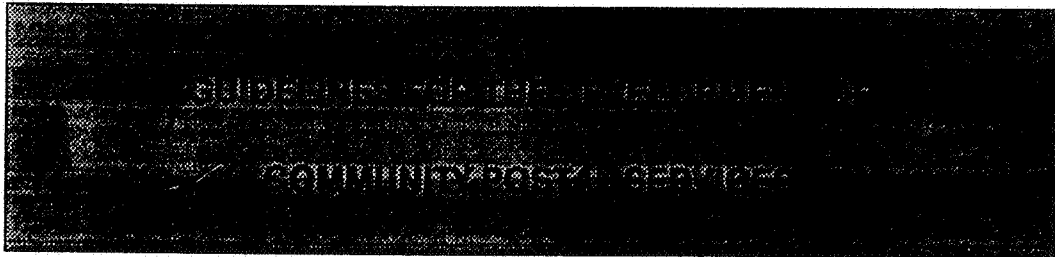


# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 247 final

Brussels, 2 June 1993

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL  
AND THE EUROPEAN PARLIAMENT



GUIDELINES FOR THE DEVELOPMENT OF  
COMMUNITY POSTAL SERVICES

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## 1. INTRODUCTION

### 1.1 IMPORTANCE OF THE POSTAL SECTOR

The importance of postal services within the Community is illustrated by some statistics. They produce a turnover of more than ECU 60 billion, i.e. 1.3% of GDP; they are labour intensive and employ more than 1 700 000 workers, which makes them one of the principle employers in the Community. In addition, the sector enjoys steady and continuous growth.

Because they are an essential vehicle of communication and trade, postal services are vital for all economic and social activities, even if in some cases they may be replaced by other means of communication. In fact the importance of postal services even seems to be increasing as economic operators use them more and more.

The most important of these are mail order companies, direct marketing firms and magazine and newspaper services, particularly for specialized publications.

A final important fact is that exchanges of letters help to reinforce social contact and to develop links between individuals and companies in different areas.

### 1.2 OPERATIONAL PROBLEMS

However, the current performance of the postal service causes a number of problems, which justify action at Community level.

#### **Inadequate service quality**

As far as internal mail is concerned, the quality of the universal service in the Member States varies considerably from one postal authority to another. In some countries, 90% of letters arrive the day after posting, while in others the figure is as low as 15 or 16%.

Such variations considerably affect those sectors which are particularly dependent on the postal services. In some key sectors like magazine and newspaper services, financial services, mail order and advertising, this can constitute a real barrier to trade. This has the effect of limiting the freedom of choice of individual consumers.

The average delivery time for cross-border mail is four days compared with between one and a half and two working days for internal mail. The generally stated aim of a three-day delivery time for cross-border mail is in fact achieved in only 40% of cases.

This difference in service quality serves to emphasize borders and thus disrupts the single market. It has the effect of penalizing those companies who use the postal services to market their products in a Member State other than their own, giving firms based in that Member State an advantage.

#### **Lack of harmonization**

Operators of the universal service work in many different ways and there is no common definition. Standard mail categories also differ from one Member State to another. Hence there is room for improvement in the interoperability of the postal networks of the different Member States.

#### **Differences in service quality**

Differences in the quality of postal services hamper the internal cohesion of the Community, since those regions where the quality of postal services is inadequate are at a disadvantage in terms of both communication needs and distribution of goods.

#### **Trade distortions**

Apart from the distortions which affect companies dependent on the postal services for their commercial activities, there are trade distortions in the postal sector itself, in those cases where the reserved area is greater than that necessary to provide the universal service.

### **1.3 THE GREEN PAPER AND ITS PROPOSALS**

In September 1989, the Council of Ministers invited the Commission to prepare measures intended to develop the postal sector. In the Green Paper on the development of the single market for postal services submitted on 11 June 1992, the Commission proposed a set of measures designed to solve these problems, and examined various policy options: complete liberalization, complete harmonization, status quo and a scenario combining liberalization and harmonization.

