

EUROPEAN PARLIAMENT

2004



2009

Committee on Employment and Social Affairs

PROVISIONAL
2006/0196(COD)

12.2.2007

DRAFT OPINION

of the Committee on Employment and Social Affairs

for the Committee on Transport and Tourism

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

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SHORT JUSTIFICATION

The European Commission's proposal for third European directive on postal services foresees the full liberalisation of the postal service market by 2009. This is the third stage of a process that is to guarantee a balance between market opening and provision of universal service. The initial objective of postal reform was and remains the preservation of a high quality universal service in the European Union.

The Commission argues that full liberalisation in 2009 will not affect the provision of a universal service and will enhance employment in this sector. Their conclusions are based on mainly three documents: a Prospective study on the impact on universal service of the full accomplishment of the postal market in 2009 (COM(2006)0596); an Impact assessment report (SEC(2006)1291); and the report on the application of the Postal Directive (COM(2006)0595).

The Prospective study was ordered by the Commission following a requirement of the second postal directive to assess the impact on universal service of the full accomplishment of the internal market in postal services. The study however reverses the initial logic of postal reform, because it sees the universal service as adjustable to full liberalisation.

The Commission proposal sets out three main types of financing measures to preserve universal services across the EU: direct financing (Member State subsidies); a compensation fund (financed by all the actors of the sector whether operators, customers or other actors determined by the Member State); public procurement where the service is not spontaneously taken up by the market. However, there is no complete assessment of the advantages and the disadvantages of these measures and it is not clear how they will provide the necessary financing. Moreover, the study does not propose solutions to those Member States where it identifies a possible risk concerning the preservation of the universal services, including some of the new Member States.

It is also important to better analyse the impact of the proposal on employment in the postal sector. According to the Commission, 5 million jobs depend directly or are very closely related to the postal sector. The report argues that full opening of markets will create more and better jobs; however, concrete evidence has to be given that countries where full opening occurred have seen employment numbers increased.

Although the two previous reforms had positive impact on quality and efficiency, new evidence is needed concerning further liberalisation in preserving universal service and employment numbers in the postal sector. Therefore, a more in-depth analysis is needed by means of a new study and concrete proposals put forward before the reserved area (all mail of 50g or less) can be fully put under market conditions.

AMENDMENTS

The Committee on Employment and Social Affairs calls on the Committee on 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 8

(8) *According to* the prospective study the basic aim of safeguarding the sustainable provision of a universal service matching the standard of quality defined by the Member States in accordance with Directive 97/67/EC, can be secured throughout the Community by 2009 without the need for a reserved area.

(8) *Although* the prospective study *claims that* the basic aim of safeguarding the sustainable provision of a universal service matching the standard of quality defined by the Member States in accordance with Directive 97/67/EC, can be secured throughout the Community by 2009 without the need for a reserved area, *insufficient evidence has been given on the durable guarantee of the provision of the universal service, which is a genuine force for social and territorial cohesion.*

Justification

The Commission needs give concrete proposals on how the universal services will be financed and maintained in the future without the reserved area.

Amendment 2
RECITAL 9

(9) The progressive and gradual opening of postal markets to competition has *provided* universal service providers *with sufficient time* to put in place *the necessary* modernisation and restructuring measures *required to ensure their long-term viability under the new market conditions*, and enabled Member States to adapt their regulatory systems to a more open environment. *Member States may furthermore avail themselves of the opportunity offered by the period of transposition, as well as the substantial*

(9) The progressive and gradual opening of postal markets to competition has *allowed* universal service providers to put in place modernisation and restructuring measures and enabled Member States to adapt their regulatory systems to a more open environment, *but long-term viability under fully opened market conditions is not yet guaranteed.*

¹ Not yet published in OJ.

time necessary for the introduction of effective competition, to proceed with further modernisation and restructuring of the universal service providers as necessary.

Amendment 3
RECITAL 10

(10) The prospective study *shows* that the reserved area should no longer be the preferred solution for the financing of the universal service. *This* assessment *takes* into account the interest of the Community and its Member States *in the accomplishment of the internal market and its potential for delivering growth and* employment, as well as ensuring the availability of an efficient service of general economic interest for all users. It *is* therefore appropriate to *confirm* the date of 1 January 2009 as the final step in the accomplishment of the internal market for postal services.

