



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.10.1997
COM(97) 532 final

95/0221 (COD)

OPINION OF THE COMMISSION

pursuant to Article 189 b (2) (d) of the EC Treaty,
on the European Parliament's amendments
to the Council's common position regarding the

proposal for a
EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

on common

rules for the development of the internal market of Community postal services and t
improvement of quality of service

AMENDING THE PROPOSAL OF THE COMMISSION

pursuant to Article 189 a (2) of the EC Treaty

1. BACKGROUND

On 25 July 1995 the Commission adopted a proposal for a European Parliament and Council Directive on common rules for the development of Community postal services and the improvement of quality of service (COM (95) 227)¹.

The Economic and Social Committee gave its opinion on the Commission's proposal on 28 March 1996².

The European Parliament gave its opinion on first reading on 9 May 1996, and proposed 58 amendments to the proposal³.

The Committee of the Regions gave its opinion on the proposal on 13 June 1996⁴.

On 31 July 1996 the Commission adopted an amended proposal in conformity with Article 189a(2) of the Treaty, incorporating a number of the EP amendments⁵.

The Council adopted its common position (EC No 25/97) on 29 April 1997⁶, on which the Commission delivered its opinion on 6 May 1997⁷.

In the second reading, the European Parliament on 16 September 1997 proposed 5 amendments to the common position.

2. PURPOSE OF THE COMMISSION PROPOSAL

This Directive aims to provide for a regulatory framework at Community level for the postal sector.

It defines the minimum universal service to be provided throughout the Community to all citizens, wherever they are located, at affordable prices. In order to ensure the financial viability of the universal service, the Directive defines harmonised criteria for the services which may be reserved to the universal service providers, to the extent necessary

¹ OJ C 322 of 2.12.95, p. 22.

² CES 419/96.

³ OJ C 152 of 27.5.96, p. 20.

⁴ CdR 422/95

⁵ COM(96) 412, 31.07.96

⁶ OJ C 188 of 19.6.97, p. 9

⁷ SEC(97) 821 final

for the maintenance of the universal service, whilst also providing for a gradual and controlled opening up of the postal market to more competition.

The Directive also provides for the establishment of quality of service standards for universal service, in relation to both national postal services and intra-Community cross-border services, as well as for the development of harmonised technical standards. Furthermore, the proposed Directive sets out common principles for tariff setting and accounting by universal service providers, as well as for national authorisation schemes, and requires separation between regulatory powers and operational functions.

3. OPINION OF THE COMMISSION ON THE AMENDMENTS OF THE EUROPEAN PARLIAMENT

All five of the amendments adopted by the European Parliament in second reading can be accepted by the Commission.

- Amendment 1 changes the drafting of recital (27) on the issue of terminal dues, and provides useful clarification.
- Amendment 2 deletes from Article 3(3) the provision for specific derogations (at the discretion of the national regulatory authorities) from the door-to-door delivery requirements of the universal service. It also requires that the exceptions from the universal service requirements of Article 3, third paragraph ("in circumstances or geographical conditions deemed exceptional by the national regulatory authorities") must be communicated to the Commission and to all national regulatory authorities. It therefore improves transparency and accountability.
- Amendment 3 provides for a wider notification to the Commission of the steps taken by each Member State to comply with its obligation to ensure that the universal service is guaranteed, thus providing greater clarity and transparency. The two consequential technical modifications to Article 2(13) and 5(1) which flow from this Amendment, and which are referred to in the footnote to it, are also included in the Commission's modified proposal to ensure consistency and avoid duplication.
- Amendment 4 specifies in Article 7(1) that exceptions to the weight and price limits for the reserved sector set out in that paragraph may be permitted in the case of the free postal service for blind and partially sighted persons. This makes it clear that the existing arrangements in Member States governing this service can be maintained.
- Amendment 5, concerning the right of universal service providers to negotiate individual agreements with customers, makes explicit in the substantive text of Article 12 the principle already referred to in recital (15), and is therefore acceptable.

4. MODIFIED PROPOSAL

On 6 May 1997 the Commission adopted its opinion on the common position concerning a Directive of the European Parliament and the Council on common rules for the development of the internal market of Community postal services and the improvement of quality of service, by which it accepted the revised text for the proposed Directive.