The Commission favoured the last scenario, which combines a gradual opening up of the market with consolidation of the principle of the universal service and selective harmonization, in accordance with the following policy objectives:

1. TO ESTABLISH A COMMUNITY DEFINITION OF THE UNIVERSAL POSTAL SERVICE REQUIRED; THEN TO ENSURE ITS PROVISION THROUGHOUT THE COMMUNITY AT PRICES AFFORDABLE TO ALL THROUGH THE ESTABLISHING (INASMUCH AS IT WAS NEEDED IN MEMBER STATES INDIVIDUALLY) OF A SET OF RESERVED SERVICES WHICH WOULD CONFER SOME SPECIAL AND EXCLUSIVE RIGHTS, IN ORDER TO MAINTAIN THE RESOURCES NECESSARY FOR THE UNDERTAKING OF THE PUBLIC SERVICE MISSION IN SOUND CONDITIONS; AT THE SAME TIME, CONSISTENT WITH THIS OBJECTIVE, TO HAVE THE LARGEST POSSIBLE PART OF THE SECTOR OPERATING IN FREE COMPETITION
2. TO HAVE COMMON OBLIGATIONS FOR THE UNIVERSAL SERVICE OPERATORS OF THE COMMUNITY IN RESPECT OF THE SPECIAL AND EXCLUSIVE RIGHTS GRANTED TO THEM BY THE RESERVED SERVICES IN ORDER TO PROVIDE UNIVERSAL SERVICES, IN PARTICULAR WITH REGARD TO THE QUALITY OF SERVICE PROVIDED.
3. TO MAKE ANY NECESSARY EFFORTS TOWARDS COMMUNITY COHESION THROUGH APPROPRIATE HARMONISATION MEASURES.

The options set out in the Green Paper are described in detail in Annex 1.

#### 1.4 THE PUBLIC CONSULTATION PROCEDURE

The public consultation involved all interested parties, continued until the beginning of 1993 and provoked considerable response.<sup>1</sup> The Commission received more than 200 written submissions from a wide range of sources. In addition to comments from the authorities (European Parliament, Economic and Social Committee and national authorities), there were many contributions from public and private operators and users (consumer associations and businesses).

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<sup>1</sup> See in Annex: "Results of the public consultation".

It is no doubt due to the complexity of the issue that some contributions arrived relatively late<sup>2</sup>. The list of written contributions which have been received is contained in the latest annex.

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<sup>2</sup> The Commission regrets however that some governments and public operators did not respond within the time limit.

## 2. THE APPROACHES WHICH EMERGE FROM THE CONSULTATION PROCEDURE

### 2.1 GENERAL APPROACH

The need for action at Community level, identified by the Council in 1989 and developed in the Green Paper, has also been felt by all the parties involved in the postal sector who are looking for a harmonisation of the principles and the concepts in the postal sector. The consensus which has emerged in this regard during the consultation is based on the following:

- the dysfunctions observed, particularly in relation to cross-border traffic, are damaging to the creation of the Single Market and impede the reinforcement of economic and social cohesion as well as general economic competitiveness; to remedy this frontier effect, a Community response which will reduce existing disparities is called for;
- national policy, which retains its important role, should be complemented by Community action with the aim of responding better to the needs of users, for an improved quality of service and of reinforcing the effectiveness and competitiveness of the sector.

A large majority of contributors endorsed the main approaches proposed by the Commission and there was virtually unanimous approval by all concerned of the basic scenario adopted and the main principles on which it was based.

The same applies to the concept of the universal postal service, which almost all contributors consider essential. A very large majority of commentators were in favour of a reserved sector. All considered that emphasis should be placed on improving service quality. It seems clear that the present system of terminal dues should be changed and it was unanimously felt that regulatory and operational functions should be separated.

Finally, the general opinion was that consultation should not stop at this stage but should continue throughout the process of defining and establishing Community rules on postal services.



## 2.2 COMMON DEFINITION OF UNIVERSAL SERVICE

### 2.2.1 Outcome of the consultation procedure

The concept of the universal service was considered as the basic concept. All contributors considered that a common definition of universal service was essential before tackling all the other issues.