(10) *Although* the prospective study *attempts to show* that the reserved area should no longer be the preferred solution for the financing of the universal service, *this* assessment *does not take* into account the interest of the Community and its Member States *in delivering more and better* employment, as well as ensuring the availability of an efficient *and accessible* service of general economic interest for all users. It *would* therefore *be more* appropriate to *postpone* the date of 1 January 2009 as the final step in the accomplishment of the internal market for postal services *to a later date*.

Justification

Market opening needs to be deferred until the Commission undertakes a new study focusing on financing and employment.

Amendment 4
RECITAL 12

(12) *Complete* market-opening will help to expand the overall size of the postal markets; it *will* further contribute to maintaining sustainable and quality employment within universal service providers as well as facilitating the creation of new jobs in other operators, new entrants and associated economic activities. The present Directive is without prejudice to the competence of Member States to regulate employment conditions in the postal services

(12) *While complete* market-opening will help to expand the overall size of the postal markets, it *also needs to* further contribute to maintaining sustainable and quality employment within universal service providers as well as facilitating the creation of new jobs in other operators, new entrants and associated economic activities. The present Directive is without prejudice to the competence of Member States to regulate employment conditions in the postal services sector. *It is also important not to*

sector.

downgrade working conditions by undermining sector-based collective agreements as efficient tools safeguarding against a race to the bottom. Contrary to other network industries, labour costs represent around 80 % of operators' costs and are essentially fixed costs for incumbent operators.

Justification

Only sectoral collective agreements can guarantee quality employment conditions given the specificity of the sector.

Amendment 5
RECITAL 17

(17) In the light of the ***studies carried out and with a view to unlocking the full potential of the internal market for postal services***, it is ***appropriate to end the*** use of the reserved area and special rights as a way of ensuring the financing of the universal service.

(17) In the light of the ***lack of solid solutions for the financing of the universal services***, it is ***prudent to maintain*** the use of the reserved area and special rights as a way of ensuring the financing of the universal service ***until a new study provides evidence of the creation of more and better jobs as well as sources for financing a universal service including good accessibility and quality.***

Justification

Among the solutions proposed by the Commission, Member State subsidy is the probably the most concrete proposal, however, this can put substantial pressure on national budgets. Therefore, the efficiency of the other sources needs to be proven before the reserved area is lifted.

Amendment 6
RECITAL 18

(18) ***The external financing*** of the residual net costs of universal service ***may still*** be necessary for ***some*** Member States. It is therefore appropriate to ***explicitly clarify the*** alternatives available to ensure the financing of the universal service, to the extent that this is needed and is adequately justified,

(18) ***Financing*** of the residual net costs of universal service ***continues to*** be necessary for ***the*** Member States ***via the reserved area and special rights***. It is therefore appropriate to ***propose satisfactory*** alternatives available to ensure the financing of the universal service ***in case of full market-opening***, to

while leaving Member States the choice of the financing mechanisms to be used. ***These alternatives include the use of public procurement procedures and, whenever universal service obligations entail net costs of universal service and represent an unfair burden for the designated undertaking, public compensation and cost sharing between service providers and/or users in a transparent fashion by means of contributions to a compensation fund. Member States may use other means of financing permitted by Community Law, such as deciding that the profits accruing from other activities of the universal service providers outside the scope of the universal service are to be assigned in whole or in part to the financing of the net costs of the universal service, as long as they are compatible with the present Directive.***

the extent that this is needed and is adequately justified, while leaving to Member States the choice of the financing mechanisms to be used. ***Public procurement procedures, public compensation and cost sharing between service providers by means of contributions to a compensation fund remains to be proven as an effective solution. Moreover, the potential ending to the monopoly cannot be exchanged for hypothetical financing mechanisms whose solidity and ability to ensure a sustainable universal service also remain to be proven.***

Justification

In this paragraph, Commission reverses the logic and the objective becomes the adaptation of the universal service to market opening while it should be the other way around. It is inadmissible that users bear the net residual cost of a universal service by imposing a levy on them, whereas at present the reserved service does not involve any specific charges for users.

Amendment 7 RECITAL 19

(19) In order to determine which undertakings may be required to contribute to a compensation fund, Member States should consider whether the services provided by such undertakings may, from a user's perspective, be regarded as substitutable to universal services, taking into account the characteristics of the services, including added value features, and their intended use. In order to be considered substitutable, the services do not necessarily have to cover all the features of the universal service, such as daily delivery or complete national coverage. In order to comply with the proportionality principle

deleted

when determining the contribution to the costs of the provision of universal service in a Member State asked from these undertakings, Member States should use transparent and non discriminatory criteria such as the share of these undertakings in the activities falling within the scope of the universal service in this Member State.