Following the second reading of the draft Directive by the European Parliament, the Commission hereby modifies its proposal for a Directive to incorporate the five amendments adopted by the European Parliament on 16 September 1997.

In addition to these five amendments, the Commission's modified proposal also includes the two technical adjustments (to Article 2(13) and Article 5(1)) referred to in the footnote to Amendment 3 in the Recommendation for Second Reading, the texts of which were presented by the European Parliament's rapporteur in the debate in the Parliament's plenary session on 15 September 1997.

AMENDED PROPOSAL FOR

A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND THE COUNCIL

**ON COMMON RULES FOR THE DEVELOPMENT OF THE INTERNAL MARKET OF
COMMUNITY POSTAL SERVICES AND THE IMPROVEMENT OF QUALITY OF
SERVICE**

Recital 27

(following Amendment 1)

Whereas the remuneration for the provision of the intra-Community cross-border mail service, without prejudice to the minimum set of obligations derived from Universal Postal Union acts, should be geared to costs of delivery according to specified quality-of-service targets, thus justifying suitable systems providing for an appropriate coverage of costs and related specifically to the quality of service achieved;

Whereas the remuneration for the provision of the intra-Community cross-border mail service, without prejudice to the minimum set of obligations derived from Universal Postal Union acts, should be geared to cover the costs of delivery incurred by the universal service provider in the country of destination; whereas this remuneration should also provide an incentive to improve or maintain the quality of the cross-border service through the use of quality of service targets; whereas this would justify suitable systems providing for an appropriate coverage of costs and related specifically to the quality of service achieved;

Article 2(13)

(consequential technical amendment resulting from Amendment 3)

universal service provider: a public or private entity designated by a Member State to ensure the provision of a universal postal service or parts thereof;

universal service provider: the public or private entity providing a universal postal service or parts thereof within a Member State, the identity of which has been notified to the Commission in accordance with Article 4;

Article 3(3)

(following Amendment 2)

They shall take steps to ensure that the universal service provider(s) guarantee(s) every working day and not less than five days a week, save in circumstances or geographical conditions deemed exceptional by the national regulatory authorities, as a minimum:

- one clearance,
- one door-to-door delivery for every natural or legal person or, by way of derogation, under conditions at the discretion of the national regulatory authority, one delivery to appropriate installations.

They shall take steps to ensure that the universal service provider(s) guarantee(s) every working day and not less than five days a week, save in circumstances or geographical conditions deemed exceptional by the national regulatory authorities, as a minimum:

- one clearance,
- one door-to-door delivery for every natural or legal person.

The circumstances mentioned above must be communicated to the Commission and to all national regulatory authorities.

Article 4

(following Amendment 3)

Each Member State shall, under procedures deemed appropriate, designate one or more postal operators to be responsible for providing universal service and shall notify the Commission of the operator(s) selected. In accordance with Community law, each Member State shall determine the obligations and rights assigned to the universal service provider(s) and shall publish them.

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 and, in particular, the identity of its universal service provider(s). Each Member State shall determine in accordance with Community law the obligations and rights assigned to the universal service provider(s) and shall publish them.

Article 5(1)

(consequential technical amendment resulting from Amendment 3)

Each Member State shall take steps to ensure that universal service provision is guaranteed and meets the following requirements:

[Remainder of paragraph unchanged]

Each Member State shall take steps to ensure that universal service provision meets the following requirements:

[Remainder of paragraph unchanged]

Article 7(1)

(following Amendment 4)

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, the price of which is less than five 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 350 g.

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, the price of which is less than five 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 350 g.

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

Article 12

(following Amendment 5)

Member States shall take steps to ensure that the tariffs for each of the services forming part of the provision of the universal service comply with the following principles:

- prices must be affordable and must be such that all users have access to the services provided,
- prices must be geared to costs; Member States may decide that a uniform tariff should be applied throughout their national territory,
- tariffs must be transparent and non-discriminatory.

Member States shall take steps to ensure that the tariffs for each of the services forming part of the provision of the universal service comply with the following principles:

- prices must be affordable and must be such that all users have access to the services provided,
- prices must be geared to costs; Member States may decide that a uniform tariff should be applied throughout their national territory,
- the application of a uniform tariff does not exclude the right of the universal service provider(s) to conclude individual agreements on prices with customers.
- tariffs must be transparent and non-discriminatory.

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