Most contributors felt that the definition of universal service should be broad and should apply to all mail (some mentioned a 2 kg weight limit). The universal service should be based on a uniform structure of reasonable prices and a universal network.

Opinions were divided on the sending of goods by post (parcel post).

### 2.2.2 Approach proposed by the Commission

Development of the postal sector must be based on the concept of universal service. This implies that Member States must provide a high quality postal service available to all at reasonable prices throughout the Community, including both national services and cross border services.

The concept of universal service should therefore be defined at Community level. This definition would be taken as a minimum reference, after which each Member State would be allowed to adopt a more extensive definition in accordance with its own legitimate interests. The reference definition should mention provision of the service, categories of mail and the specific services concerned.

As regard provision of the service, the universal service should provide easy access to the postal network in terms of location and availability as well as convenient delivery of mail.

As regards the mail categories and services concerned, the universal service should include:

- the following addressed items: letters, postcards, direct mail, catalogues, books, publications, other printed papers and parcels (goods transport); this would include letters and packets up to a weight of 2 kg and parcels up to 20 kg, which are the limits applied by the universal postal union, whose rules on packaging and the dimensions of items could also be applied;

- both national services and cross border services, both first class and, where applicable, second class;
- a special service: registered deliveries; however, other special services like express mail are not included in the universal service.

This definition of the universal service should also take account of the following points:

- each Member State should take the necessary measures to guarantee continuity of the universal service; in particular, universal service providers should be required to accept mail from Member States or from other countries for distribution in their territory, providing a quality of service equivalent to that provided for national users;
- for reasons of adaptability, the universal service should be subject to regular review so that it develops in accordance with technological innovations in the sector and the demands of users.

## 2.3 MAINTAINING RESERVED SERVICES

### 2.3.1 Outcome of the consultation procedure

Virtually all contributors considered that a set of reserved services should be maintained provided these included only what was necessary to provide the universal service in accordance with the principle of proportionality.

The views expressed during the consultation focussed on the link between the universal service obligation and the wide-ranging area which is reserved. The link between the reserved services and the need to ensure financial viability in the provision of the universal service has also been strongly highlighted.

With regard to the services which should be reserved, there was:

- general agreement that magazine and newspaper services, parcel services and express services should not be reserved, as is already generally the case;
- an agreement in principle for special and new services, to be in the competitive sector, after an examination on a case by case basis;

- general agreement that letter services should be reserved and that there should be specific price and weight limits, although the parties involved in the consultation procedure had different views on what these should be;
- support for liberalization of self-posting and self-delivery provided that there is a clear definition of this type of service.

The consultation procedure revealed conflicting views on direct mail and cross-border mail:

- direct mail: most contributors considered that this should be kept in the reserved sector for two main reasons:
  - \* the need to ensure that the operators bound by universal service obligations had the necessary resources;
  - \* the difficulty of defining direct mail and preventing abuse, such as the fraudulent distribution of bulk reserved mail by operators not authorized to do so, since mail is inviolable.

Nevertheless, a number of companies which use the postal services, or associations of such companies, together with some private operators and one public operator, emphasized the potential advantages of liberalization in terms of price, choice, and quality of service. They did not feel that liberalization would undermine provision of the universal service.

- Cross-border mail: a considerable number of contributors distinguished between:
  - \* outward and transit traffic, where collection and carriage are already liberalized in several Member States: many commentators were in favour of liberalization, although some postal operators were in favour of liberalization only if the terminal dues system were changed;
  - \* inward traffic: most operators opposed liberalization of this stage of the cross-border mail service, chiefly because of the risk of national mail being routed through other countries; most of the companies using the cross-border postal service and private operators mentioned the poor quality of the service and emphasized the advantages of the same operator being responsible for the service from beginning to end.

### 2.3.2 Approach proposed by the Commission

To guarantee the financial viability of the network of postal operators on which the universal service obligation has been imposed, the Member States should be able to maintain a set of reserved services.

Accordingly, it is appropriate to determine to what extent restrictions on competition, even to the exclusion of all competition, are necessary to assure to the universal service providers the means to achieve their task of general economic interest, without endangering their financial equilibrium.