Amendment 8
RECITAL 20

(20) The principles of transparency, non-discrimination and proportionality contained in Directive 97/67/EC must continue to be applied to any financing mechanism and any decision in this area be based on transparent, objective and verifiable criteria. In particular, the net cost of universal service is to be calculated, under the responsibility of the national regulatory authority, as the difference between the net costs for a designated undertaking operating with the universal service obligations and operating without the universal service obligations. The calculation shall take into account all other relevant elements, including any market benefits which accrue to an undertaking designated to provide universal service, the entitlement to a reasonable profit and incentives for cost efficiency. *deleted*

Justification

In this paragraph, Commission reverses the logic and the objective becomes the adaptation of the universal service to market opening while it should be the other way around.

Amendment 9
RECITAL 21

(21) Member States should be allowed to use authorisation and individual licenses whenever justified and proportionate to the objective pursued. However, as highlighted *deleted*

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

Justification

idem as above

Amendment 10
RECITAL 24

(24) In **a fully** competitive environment, it is important, both for the financial equilibrium of the universal service as well as for limiting market distortions, that the principle that prices reflect normal commercial conditions and costs is only departed from in order to protect public interests. This objective is achieved by continuing to allow Member States to maintain uniform tariffs for **single piece tariff mail, the service** most frequently used by consumers and small and medium size enterprises. Individual Member States may also maintain uniform tariffs for some other mail items to protect general public interest reasons, such as access to culture, regional and social cohesion.

(24) In **an increasingly** competitive environment, it is important, both for the financial equilibrium of the universal service as well as for limiting market distortions, that the principle that prices reflect normal commercial conditions and costs is only departed from in order to protect public interests. This objective is achieved by continuing to allow Member States to maintain uniform tariffs for **items of correspondence which are** most frequently used by consumers and small and medium size enterprises. Individual Member States may also maintain uniform tariffs for some other mail items to protect general public interest reasons, such as access to culture, regional and social cohesion.

Amendment 11
RECITAL 25

(25) In view of the national specificities involved in the regulation of the conditions in which the incumbent universal service provider must operate in a fully competitive environment it is appropriate to leave Member States the freedom to decide how best to monitor cross-subsidies. **deleted**

Justification

See justification to the amendment to article 1, point 14, point d)

Amendment 12
RECITAL 34

(34) In order to keep the European Parliament and the Council informed on the **development** of the internal market for postal services, the Commission should regularly submit reports to those institutions on the application of Directive 97/67/EC.

(34) In order to keep the European Parliament and the Council informed on the **progress towards the accomplishment** of the internal market for postal services, the Commission should regularly submit reports to those institutions on the application of Directive 97/67/EC.

Justification

idem as above

Amendment 13
RECITAL 35

(35) **In order to confirm the framework for the regulation of the sector** the date of expiry of Directive 97/67/EC should be **deleted**.

(35) **Within the spirit of Directive 2002/39/EC, amending Directive 97/67/EC, the European Commission should carry out a new study examining the qualitative and quantitative impact of market opening on employment in the sector and developing concrete proposals on how the universal service is to be financed in the future in each of the 27 Member States by 31**

December 2009 . In light of the conclusions of the study, the Commission should propose a new date for the full accomplishment of the postal internal market or determine any other step. Accordingly, the date of expiry of Directive 97/67/EC should be *extended*.

Justification

Article 1, point 1 of Directive 2002/39/EC amending Article 7(3) of Directive 97/67/EC says that the Commission should finalise a prospective study which will assess for each Member State the impact of market opening and only in light of such a study can it determine the full accomplishment of the postal internal market 'or determining any other step in light of the study's conclusions'. The study finalised but the Commission has drawn conclusions without having assessed the impact of market opening on each of the 27 Member States.

