22 June 2000, Commissioner Bolkestein told MEPs that he "*intended to monitor the issue of employment in the postal sector on a constant basis* (according to released script). This work should have been carried out long before the present proposal was released! Given the absence of any proper and full assessment of liberalising measures to date, the major changes proposed by the Commission cannot be contemplated.

The Commission says that of the five "drivers for change" (demand, electronic substitution, organisational change, automation/new technologies and liberalisation), the introduction of competition is *likely* to have less impact on employment levels than the other five factors (p.18, Explanatory Memorandum). It would be irresponsible to put the livelihoods of tens of thousands of employees of Universal Service Providers at risk, based on this unfounded assumption by the Commission regarding the impact of liberalisation on employment.

Indeed an alternative assumption to that drawn by the Commission can be gleaned from the Commission's Explanatory Memorandum.

The Commission points out that Sweden, whose postal market was fully opened to competition in 1994, saw a 9% reduction in employment levels between 1995 and 1998 (p.8).

The principal employment study commissioned by the Commission was carried out on the basis of 1996 data - the Price Waterhouse study on '*Employment Trends in the European Postal Sector*', (February 1999).

This study estimated that total employment numbers in postal services would fall from approximately 1.8 million in 1995 to 1.74 million in 2000 and to 1.67 million in 2005. It has to be stressed that these estimates were made *before* implementation of the 1997 Directive and of course well before the current proposal was produced.

On overall, employment trends in postal services, the Commission estimates that there will be a total drop of 8.4% in the period between 1997 and 2007. Furthermore, it says that employment levels should decrease by .8% per annum over the next seven years. Taking 2000's 1.7 million

(Commission estimate) as the base year, this would imply a total workforce of 1.63 million in 2005 and 1.61 million after the seven years. In other words, the Commission's estimates of employment trends in the postal sector are more *pessimistic* than the Price Waterhouse study (1.67 million v. 1.63 million for 2005).

The Commission's "Frequently Asked Question" released in conjunction with the 30 May proposals, states that the proposals will have no adverse impact on employment; it says that employment by universal service providers has been gradually falling while employment by private operators is continuously increasing with the implication clearly being that the latter compensates for the former.

Price Waterhouse, however, report that job increases in the private postal sector between 1995 and 2005 are not expected to compensate for job losses by public postal operators. Between 1995 and 2005, the study estimates that 62,000 jobs will be created by private operators yet 200,000 lost in public operators, a net loss of 138,000. It should also be pointed out that the study estimates that there were approximately 350,000 to 400,000 people employed by private operators yet all its estimates of future job increases take the upper estimate of 400,000 as base. Again, it should be noted that the Price Waterhouse estimates are less pessimistic than those being used by the Commission.

As already stated, it is extremely difficult to come to a proper conclusion about the employment situation in European post services. Trade unions affiliated to the Union Network International say that there are 1.5 million postal workers in the EU, that 250,000 jobs were lost between 1990 and 1999 in public operators while only 30,000 were created by private operators. All sides agree that employment levels are dropping and that liberalisation will reinforce this trend. Indeed they predict that in France alone 100,000 jobs will be lost by LA POSTE if the Commission proposals are implemented.

In tandem with fewer jobs, postal liberalisation is likely to produce *poorer* jobs. The Price Waterhouse report speaks openly of inferior employment conditions with private operators. It acknowledges that "*in general, employment with [private] operators tends to be less permanent than with [public] operators*" (p.v). Working hours are longer (p.v). Private operators make "*greater use of flexible payment systems*" (p.vi). "*Basic wages tend to be lower in the smaller [private] operators that place a high emphasis on commission or output based pay*" (p.vi). Overall, "*trade union density is considerably lower*" among private operators than among public operators (p. vi).

The Price Waterhouse study speaks of a trend "*towards increased utilisation of part-time and temporary employees among public operators that have been subject to the most extensive liberalisation and organisational change.*"

Price Waterhouse states bluntly that "*basic IT skills will become a prerequisite for all employees*" and that "*future growth in demand is likely to be more focused on niche markets, requiring customer service and marketing skills from a broader range of employees*" (p.viii). It says that the successful operators of the future will be the ones that invest heavily in training, re-training and education of their workforce (p xiii). The trends identified by Price Waterhouse cannot be reconciled with the emphasis on quality and partnership found throughout the Commission's New Social Agenda launched on 30 June and indeed with the entire Lisbon Summit conclusions (which say that the aim of the EU's new strategy is to "*regain the*

conditions for full employment, and to strengthen regional cohesion in the European Union” (point 6).