It is clear from the current situation in the Member States that the postal authorities can meet the obligation to provide certain services (like a parcel service throughout the Community and distribution of printed papers in many Member States), even if these services are not in the reserved sector.

Accordingly, it must be ensured that the reserved area is sufficiently wide to guarantee the financial equilibrium of activities linked to the universal service while at the same time, in conformity with the principle of proportionality, not exceeding what is strictly necessary in order to carry out the obligations imposed in this regard in a framework of financial equilibrium.

Hence the reserved area of the postal sector will be a sub-set of the universal services. The non-reserved services could be provided by both public and private operators.

The list of the set of reserved services would have to be decided at Community level. If a Member State felt that specific liberalization proposals could prevent it from achieving the objective of providing a universal service, it might consider limiting the extent to which it was prepared to open up its market, provided this solution were proportional to the objective and compatible with Community regulations.

The following criteria should be used to define the reserved area:

- only those services which are part of the universal service may be considered for reservation; accordingly the other services not in this category, particularly express services, self-delivery and self-posting and distribution of non-addressed items, will be open to free competition, as will those new services which are very

different to reserved services;

- however, those services which entail a universal obligation, like distribution of consignments of goods (parcel service) or of non-personal material (e.g. newspapers, magazines, brochures or other types of printed paper for mass distribution, each having the same content) will not be reserved;
- in fact, it would be the basic postal consignments which would constitute the target of reserved services, with price and weight criteria being used to determine the limits of these services;
- finally, it should not be possible for the national (internal) mail covered by the reserve services of one Member State to be physically transported outside that Member State by another operator and sent back for distribution by the universal service operator, as if it were cross-border mail.

There are two issues where further discussion is necessary:

- direct mail: the Commission has noted the problems identified during the consultation but considers that they are not in the long term insurmountable either regarding the financial or control aspects. The Commission therefore considers that discussion of this issue should continue and that there should be more detailed analysis of the implications of opening up this market.
- cross-border mail: the Commission considers that liberalization of the collection and carriage of outward and transit traffic would not cause serious difficulties, although, as discussed later, the Commission does recognize the importance of putting an end to the distortions caused by the current system of terminal dues. However, the Commission takes the view it is advisable to continue to study the implications of liberalizing the delivery of inward traffic and its financial impact, taking into account that this liberalisation would bring an improvement in performance quality through a single end to end service, in order to reply to the preoccupations expressed during the consultation about possible diversion of national mail.

Another alternative approach could be examined. This would foresee the maintenance of the final delivery of mail remaining in the reserved sector whilst other upstream operations (collection, transport, sorting) would be liberalized, with no distinction between domestic and cross-border mail.

A priori, certain advantages are apparent:

- given that the fixed costs of the universal service are essentially concentrated in the final phase of delivery, the maintenance of this phase in the reserved sector would, in theory, be able to guarantee the financial viability of the operators charged with the universal service;
- by avoiding a distinction between domestic and cross-border traffic, this option would be coherent with the logic of the Single Market; however it would be advisable to recognize the differences in the performance between operators and also the difficulty in this framework of ensuring the provision of an efficient end to end service;
- the problems of controlling the diversion of traffic, mentioned during the consultation regarding cross-border mail and direct mail, could be avoided.

These different issues would have to be examined in more detail within the framework of further consultations.

## 2.4 SERVICE QUALITY STANDARDS

### 2.4.1 Outcome of the consultation procedure

Contributors considered service quality standards an important matter justifying regulatory and operational measures. The majority were in favour of adopting high quality standards at Community level. It was emphasized that deadlines for adoption of these common standards would have to take account of the present situation in some Member States.

However, this would not prevent Member States from adopting more stringent measures if they saw fit. In any case, it was emphasized that Community standards should not have the effect of reducing national standards where they were already higher.

Community or national standards should be published and there should be checks on mail services at all stages of the process, even in the case of cross-border mail.

Opinions were more divided as to whether service quality standards should be imposed only on the reserved sector or on the whole universal service.

Some suggested setting up an independent body or using special monitors to maintain standards and carry out inspections.