Amendment 14
ARTICLE 1, POINT 1
Article 1, second indent (Directive 97/67/EC)

**(1) In Article 1, the second indent is *deleted*
replaced by the following:**

'- the conditions governing the provision of postal services,'

Amendment 15
ARTICLE 1, POINT 2, POINT (A)
Article 2, point 6 (Directive 97/67/EC)

(a) point 6 is replaced by the following: *deleted*

'6. postal item: an item addressed in the final form in which it is to be carried by a postal service provider. In addition to items of correspondence, such items also include for instance books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without commercial value;'

Amendment 16

ARTICLE 1, POINT 2, POINT (B)
Article 2, point 8 (Directive 97/67/EC)

(b) point 8 is deleted

deleted

Justification

The definition must remain, as the reserved area is to be maintained and amendment to Article 7 keeps the reference and the conditions applicable to direct mail.

Amendment 17
ARTICLE 1, POINT 2, POINT (C)

(c) the following point is added:

deleted

***'20. services provided at single piece tariff:
postal services for which the tariff is set in
the general terms and conditions of
universal service providers for the transport
of individual postal items.'***

Justification

If the previous amendment is to be adopted, this Commission text becomes redundant.

Amendment 18
ARTICLE 1, POINT 3
Article 3, paragraph 3, subparagraph 1, introductory wording (Directive 97/67/EC)

***(3) In the first subparagraph of Article
3(3), the introductory wording is replaced
by the following:***

deleted

***'They shall take steps to ensure that the
universal service is guaranteed every
working day and not less than five days a
week, save in circumstances or
geographical conditions deemed
exceptional by the national regulatory
authorities, and that it includes as a
minimum:'***

Justification

If the reserved area is to be maintained, reference in this paragraph to the universal service provider(s) must remain.

Amendment 19
ARTICLE 1, POINT 4
Article 4 (Directive 97/67/EC)

(4) Article 4 is replaced by the following: deleted

'Article 4

1. Each Member State shall ensure that the provision of the universal service is guaranteed and shall notify the Commission of the steps it has taken to fulfil this obligation. The Committee established under Article 21 shall be informed and monitor the evolution of the measures established by Member States to ensure the provision of the universal service.

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

Justification

If the reserved area is to be maintained, reference in this paragraph to the universal service provider(s) must remain.

Amendment 20

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

Member States shall take steps to ensure that users and undertakings providing postal services are regularly given sufficiently detailed and up-to-date information regarding the particular features of the universal services offered, with special reference to the general conditions of access to these services as well as to prices and quality standard levels. This information shall be published in an appropriate manner.

Member States shall notify the Commission, how the information to be published in accordance with the first subparagraph is being made available.

Member States shall take steps to ensure that users and undertakings providing postal services are regularly given sufficiently detailed and up-to-date information **by the universal service provider(s)** regarding the particular features of the universal services offered, with special reference to the general conditions of access to these services as well as to prices and quality standard levels. This information shall be published in an appropriate manner.

Member States shall notify the Commission, how the information to be published in accordance with the first subparagraph is being made available.

Justification

If the reserved area is to be maintained, reference in this paragraph to the universal service provider(s) must remain.

Amendment 21
ARTICLE 1, POINT 7
Chapter 3, title (Directive 97/67/EC)

(7) In Chapter 3, the title is replaced by the following: **deleted**

'CHAPTER 3

Financing of universal services'

Justification

The financing of universal services must be subject to a new study carried out by the Commission.

Amendment 22
ARTICLE 1, POINT 8
Article 7 (Directive 97/67/EC)

With effect from 1 January 2009:

1. *With effect from 1 January 2009*

1. *To the extent necessary to ensure the*

Member States shall not grant or maintain in force exclusive or special rights for the establishment and the provision of postal services. Member States may finance the provision of universal services in accordance with one or more of the means provided for in paragraphs 2, 3 and 4, or in accordance with any other means compatible with the EC Treaty.

maintenance of universal service, Member States may continue to reserve services to universal service provider(s). Those services shall be limited to the clearance, sorting, transport and delivery of items of domestic 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 continue to be 50 grams from 1 January 2009. This weight limit shall not apply if the price is equal to, 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 same weight and price limits.

To the extent necessary to ensure the provision of universal service, for example when certain sectors of postal activity have already been liberalised or because of the specific characteristics particular to the postal services in a Member State, outgoing cross-border mail may continue to be reserved within the same weight and price limits.