The impact of these proposals on social cohesion, particularly in relation to peripheral and sparsely populated countries and regions has not been measured. The postal service is vital to rural, remote, sparsely populated and disadvantaged urban areas. Pushing forward with competition measures that threaten to undermine a key component of social and cultural Europe in relation to communication and information and economic development runs totally counter to the whole thrust of EU cohesion policy.

The proposals have to be closely examined in relation to the new emphasis on services of a general interest (Article 16 of the Treaties) and indeed the Communication released by the Commission on 20th September on this topic. Article 16 confirms the place of such services among the shared values of the EU and their role in promoting social and territorial cohesion and competitiveness.

The proposals provide for the establishment of a Compensation Fund through which private operators would pay money in order to finance the universal service obligations of the postal providers in remote areas. This measure is excessively complicated and unworkable in practice.

The proposal also provides a definition for so-called special services which are not to be part of the basic postal service and will therefore be outside the reservable area. This particular proposal will, in all probability, be used as a Trojan Horse to cut into the reserved area and will prevent the Universal Service Providers from offering these services as universal services.

Conclusion

The current proposal is one of the most controversial to come before the EP. It will have a serious impact on employment levels, the quality of jobs, and cohesion, particularly in remote and sparsely populated countries and regions and disadvantaged urban areas. Furthermore, it threatens to undermine efforts underway to turn the EU into the most competitive and cohesive economy, as agreed at the Lisbon Summit in March 2000. Given the absence of any full assessment of the impact of previous liberalisation measures at EU level, these measures should not be adopted in their present form.

AMENDMENTS

The Committee on Employment and Social Affairs calls on the Committee on Regional Policy, Transport and Tourism, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

(Amendment 1)

¹ Not yet published in OJ.

Recital (2)

- (2) Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service⁶ established a regulatory framework for the postal sector at Community level, including measures to guarantee a universal service, the setting of maximum limits for the postal services which Member States may reserve to their universal service provider(s) with a view to the maintenance of the universal service, ***and a timetable for decision-making on the further opening of the market to competition, for the purposes of creating a single market in postal services.***
- (2) Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service⁶ established a regulatory framework for the postal sector at Community level, including measures to guarantee a universal service, the setting of maximum limits for the postal services which Member States may reserve to their universal service provider(s) with a view to the maintenance of the universal service.

Justification:

Since impact studies have still not been carried out, it does not make sense to talk about a timetable for opening the market to competition.

(Amendment 2)
Recital (2) a (new)

(2) a Whereas Directive 97/67/EC provided for the Commission to come forward with proposals aimed at further liberalising postal services by the end of 1998, which were to be decided upon by the European Parliament and the Council by January 2000 and as the Commission's proposals are late, this timetable is now void.

⁶ OJ L 15, 21.1.1998, p. 14.

Justification:

Self-explanatory.

(Amendment 3)

Recital (4)

(4) The European Parliament's Resolutions of 14 January 1999 on European postal services¹ and its further Resolution of 18 February 2000, also on European postal services², highlight the social and economic importance of postal services and the need to maintain a high quality of universal service.

(4) The European Parliament's Resolutions of 14 January 1999 on European postal services and its further Resolution of 18 February 2000, also on European postal services, highlights the social and economic importance of postal services ***particularly for rural, remote, sparsely populated regions and disadvantaged urban areas of the Union*** and the need to maintain a high quality of universal service ***in all parts of the Union and draw attention to the need for feasibility studies concerning the economic and social impact of liberalisation.***

Justification:

There is a need to be specific about the areas which will be adversely affected by further liberalisation. The last part rectifies an omission.

(Amendment 4)

Recital (4)a (new)

(4)a The rural postal network plays a vital role in integrating rural businesses into the national/global economy, and maintaining social cohesion and employment in rural areas. Further, rural post offices can provide a vital infrastructural network for universal access to new communications technologies.