Furthermore, some of the groups emphasized in their comments that failure by an administration to implement the standards should lead to a penalty. While the comments referred to the difficulties this might entail, it was suggested linking the amount of terminal dues to the service of quality provided, and even reducing or abolishing the reserved sector if a postal administration did not meet its obligations with regard to service quality.

#### **2.4.2 The approach proposed by the Commission**

With regard to service quality, standards should be laid down for the universal domestic and cross-border services, systems should be introduced to monitor the service actually provided and the results should be published. The standards for the cross-border service should be laid down at Community level. The standards laid down in each of the Member States by the national postal authorities should be compatible with the Community standard on cross border mail, although the authorities could lay down even stricter quality requirements for the providers of the universal service in their own country.

The quality standards should be laid down as follows:

- Time limits for basic products or services forming part of the universal service should be set for:
- first and second class letters and postcards
- parcels (up to the universally defined weight limit)
- periodicals (daily and weekly publications)
- bulk printed items.

The time limits would cover the service provided from the mailing of the item to its delivery to the recipient (end to end control).

- Although standard time limits might suffice in general, specific standards could be laid down for certain traffic flows (exchanges between large towns and cities, long-distance mail, close cross-border operations, etc.).

- Security and confidentiality must be total and absolute. To ensure compliance with this intangible principle, an annual report should be drawn up covering:
  - \* the number of instances where mail is lost, stolen or damaged;
  - \* the number of instances where confidentiality is violated.
- Rules regarding the liability of universal service operators and the payment of compensation to customers in the event of excessive delay or loss, deterioration or theft need to be clearly spelt out.
- An external body or a group of specialists should check the results obtained and compliance with the standards.

## 2.5 MEASURES TO PROMOTE HARMONIZATION

### 2.5.1 Outcome of the consultation procedure

Although there is a consensus that efforts should be made to increase harmonization in the sector, the comments in general say very little about the specific areas in which a policy should be pursued.

The comments all point to the fact that non-discriminatory conditions of access to the universal networks and services should be guaranteed and that transparency should be ensured.

A number of different opinions were put forward with regard to cross-subsidies: the principle of geographical cross-subsidies to ensure a single unitary tariff, in Member States which wish to have it, is not called into question. However, the justification for subsidizing operations provided on a competitive basis even if the service, such as parcels, is a universal service obligation, was challenged by private operators and a number of professional users.

Action on technical standardization and the need to achieve a certain amount of harmonization on the tariff principles for the basic services provided by the public operators are also seen as priorities.

Furthermore, private operators propose harmonization of the accounting methods used by the postal administrations.



Lastly, it was emphasized quite frequently that harmonization should not lead to a reduction in the level of the service or to an increase in prices for users.

Two ways of achieving this are suggested:

- first, voluntary and even mandatory action on the part of the regulatory authorities;
- second, the idea that harmonization should come about automatically through market forces as a result of the interplay of supply and demand.

### **2.5.2 The approach proposed by the Commission**

The Commission takes the view that efforts should be made to achieve harmonization in four areas: the conditions of access to the networks and the services, the tariff principles, and commercial and technical harmonization.

#### **The conditions of access to the network and the universal service**

Definition of the conditions of access is the responsibility of the Member States, the principle being that access to the postal services should be ensured for all users on equal terms. This should be a clear, published definition.

#### **Tariff principles**

The tariffs should be linked to the cost of providing each service in order to ensure the long-term financial viability of operators and to avoid the risk of uncompetitive cross-subsidies. This objective would mean a need for transparent accounting, this being even more essential if the postal administrations used the same network to provide both reserved and non-reserved services.

The geographical cross-subsidies intended to ensure a single unitary tariff and the subsidies from the non-reserved sector to the reserved sector would be accepted, while cross-subsidies from the reserved sector to the non-reserved sector would be authorized if they proved to be necessary to provide a universal service and were compatible with the rules of competition.

#### **Commercial and technical harmonization**

A certain level of commercial and technical harmonization should make it possible to attain the essential objective of providing continuity of service within the single

market, which will be to the benefit of users and will improve the competitiveness of the sector. If it brought significant benefits to users, harmonization of the reserved services could be compulsory. Recommendations only could be given in the competitive sector.