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

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

2. Document exchange may not be reserved.

3. The Commission shall finalise a new prospective study which will assess how universal services will be financed in the future as well as how to maintain or improve employment in the postal sector from a qualitative and quantitative perspective. Based on the study's conclusions, the Commission shall submit, by 31 December 2009, a report to the European Parliament and to the Council,

accompanied by a proposal, if appropriate, of a date for the full accomplishment of the postal internal market or determining any other step in the light of the study's conclusions.

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

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

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

5. Member States shall ensure that the principles of transparency, non-discrimination and proportionality are respected in establishing the compensation fund and when fixing the level of the financial contributions referred to in paragraphs 3 and 4. Decisions taken under paragraphs 3 and 4 shall be based on objective and verifiable criteria and be made public.

Justification

The Commission will first have to produce a new study by end of 2009 that clarifies how universal services will be guaranteed in the future as well as how employment levels and quality improved; only then can the reserved area be fully opened to market conditions. Until then a status quo must remain with the 50g reserve area remaining the privileged source of financing.

ARTICLE 1, POINT 10
Article 9, paragraph 1 (Directive 97/67/EC)

1. For services which are outside the scope of the universal service as defined in Article 3, Member States may introduce general authorisations to the extent necessary in order to guarantee compliance with the essential requirements.

1. For **non-reserved** services which are outside the scope of the universal service as defined in Article 3, Member States may introduce general authorisations to the extent necessary in order to guarantee compliance with the essential requirements.

Justification

Change to paragraph 1 is intended to restore the original text of the Directive.

Amendment 24
ARTICLE 1, POINT 10
Article 9, paragraph 2, subparagraph 1 (Directive 97/67/EC)

2. For services which are within the scope of the universal service as defined in Article 3, Member States may introduce authorisation procedures, including individual licences, to the extent necessary in order to guarantee compliance with the essential requirements and to safeguard the universal service.

2. For **non-reserved** services which are within the scope of the universal service as defined in Article 3, Member States may introduce authorisation procedures, including individual licences, to the extent necessary in order to guarantee compliance with the essential requirements and to safeguard the universal service.

Justification

Change to paragraph 2 is intended to restore the original text of the Directive.

Amendment 25
ARTICLE 1, POINT 10
Article 9, paragraph 2, subparagraph 2, indent 3 (Directive 97/67/EC)

– where appropriate, be subject to an obligation to make a financial contribution to the sharing mechanisms referred to in Article 7.

deleted

Justification

Change to paragraph 2 is intended to restore the original text of the Directive.

Amendment 26
ARTICLE 1, POINT 10
Article 9, paragraph 2, subparagraph 3 (Directive 97/67/EC)

Except in the case of undertakings that have been designated as universal service providers in accordance with Article 4, authorisations may not: *deleted*

- be limited in number,*
- for the same quality, availability and performance requirements impose on a service provider universal service obligations and, at the same time, financial contributions to a sharing mechanism,*
- duplicate conditions which are applicable to undertakings by virtue of other, non sector specific, national legislation,*
- impose technical or operational conditions other than those necessary to fulfil the obligations of this Directive.*

Justification

Change to paragraph 2 is intended to restore the original text of the Directive.

Amendment 27
ARTICLE 1, POINT 10
Article 9, paragraph 3 a (new) (Directive 97/67/EC)

3a. In order to ensure that the universal service is safeguarded, where a Member State determines that the universal service obligations, as provided for by this Directive, represent an unfair financial burden for the universal service provider, it may establish a compensation fund administered for this purpose by a body independent of the beneficiary or beneficiaries. In this case, it may make the granting of authorisation subject to an obligation to make a financial contribution to that fund. The Member State must ensure that the principles of transparency, non-discrimination and proportionality are respected in establishing the compensation fund and when fixing the level of the

financial contributions. Only those services set out in Article 3 may be financed in this way.

Justification

The new paragraph 3 a is identical to paragraph 4 of the current Directive: the compensation fund foreseen in paragraph 4 must be maintained insofar a new Commission study on the financing of the universal service is produced.

Amendment 28

ARTICLE 1, POINT 10

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

3b. Member States may provide for an identification system for direct mail, allowing the supervision of such services where they are liberalised.

Justification

The new paragraph 3 b is identical to paragraph 5 of the current Directive: the reference to direct mail in paragraph 5 must be kept as it is part of the reserved area

Amendment 29

ARTICLE 1, POINT 11

Article 10, paragraph 1 (Directive 97/67/EC)

1. The European Parliament and the Council, acting on a proposal from the Commission and on the basis of Articles 47(2), 55 and 95 of the Treaty, shall adopt the measures necessary for the harmonisation of the procedures referred to in Article 9 governing the commercial provision of postal services to the public.