¹ OJ C 104, 14.4.1999, p. 134 .

² Resolution B5-0116/2000; not yet published in the Official Journal.

Justification:

Self-explanatory.

(Amendment 5)
Recital (5)

(5) The European Council, meeting in Lisbon, on 23 and 24 March 2000, set out in its Presidency conclusions *two* decisions applying to postal services, whereby action was requested of the Commission, the Council and the Member States in accordance with their respective powers. ***The requested actions are: first, to set out by the end of 2000 a strategy for the removal of barriers to services, namely postal services, and secondly, to speed up liberalisation in areas such as postal services, the stated aim being to achieve a fully operational market in postal services.***

(5) The European Council, meeting in Lisbon, on 23 and 24 March, set out in its Presidency conclusions decisions applying to postal services, whereby action was requested of the Commission, the Council and the Member States in accordance with their respective powers. ***The conclusions ask for a strategy for the removal of barriers to services to be set out by the end of 2000 and for liberalisation in postal services to be speeded up.***

Justification:

The amended version is a more accurate reflection of Council decisions.

(Amendment 6)
Recital (6)

(6) The Commission ***has undertaken*** a thorough review of the Community postal sector, including the commissioning of studies ***on the economic, social and technological developments in*** the sector, ***and has consulted extensively with interested parties.***

(6) The Commission ***must (one word deleted) still undertake*** a thorough review of the Community postal sector, including the commissioning of studies ***of*** the sector ***by consulting all interested parties: consumers, operators, employees, and local and regional authorities, in order to be in a position to produce the assessments specified in Article 23 of Directive 97/67/EC and called for by Parliament in its resolutions of 14 January 1999 (paragraphs 3 and 4) and 18 January 2000 (paragraph 1).***

Justification:

The amended version is a more accurate reflection of the Commission actions to date. Public postal services employ 1 300 000 people in the Union. Post offices are irreplaceable as points of

social contact for many people who live in disadvantaged regions and areas. It seems reckless to take liberalisation further when the Commission has not yet supplied the reports, studies and assessments specified and called for.

(Amendment 7)
Recital (7)

(7) The Community postal sector requires a modern regulatory framework which aims at enhancing the internal market for postal services in order to enable the sector to compete with alternative methods of communication and to satisfy the changing and increased demands of users.

(7) The Community postal sector requires a modern regulatory framework which aims at enhancing the internal market for postal services in order to enable the sector to compete with alternative methods of communication and to satisfy the changing and increased demands of users, ***whilst providing Member States with the necessary instruments to safeguard the rural network of counter services.***

Justification:

In those Member States with remote rural areas, rural counter services are an important instrument of social cohesion. In this respect, Member States should have the freedom to safeguard these services by way of specific requirements, when defining domestic universal service obligations.

(Amendment 8)
Recital (7)a (new)

(7)a In drawing up this regulatory framework, it is necessary at all events to take into account the specific features of each Member State, such as geographical obstacles, territorial size and population distribution.

Justification:

The difficulty of providing universal service varies from country to country according to the criteria mentioned in the amendment (geographical features, territorial size, population density and distribution).

(Amendment 9)
Recital (8)

(8) The basic aim of ensuring the durable provision of a universal service matching the standard of quality required by Directive 97/67/EC on a consistent basis **throughout** the Community can be secured under conditions of high efficiency **ensured by the freedom to provide services in this area**.

(8) The basic aim of ensuring the durable provision of a universal service matching the standard of quality required by Directive 97/67/EC on a consistent basis **in all parts of** the Community can be secured under conditions of high efficiency.

Justification:

As for the preceding amendments. It is important to indicate the role postal services play in the territorial development of the Union.

(Amendment 10)
Recital (9)

(9) The **competitive** advantages provided by a universal postal network which is efficient and responsive to customer demand **can** help to offset **any** additional costs incurred by reason of the obligation to provide a universal service which cannot be self-financing.

(9) The advantages provided by a universal postal network which is efficient and responsive to customer demand **may in some Member States** help to offset additional costs incurred by reason of the obligation to provide a universal service which cannot be self-financing.