Two kinds of action should be taken to ensure the interoperability of the postal networks. Harmonisation in the conditions of sale should be reinforced as well as technical standardization in the handling, transport and delivery of mail.

The technical standardization would be assigned to the specialized European bodies on the basis of mandates in conformity with the principles enunciated in Directive 83/189/EEC. In actual fact, the Commission would give a mandate to the CEN, which would then cooperate with the ISO.

## **2.6 SEPARATE REGULATORY AND OPERATIONAL FUNCTIONS**

### **2.6.1 Outcome of the consultation procedure**

The principle of separation is accepted by everyone and is considered to be essential to ensure the provision of a universal service, the establishment of limits to the reserved services, clarity with regard to the regulatory framework, the consideration of user requirements, and the effective application of the rules (protection of the reserved area and fair competition in the non-reserved area) in all of the Member States.

### **2.6.2 The approach proposed by the Commission**

The regulatory functions must be separated from the operational functions in all of the Member States.

Because of the degree of latitude on the part of the Member States inherent in the application of the overall scheme described, it is clear that the national regulators will play an important role both in terms of regulation and in terms of monitoring and control. Consequently, separation of the regulatory powers from the operational functions (already in progress) should be broadened and deepened.

## 2.7 TERMINAL DUES

### 2.7.1 Outcome of the consultation procedure

Most of the comments received indicated that reform along the lines of rationalization was essential. However, there is hesitation as regards the advisability of bringing terminal dues into line with actual costs too rapidly.

The international aspects of this matter are a main concern, in particular the role of the Universal Postal Union which was stressed in a number of documents.

The existence of certain types of remail which have come about as a result of the present terminal dues arrangements was also referred to in various comments. In particular, it is felt that it is essential to resolve the problem of A B A remail and its possible impact on the control of the exclusive rights of the providers of universal services.

### 2.7.2 The approach proposed by the Commission

The reference levels of financial compensation (terminal dues) paid between operators should reflect the actual costs incurred by each operator providing cross-border services and should conform to Community competition rules.

Although bilateral agreements can be concluded to take account of the special features of certain flows, such as the volume of traffic, the regularity of dispatch, the preparatory work, the physical presentation of the items, etc., it would appear to be highly desirable to introduce an overall reference system to ensure that the universal service is not interrupted or disturbed in the event of disagreement between operators regarding the price of the services provided.

The Commission takes the view that it is not for the Community to take any prime action in this area, which is essentially the responsibility of the operators. The consultation procedure nevertheless revealed agreement on certain basic principles, which the Commission can help to implement:

- The operator ensuring distribution should receive remuneration for the services provided to cover the actual costs plus a normal commercial profit margin. For his part, the operator responsible for dispatch (or transit) should not pay more than the tariffs applied by the operator in the country of destination to other users of the national service in a comparable situation (with regard to volume,

pre-sorting, etc.).

- The most practical and the best solution would be to refer to the domestic tariffs applied by the post office in the country of destination, varied to take account of any preparatory work and possible penalties regarding the quality of service actually provided.
- The accounting procedures to invoice for terminal dues should be reliable and inexpensive and should also not slow down the forwarding of the mail, which would contradict the objective of a major improvement in the quality of service.

## 2.8 INTERNATIONAL ASPECTS

### 2.8.1 Outcome of the consultation procedure

A number of comments referred to the international aspects of the postal sector with regard to:

- the definition of the universal service, which could take account of the postal service obligations adopted within the UPU framework;
- remail, which Article 25 of the acts of the UPU allows to be challenged, in particular A B A remail (mail from country A posted in country B to a recipient in country A) or mail originating in a third country;
- terminal dues, the proposal to fix the level of these dues on the basis of the cost in the country of destination being feasible only if it is adopted within the UPU framework;
- the possible creation of an international system of arbitration to settle disputes over remail or to be applied if no agreement is reached on the application of a new system of terminal dues.