1. The European Parliament and the Council, acting on a proposal from the Commission and on the basis of Articles 47(2), 55 and 95 of the Treaty, shall adopt the measures necessary for the harmonisation of the procedures referred to in Article 9 governing the commercial provision of ***non-reserved*** postal services to the public.

Justification

As a reserved area is to be maintained, the distinction between reserved and non-reserved postal services must be kept.

Amendment 30

ARTICLE 1, POINT 14, POINT (B)
Article 12, indent 2 (Directive 97/67/EC)

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

- prices must be cost-oriented; whenever necessary for reasons relating to the public interest, Member States may decide that a uniform tariff should be applied throughout their national territory,

Justification

Efficiency gains must be stimulated by means of an adequate management of staff, infrastructure and services provided, not by means of tariffs. Reference to single piece tariff has been taken out from this draft opinion (see am 17).

Amendment 31
ARTICLE 1, POINT 14, POINT (D)
Article 12, indent 6 (Directive 97/67/EC)

(d) The sixth indent is deleted.

deleted

Justification

The maintenance of a reserved area for postal services justifies the maintenance of current rules on cross-subsidisation in Article 12, sixth indent, of Directive 97/67/EC.

Amendment 32
ARTICLE 1, POINT 15
Article 14, paragraph 2 (Directive 97/67/EC)

2. The universal service providers shall keep separate accounts within their internal accounting systems **to clearly distinguish between services and products which receive or contribute to the financial compensation for the net costs of the universal service and those services and products which do not. This accounting separation shall allow Member States to calculate the net cost of the universal service.** Such internal accounting systems shall operate on the basis of consistently

2. The universal service providers shall keep separate accounts within their internal accounting systems **at least for each of the services within the reserved sector on the one hand and for the non-reserved services on the other. The accounts for the non-reserved services should clearly distinguish between services that are part of the universal service and those that are not.** Such internal accounting systems shall operate on the basis of consistently applied and objectively justifiable cost accounting

applied and objectively justifiable cost accounting principles.

principles.

Justification

The maintenance of a reserved area for postal services justifies the maintenance of current text of Art 14(2) of Directive 97/67/EC.

Amendment 33

ARTICLE 1, POINT 15

Article 14, paragraph 3 (Directive 97/67/EC)

3. The accounting systems referred to in paragraph 2 shall, without prejudice to paragraph 4, allocate costs in the following manner:

(a) costs which can be directly assigned to a particular service **or product** shall be so assigned;

(b) common costs, that is costs which cannot be directly assigned to a particular service or product, shall be allocated as follows:

(i) whenever possible, common costs shall be allocated on the basis of direct analysis of the origin of the costs themselves;

(ii) when direct analysis is not possible, common cost categories shall be allocated on the basis of an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible; the indirect linkage shall be based on comparable cost structures;

(iii) when neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to each of the **universal** services and, on the other hand, to the other services

3. The accounting systems referred to in paragraph 2 shall, without prejudice to paragraph 4, allocate costs **to each of the reserved and to the non-reserved services respectively** in the following manner:

(a) costs which can be directly assigned to a particular service shall be so assigned;

(b) common costs, that is costs which cannot be directly assigned to a particular service or product, shall be allocated as follows:

(i) whenever possible, common costs shall be allocated on the basis of direct analysis of the origin of the costs themselves;

(ii) when direct analysis is not possible, common cost categories shall be allocated on the basis of an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible; the indirect linkage shall be based on comparable cost structures;

(iii) when neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to each of the **reserved** services and, on the other hand, to the other services.

Justification

The maintenance of a reserved area for postal services justifies the maintenance of current text of Art 14(3), introducing paragraph, and Art 14(3)(iii) of Directive 97/67/EC. The reference to "products" in paragraph 3(a) is redundant as the corresponding Commission word (i.e. Art 14, paragraph 2) has been deleted.

Amendment 34

ARTICLE 1, POINT 15

Article 14, paragraph 8 (Directive 97/67/EC)

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

8. Where a given Member State has not ***reserved any of the services reservable under Article 7 and as not established a compensation fund for universal service provision, as permitted under Article 9(4)***, and where the national regulatory authority is satisfied that none of the designated universal service providers in that Member State is in receipt of State assistance, hidden or otherwise, and that competition in the market is fully effective, the national regulatory authority may decide not to apply the requirements of this Article. The national regulatory authority shall inform the Commission in advance of taking any such decision.