Nevertheless, it should be noted that the rules of competition cannot be drawn up in such a way as to ensure equity between postal operators in the universal service and competing operators, as the latter operate mainly within closed networks (without public access points, contracts, contact and collection from sender via call centres, etc.), whereas universal service operators maintain the contact point density laid down in Article 3 of Directive 97/67/EC, which requires an appropriate reserved service.

Justification:

The amended version makes clear that the Commission proposals will impact differently in some Member States. The adjective 'competitive' is superfluous. The second part of this recital is necessary to achieve a balance by pointing out the true nature of the 'competitive advantages'

which new operators enjoy.

(Amendment 11)
Recital (11)

(11) It is therefore appropriate to define a category comprising "special services" fulfilling special customer needs, this category should include all services with the required added features. Such services should not be reserved, regardless of the weight or the price of such items. Sending mail electronically for distant printing only will not be sufficient to take it outside the reserved area. *delete*

Justification:

The Commission proposal will render impossible the task of USP's to maintain a universal service in traditional postal items and will prevent the inclusion of any new services as universal services.

(Amendment 12)
Recital (12)

(12) The increase in demand within the postal sector as a whole, predicted for the medium term, will help to offset the loss of market share that the universal service providers may incur as a result of further market-opening and will thereby further safeguard the universal service.

(12) An increase in demand within the postal sector as a whole, predicted for the medium term, may in some Member States help to offset the loss of market share that the universal service providers will incur as a result of further market-opening.

In the light of the technological advances that have occurred, this increase in demand will have a qualitative impact on postal services which will necessitate a review of the scope of the universal service in order to harmonise the supply of services and take account of changes in consumers' needs and the impact of the development of the information society. Such a review of the scope of the universal service necessitates the maintenance of a reserved service as laid down in Article 7.

Justification:

Increased demand may not occur in all Member States and further market opening may simply squeeze the margins of some USPs to the point where they cannot generate an operational surplus. The existence of high-quality services of general interest necessitates continuous reappraisal and adaptation of the universal service in order to prevent it from gradually becoming a minimum, second-rate service. It is therefore necessary to exercise caution when adjusting the scope of the reserved services, so as not to render changes irreversible.

(Amendment 13)

Recital (13)

(13) ***Amongst the*** factors which bring about change affecting employment in the postal sector, ***technological development and market pressure for efficiency gains are the most important; of the remaining factors for change, market-opening will play a less prominent part. Market-opening will help to expand the overall size of the postal markets, and any reductions in staff levels among the universal service providers due to such measures (or their anticipation) are likely to be offset by the resulting growth in employment among private operators and new market entrants.***

(13) ***The*** factors which bring about change affecting employment in the postal sector ***include technological development and market pressure for efficiency gains. In the absence of the assessment of the impact of the Postal Directive and of up-to-date and thorough studies on employment in the postal sector it is not possible to properly assess the impact of market-opening on employment. The Price Waterhouse study, which is based on 1996 data, estimates a net loss of 138,000 jobs in the postal sector between 1995 and 2005. Public operators are predicted to shed 200,000 jobs while private operators are expected to create 62,000 jobs. However, independent predictions indicate that up to 100,000 jobs may be lost in France alone.***

Justification:

The Commission is presenting statements of opinion about ‘factors bringing about change’ as statements of fact. Its claim that job increases by private operators are “likely to offset” job losses by public operators is not borne out by the only research it has commissioned on the matter - the Price Waterhouse study; while independent research is much more pessimistic about job prospects in the sector.

(Amendment 14)

Recital (13) a (new)

(13) a Whereas studies commissioned by the Commission have highlighted poorer quality employment conditions among private operators compared to public operators - including shorter contracts,

longer working hours, lower wages, and lower rates of trade union membership - and the gradual spread of such trends to public operators which have been subject to market opening; these trends undermine the efforts of Universal Postal Service operators to invest in personnel; identified as necessary by the Commission's consultants if they are to meet the challenges facing the postal sector. These trends also run counter to the emphasis being placed on quality employment and partnership by the Lisbon Strategy launched in March 2000 and the New Social Agenda presented by the Commission on 28th June, 2000.

Justification:

The opening of the market to date has resulted in negative trends in both the quantity and quality of jobs, contrary to the explicit objectives of both the Commission and Council.