With regard to the positions of the Member States, the need was pointed out:

- to coordinate these positions within the international fora concerned;
- to ensure coherence between commitments undertaken vis-à-vis third countries and the Community postal system.

Lastly, a large number of comments referred to possible changes in the international aspects of the postal service during discussion on the GATS.

### **2.8.2 The approach proposed by the Commission**

The Commission view is that it is essential to guarantee compatibility between the international commitments entered into by the Member States and Community legislation and policies, to continue to cooperate on improving the organization and performance of the world postal markets and to ensure the requisite coordination between the positions expressed by the Community and the Member States in the various bodies responsible.

A new reference system of remuneration should be introduced for postal operations between the Member States. Its extension to all of the postal administrations in the CEPT, with specific variations where necessary, would be desirable.

This also applies to relations with the main industrialized third countries. A solution of this kind based on domestic tariffs might create difficulties in the short term as far as other countries are concerned, in particular the developing countries. It would therefore seem to be desirable to coordinate the positions of the Member States within the UPU.

Ways must be found and implemented to prevent large volumes of purely intra-Community traffic (originating in and bound for the Community and eventually the EEA, and for both A-B-A and A-B-C traffic) from being routed through third countries simply because the postal administration in the intermediate country is trying to benefit from the shortcomings of UPU rules and refuses to accede to agreements based on sounder economic considerations.

### 3. IMPLEMENTATION

The logic of the internal market and Community law require certain actions to be undertaken at Community level in the postal sector to assure the resolution of the problems mentioned in Section 1.2. This is to guarantee the continuity of basic postal services throughout the Community, the application of the principle of proportionality for determining the reserved area and the improvement in cross-border quality of service, to state the most obvious examples.

But Member States will maintain important powers by application of the principle of subsidiarity; for example, the Community definition of universal service will permit the development throughout of a universal service, but this definition will be considered as a minimum reference definition, each Member State will be able to adopt a more extensial definition in line with its legitimate requirements.

The principle of subsidiarity should also be applied in the setting of norms for quality of service. Hence, norms for quality of service in each Member State established by national postal authorities will permit higher standards from the providers of the universal service.

In conformity with the principle of subsidiarity, what is needed is the minimum action necessary to ensure the harmonization and liberalization which are essential for the development of the Community postal services. The Community's responsibility in this is to define the common principles which will enable this to be attained. Within this framework, the Member States will continue to develop their own postal policies, with the national authorities retaining prime responsibility for regulation in each individual country.

Therefore, it is essential to take account of the following four issues in the development of the Community postal services:

- The implementation of these guidelines will require some actions, in particular legislative action, at Community level. The completion of an impact analysis, which has already begun, should precede these actions, accompanied by a consultation procedure.
- Regarding measures which would have particularly noticeable social consequences, an impact analysis on the financial equilibrium of the provision of the universal services and the consequences in terms of employment, will take account of the financial conditions, regional disparities and the diversity of social situations existing in the different Member

States.

- Adoption of the guidelines set out in this communication must not lead to a deterioration in the level of service in Member States where this level is currently higher than what is proposed, e.g. as regards the scope of the universal service or the quality of the service. Other Member States, on the other hand, may need short periods of adjustment to apply some of the guidelines.
- The present structure of the postal markets shows that the regulatory framework appropriate at the moment in terms of definition of the universal service, service quality standards, harmonization and reserved services may no longer be suitable in the medium term. A balanced, stepwise approach is therefore desirable and will provide the flexibility required to allow the various aspects of the framework to be reviewed as the markets develop and the situation changes.

The stages which follow the meeting of the Council will continue to be based on a dialogue between the Commission and those involved in the sector, within the committees mentioned at point 3.2 below, in order to produce the most appropriate and balanced solutions which will allow the harmonious development and reinforce the effectiveness of the postal sector, while at the same time ensuring users' needs and employees' interests as well as the contribution of the sector to economic, cultural and social development and cohesion within the Community are taken into account.

### 3.1 THE ACTION PROPOSED

Between the various means of action to establish and to develop the guidelines, a distinction should be drawn between those with a legislative objective and other forms of action.