Justification

Text from Directive 97/67/EC is reinstated, but the Commission's text "and that competition in the market is fully effective" is kept to take account of the situation in countries where full liberalisation has already taken place or could take place in the future.

Amendment 35

ARTICLE 1 POINT 16

Article 19, paragraph 1 (Directive 97/67/EC)

Member States shall ensure that transparent, simple and inexpensive procedures are made available by undertakings providing postal services for dealing with postal users' complaints, particularly in cases involving loss, theft, damage or non-compliance with service quality standards (including

Member States shall ensure that transparent, simple and inexpensive procedures are made available by ***universal service provider(s)*** ***and*** by undertakings providing ***other*** postal services for dealing with postal users' complaints, particularly in cases involving loss, theft, damage or non-compliance with

procedures for determining where responsibility lies in cases where more than one operator is involved).

service quality standards (including procedures for determining where responsibility lies in cases where more than one operator is involved).

Justification

The amendment takes account of the maintenance of a reserved area. Complaining procedures should be made available both by universal service provider(s) and by undertakings providing other postal services.

Amendment 36
ARTICLE 1 POINT 16
Article 19, paragraph 4 (Directive 97/67/EC)

Without prejudice to other possibilities of appeal or means of redress under national and Community legislation, Member States shall ensure that users, acting individually or, where permitted by national law, jointly with organisations representing the interests of users and/or consumers, may bring before the competent national authority cases where users' complaints to undertakings providing services within the scope of the universal service have not been satisfactorily resolved.

Without prejudice to other possibilities of appeal or means of redress under national and Community legislation, Member States shall ensure that users, acting individually or, where permitted by national law, jointly with organisations representing the interests of users and/or consumers, may bring before the competent national authority cases where users' complaints to **universal service provider(s) or to** undertakings providing services within the scope of the universal service have not been satisfactorily resolved.

Justification

The amendment takes account of the maintenance of a reserved area. Appeal procedures or other means of redress must be available should a complaint to (a) universal service provider(s) or to undertakings providing services within the scope of the universal service have not been satisfactorily resolved.

Amendment 37
ARTICLE 1, POINT 21
Article 23 (Directive 97/67/EC)

Every three years, on the first occasion no later than 31 December 2011, the Commission shall submit a report to the European Parliament and the Council on the application of this Directive, including the

Without prejudice to Article 7, every three years, on the first occasion no later than 31 December 2011, the Commission shall submit a report to the European Parliament and the Council on the application of this

appropriate information about developments in the sector, particularly concerning economic, social, employment patterns and technological aspects, as well as about quality of service. The report shall be accompanied where appropriate by proposals to the European Parliament and the Council.

Directive, including the appropriate information about developments in the sector, particularly concerning economic, social, employment patterns and technological aspects, as well as about quality of service. The report shall be accompanied where appropriate by proposals to the European Parliament and the Council.

Justification

The reports in this article are without prejudice to the prospective study and the report to be prepared by the Commission, both provided for in Article 7.

Amendment 38
ARTICLE 1, POINT 22
Article 26 (Directive 97/67/EC)

(22) Article 26 is deleted.

deleted

Justification

Given that, without prejudice to more liberal measures maintained or introduced by Member States as provided for in Article 26, compulsory full liberalisation has been postponed to a later date, it is appropriate to maintain this Article.

Amendment 39
ARTICLE 1, POINT 23
Article 27 (Directive 97/67/EC)

(23) Article 27 is deleted.

(23) Article 27 is replaced by the following:

'Article 27

The provisions of this Directive, with the exception of Article 26, shall expire on 31 December 2011 unless otherwise decided in accordance with Article 7(3). The authorisation procedures described in Article 9 shall not be affected by this date.'

Justification

Given that, without prejudice to more liberal measures maintained or introduced by Member States as provided for in Article 26, compulsory full liberalisation has been postponed to a

later date, it is appropriate to maintain this Article. The new expiration date foresees a time-frame for the Commission to prepare the prospective study and the subsequent report and for the European Parliament and for the Council to take a decision on full liberalisation of the postal sector which is identical to that included in the original Directive.