(Amendment 15)

Recital (14)

(14) *It* is appropriate to provide at Community level a timetable for a gradual and controlled opening of the letters market to competition which allows all universal service providers sufficient time to put in place the further measures of modernisation and restructuring required to ensure their long-term viability under the new market conditions. An appropriate period of time is also needed to enable Member States to adapt their regulatory systems to a more open environment. It is therefore appropriate to provide for a step-by-step approach to further market-opening, consisting of an intermediate step representing a significant but controlled opening of the market, followed by a ***review and proposal for a further step.***

(14) ***In view of the delay in bringing forward these proposals it*** is appropriate to provide, at Community level, a ***new*** timetable for a gradual and controlled opening of the letters market to competition which allows all universal service providers sufficient time to put in place the further measures of modernisation and restructuring required to ensure their long-term viability under the new market conditions, ***whilst providing Member States with the necessary instruments to safeguard the rural network of counter services.*** An appropriate period of time is also needed to enable Member States to adapt their regulatory systems to a more open environment. It is therefore appropriate to provide a step-by-step market opening, consisting of an intermediate step representing a significant but controlled opening of the market, followed by a ***- thorough independent - social, employment and economic review and impact assessment. Any proposal for a further step will be based on the findings of these reviews and impact assessments.***

Justification:

Because of the delay in bringing forward proposals, the original 1997 Directive timetable cannot now be met in practical terms; while further proposals need to be based on reliable impact assessments of liberalisation in the sector. In those Member States with remote rural areas, rural counter services are an important instrument of social cohesion. In this respect, Member States should have the freedom to safeguard these services by way of specific requirements, when defining domestic universal service obligations.

(Amendment 16)

Recital (15)

(15) It is appropriate to ensure that the next phase of market-opening is **both substantial in nature and** achievable in practice for the Member States.

(15) It is appropriate to ensure that the next phase of market-opening is achievable in practice for the Member States **and takes full account of the employment implications and the impact on rural, remote, sparsely populated regions and disadvantaged urban areas, including the impact on locally based post offices. It is also appropriate to ensure that it does not come at the expense of jobs and territorial cohesion, post offices continuing to be an important link in the social fabric in both urban and rural areas.**

Justification:

There are no grounds for believing that substantial reductions in weight and price limits will have other than negative effects on universal services.

(Amendment 17)

Recital (16)

(16) A general reduction to **50** grams in the weight limit of the services which may be reserved to the universal service providers, **combined with opening outgoing cross-border mail and express mail fully to competition**, represents a relatively simple and controlled further phase which is nevertheless significant.

(16) A general reduction to **150** grams in the weight limit of the services which may be reserved to the universal service providers represents a relatively simple and controlled further phase which is nevertheless significant.

Justification:

Reduction of weight limit to 50 grams and price limit to 2.5 times combined with fully opening outgoing cross border and express mail is too severe and will have the effect in practice of creating a crisis for universal postal services and uniform tariffs.

(Amendment 18)

Recital (17)

(17) *In the Community, items of ordinary correspondence weighing between 50 grams and 350 grams represent on average approximately 16% of the total postal revenues of the universal service providers, whilst items of outward cross-border correspondence and express services below the price limit represent a further 4% or so, on average, of the total postal revenues of the universal service providers.* **deleted**

Justification:

This statement is not supported by specific Community studies or confirmed by estimates from the majority of operators.

(Amendment 19)

Recital (18)

(18) A price limit for the services **capable of** being reserved, **of two and a half** times the public tariff for an item of correspondence in the first weight step of the fastest standard category, is appropriate in combination with a **50**-gram weight limit where applicable.

(18) A price limit for the services being reserved, of **four** times the public tariff for an item of correspondence in the first weight step of the fastest standard category, is appropriate with a **150**-gram weight limit where applicable.

Justification:

The Commission proposed reductions are too severe in their impact.

(Amendment 20)

Recital (19)

(19) A **50**-gram weight limit for items of ordinary domestic correspondence is practical, since it does not present a risk of its circumvention **by way of an artificial increase in the weight of individual items**

(19) A **150**-gram weight limit for items of ordinary domestic correspondence is practical since it does not present a risk of its circumvention.

of correspondence, most items of correspondence being below 20 grams in weight.

Justification:

Contrary to the Commission claim, a 50g-weight limit would be impossible to police.

(Amendment 21)

Recital (20)

(20) Direct mail already represents in most Member States a ***dynamic and*** growing market with substantial growth prospects while in the remaining Member States there is considerable potential for growth. Direct mail is already largely open to competition in six Member States. ***The improvements in service flexibility and pricing resultant from competition would improve the position of direct mail versus alternative communications media, which, in turn, would be likely to lead to new postal items as an additional spin-off and strengthen the position of the postal industry as a whole. Nevertheless,*** to the extent necessary to ensure the provision of universal service, it should be provided that direct mail may continue to be reserved within the above weight and price limits of ***50 grams and two and a half*** times the basic public tariff.

(20) Direct mail already represents in most Member States a growing market with substantial potential for growth. Direct mail is already largely open to competition in six Member States. ***Therefore,*** to the extent necessary to ensure the provision of universal service, it should be provided that direct mail may continue to be reserved within the above weight and price limits of ***150*** grams and ***four*** times the basic public tariff.

Justification:

150g-weight limit and four times the basic tariff will enable USPs to compete effectively with private operators who will tend to cherry-pick the most lucrative business.

(Amendment 22)

Recital (21)

(21) ***Outgoing cross-border mail is already de facto open to competition in most Member States; its reservation is not needed to ensure universal service representing on*** ***deleted***

average 3% of total postal revenues. Opening this part of the market de jure would allow different postal operators to collect, sort and transport all outgoing cross-border mail and to deliver it in Member States, but only where the domestic regulation in a particular Member State permits this.

Justification:

In the absence of impact studies, the proposals made pose a considerable and unevaluated risk as regards the future of employment and the universal service. They would in fact result in the disappearance of the universal service and, as many examples show, in significant job losses in the sector. A decision of this kind cannot be taken without an entirely sound assessment being made or without consulting the main players in the sector.

(Amendment 23)
Recital (22)

(22) Opening incoming cross-border mail to competition would allow circumvention of the **50-gram** limit through relocation of the posting of a proportion of bulk domestic mail, thereby making its effects unpredictable. Identifying the origins of items of correspondence could present additional enforcement difficulties. A **50-gram** weight limit for items of ordinary incoming cross-border correspondence and direct mail, as for ordinary domestic correspondence, is practical as it does not present a risk of circumvention *either* in this way **or through an artificial increase in the weight of individual items of correspondence.**

(22) Opening incoming cross-border mail to competition would allow circumvention of the **150-gram** limit through relocation of the posting of a proportion of bulk domestic mail, thereby making its effects unpredictable. Identifying the origins of items of correspondence could present additional enforcement difficulties. A **150-gram** weight limit for items of ordinary incoming cross-border correspondence and direct mail, as for ordinary domestic correspondence, is practical as it does not present a risk of circumvention in this way.

Justification:

Contrary to the Commission claims it would be impossible to police a 50g weight limit on incoming cross-border mail.

(Amendment 24)
Recital (30)

(30) It is appropriate in the light of the complaints which have been raised against certain incumbent operators in recent years to provide for Member States to adopt rules to ensure that universal service providers do not cross-subsidise services outside the reserved area by means of revenues from services in the reserved area, except where it is shown to be strictly necessary to fulfil specific universal service obligations. It is therefore appropriate for national regulatory authorities to adopt rules to this effect and for them to communicate these rules to the Commission.

(30) It is appropriate in the light of the complaints which have been raised against certain incumbent operators in recent years to provide for Member States to adopt rules to ensure that universal service providers do not cross-subsidise services outside the reserved area by means of revenues from services in the reserved area, except where it is shown to be strictly necessary to fulfil specific universal service obligations, **as defined by Member States in accordance with Article 3 of Directive 97/67/EC, as amended by this Directive**. It is therefore appropriate for national regulatory authorities to adopt rules to this effect and for them to communicate these rules to the Commission.

Justification:

As is already the case in certain Member States, it must be made clear that Member States are free to define a universal service which exceeds the minimum requirements laid down in Article 3 of Directive 97/67/EC, as regards the number of deliveries and collections per week, maintenance of the rural post office network, and any requirement to provide the universal service at a uniform tariff.

(Amendment 25)
Recital (31)

(31) In view of the amendments, it is appropriate to **postpone until 31 December 2006** the date for the expiry of Directive 97/67/EC.

(31) In view of the amendments, it is appropriate to **delete** the date for the expiry of Directive 97/67/EC.

Justification:

The delay in bringing forward new proposals and the absence of reliable up to date studies on the impact of current and possibly future liberalisation requires an open ended Directive.

(Amendment 26)
Recital (33)a (new)

(33)a Article 13 of the EC Treaty refers to the Community's responsibility for

combating discrimination on grounds of sex, race, ethnic origin, religion or belief, disability, age or sexual orientation. Pursuant to Directive (EC) 2000/43, the Members States are to take the necessary measures for implementation.

Justification:

This recital links up with the amendment to Article 5. On the basis of the anti-racism directive (EC/2000/43), the new postal services directive should incorporate a complete ban on the carriage of postal consignments whose external appearance shows that they contain material of a racist nature. The fundamental right to the privacy of mail would, however, remain unaffected.

(Amendment 27)
Article 1 (1)

(1) In Article 2, the following point is added: deleted.

“20. Special services: services clearly distinct from the universal service, which meet particular customer requirements and which offer additional service features with added-value not offered by the standard postal service. Additional added-value service features are, for example, delivery on appointment, the option to effect a change of destination or of addressee in course of transit or if delivery to the primary destination fails, tracking and tracing, guaranteed time of delivery, more than one attempt at delivery, delivery according to the priority or sequence specified by the customer.

Home collection without any such features is not a special service.

Electronic transmission to and/or electronic receipt by the operator for sorting, printing and/or preparation of mail shall not be regarded as an additional service feature within the meaning of the first subparagraph.

Express mail is a special service, which, in addition to faster and more reliable collection, transportation and delivery, is characterised by the provision of some or

all of the following additional service features: collection from the sender's address, delivery to the addressee in person or to his authorised representative, guarantee of delivery by a given date, possibility of a change of destination and addressee in transit, confirmation to the sender of delivery, tracking and tracing, personalised treatment for customers and the offer of a range of services according to requirements."

Justification:

Home collection without any such features is not a special service.

This proposal for defining special services will facilitate predatory incursions into the reserved area, thereby undermining the capacity of USP's to maintain a universal Service and uniform tariffs; it also precludes any new service from being designated as a universal service.

(Amendment 28)
Article 1 a (new)

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

"2. To this end, Member States shall take steps to ensure that the density of the points of contact, of the access points, and counter services takes account of the needs of users."

Justification:

Member States should be able to set minimum requirements in relation to the geographical concentration of counter services, in particular with a view to safeguarding the rural network.

(Amendment 29)
Article 1 b (new)

1 b In Article 3, the following paragraph 3(a) (new) is added:

"3(a) Member States may amplify the minimum requirements laid down in

paragraphs 1, 2 and 3 of this Article, as regards uniformity of tariffs for the universal service, concentration of contact and access points and counter services, and frequency of clearance and delivery."

Justification:

Member States should be free to define a universal service which exceeds the minimum requirements laid down in Article 3 of Directive 97/67/EC, as regards the number of deliveries and collections per week, maintenance of the rural post office network, and any requirement to provide the universal service at a uniform tariff.

(Amendment 30)
Article 1c (new)

1 c. In Article 5, the following paragraph 1(a) (new) is added:

1(a) The carriage of postal consignments shall in principle be excluded from universal service provision if it is evident from their external appearance that their content is of a racist nature or if it comes to the operator's knowledge in another way that their content is of a racist nature.

Justification:

This amendment ties in with the recital which refers to the 'anti-racism' Directive (EC/2000/43).

(Amendment 31)
Article 1 (2)

(2) Article 7 is replaced by the following:

"Article 7

1. To the extent necessary to ensure the **provision** of universal service, **Member States may continue to reserve certain standard mail services to** the universal service provider(s).

(2) Article 7 is replaced by the following:

"Article 7

1. To the extent necessary to ensure the **maintenance** of universal service, **the services which may be reserved by each Member State for** the universal service provider(s) shall be the clearance, sorting,

Those services shall be limited to the clearance, sorting, transport and delivery of ordinary items of domestic correspondence and incoming cross border correspondence within both of the following weight and price limits. The weight limit shall be 50 grams. This weight limit does not apply if the price is equal or more than two and a half times the public tariff for an item of correspondence in the first weight step of the fastest category.

In the case of the free postal service for blind and partially sighted persons, exceptions to the weight and price restrictions may be permitted.

To the extent necessary to ensure the provision of universal service, direct mail may continue to be reserved within the weight and price limits referred to in the first subparagraph.

2. *Items of outgoing cross-border correspondence, document exchange and special services (including express mail) may not be reserved.*

For special services, the sending of mail electronically for distant printing only shall not be sufficient to avoid the monopoly on incoming cross-border mail.

3. As a further step towards the completion of the internal market in postal services, the European Parliament and the Council *shall* decide, not later than **31 December 2005, on a further opening of the postal market with effect from 1 January 2007.**

transport and delivery of items of domestic correspondence, *whether by accelerated delivery or not, the price of which is not less than four times the public tariff for an item of correspondence in the first weight step of the fastest standard category where such a category exists, provided that they weigh less than 150 grams.*

In the case of the free postal service for blind and partially sighted persons, exceptions to the weight and price restrictions may be permitted.

deleted

2. *deleted*

3. As a further step towards the completion of the internal market in postal services, the European Parliament and the Council *may* decide, not later than **1 January 2007 and without prejudice to the competence of the Commission, on the further gradual and controlled liberalisation of the postal market, in particular with a view to the liberalisation of cross-border and direct mail, as well as on a further review of the price and weight limits, with effect from the 1 January, 2010,**

taking into account the developments, in particular economic, social and technical developments, that have occurred by that date, and also taking into account the financial equilibrium of the universal service provider(s), with a view to further pursuing the goals of this Directive.

To that end, the Commission shall present a proposal by 31 December 2004, following a review of the sector which shall focus on the need to ensure the provision of universal service in an appropriate manner in a competitive market environment.

deleted.

Upon request by the Commission, Member States shall provide all the information necessary for completion of this review.”

Such decisions shall be based upon a proposal from the Commission to be tabled before the end of 2006, following a review of the sector. Upon request by the Commission, Member States shall provide all the information necessary for completion of the review.

Justification:

The amendments provide for the reduction of the weight limits as above, as a more gradual and controlled opening of the market.

(Amendment 32)
Article 1 (3)

(3) In Article 9, the following paragraph is added:

“6. Whenever universal service providers apply special tariffs, for example for services for businesses, bulk mailers or consolidators of mail from different customers, they shall apply the principles of transparency and non-discrimination with regard both to the tariffs and to the associated conditions. The tariffs *shall take account of the avoided costs, as compared to the standard service covering the*

(3) In Article 9, the following paragraph is added:

“6. Whenever universal service providers apply special tariffs, for example for services for businesses, bulk mailers or consolidators of mail from different customers, they shall apply the principles of transparency and non-discrimination with regard both to the tariffs and to the associated conditions. The tariffs shall apply equally both as between different third parties and as between third parties

complete range of features offered for the clearance, transport, sorting and delivery of individual postal items and, together with the associated conditions, shall apply equally both as between different third parties and as between third parties and universal service providers supplying equivalent services.

and universal service providers supplying equivalent services.

Justification:

The tariffs for universal services should continue to be set as provided for in the 1997 Directive.

(Amendment 33)
Article 1 (6)

(6) In Article 27, the ***date “31 December 2004” is replaced by the date “31 December 2006”.***

(6) In Article 27, the ***words “apply until 31 December 2004”*** are replaced by the words ***“continue to apply”.***

Justification:

This provides for the open-ended operation of the Directive.

(Amendment 34)
Article 2 (1)

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than ***31 December 2002***. They shall forthwith inform the Commission thereof.

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than ***31 December 2004***. They shall forthwith inform the Commission thereof.

Justification:

This new date of December 2004 gives Member States the time needed to transpose the new Directive into law in line with the new timetable as proposed in earlier amendments.