#### *Legislative action:*

These actions at the Community level will permit the establishment of a true internal market for postal services while respecting the application of the principle of subsidiarity. The legislative measures envisaged are the following:

- Directives concerning the definition of the universal service as a means of reference, with regulatory issues (such as the division between operational and regulatory functions) and a description of the obligations of the providers of the universal service (tariff principles, non-discriminatory conditions of access to networks, etc.) and defining the services which could be reserved at Community level.

- Directive on service quality laying down service quality standards, creating systems to monitor the services provides and setting out the principles applicable to the treatment of complaints about cross-border traffic, in particular that within the Community.
- Directive on commercial harmonization and technical standardization laying down the overall objectives to be attained and the means of action.

*Other actions:*

After the universal services have been defined, a detailed assessment will be undertaken of the position in the different areas of the Community, taking into account in particular the specification and performance of the services offered. This evaluation will enable the identification of the necessary measures to reduce the regional disparities.

Universal service should not stop at the Community's borders. The non-EC dimension should also be kept in mind. This concerns the impact of developments both on the EFTA countries and countries of Central and Eastern Europe, in order to implement the Community's vision of a larger Europe. The issues of fair market access and the current multilateral negotiations underway in the Uruguay Round should also be addressed as well as developments in the Universal Postal Union.

Necessarily there is a relationship between internal liberalisation and access for Community operators to third markets. The Community must pursue by all the means at its disposal this goal with the firm intention to create effective, comparable and lasting market opportunities for its own operators elsewhere.

The question of financial compensation to be paid between service suppliers, for which a number of solutions are emerging, will nevertheless continue to be a subject for the Commission to consider.

If current problems concerning terminal dues still occur (distortions in the market and to competition and endangerment in the provision of the universal service), the Commission will propose appropriate measures.

In compliance with the principle of subsidiarity, the Commission will ensure that the reference framework on Community postal services is progressively implemented and that developments in this field are in keeping with other Community policies, in particular those on transport, customs, VAT and data protection.



### 3.2 THE CONSULTATION PROCEDURE

The necessary steps as well as the timetable for implementing the Community postal policy will have to follow an in depth consultation with the involvement of all the interested parties, in particular user representatives (be they major customers or consumers), operators and those employed in the sector.

Consultation will have to take place through the existing working groups (Senior Officials Group on Posts - SOGP) and two new committees:

- The Consultative Group on Postal Services, which consists of operators and users in particular.
- The Joint Committee for the Postal Sector, which consists of representatives of the public and private operators and trade unions.

#### 4. CONCLUSION

The consultation procedure on the Green Paper on postal services generated a large response on the part of the parties concerned, brought out the need to develop the single market in postal services and revealed a consensus on a relatively large number of major issues.

The Commission has noted the reactions to the Green Paper and takes the view that it is now possible to take a further step towards the regeneration of the Community postal sector by updating the basic guidelines set out in the Green Paper, describing a more detailed approach to the action called for at Community level (which is to be analysed in detail by the abovementioned Committees) and by detailing the measures required.

The Commission would ask the Council of Ministers to discuss the various approaches set out in this communication and the measures recommended.

## MAIN OPTIONS OF THE GREEN PAPER

## PART I: GENERAL REGULATORY ISSUES

**1. ESTABLISH A SET OF UNIVERSAL SERVICES**

*The key social requirement for postal services is the maintenance of the universal service. Universal service without any conditions about price can be provided in the competitive (non-reserved) sector. But, in order for the service to be at a price affordable to all, it is necessary to have sufficient economic returns to scale. These can only be achieved through the granting of some special and exclusive rights - hence the need for reserved services. (Although it is possible for there to be more than one reserved service provider in each Member State, this is unlikely; for the sake of simplicity, all the proposals refer to only one reserved service provider - assumed to be the postal administration - in each Member State.)*

**2. DEVELOP THE DEFINITION OF UNIVERSAL AND RESERVED SERVICES**

*Detailed work is still needed before such a Community definition of the possible set of reserved services can be made. Throughout this analysis, the objective will be to seek the least restrictive solution. Conditions in some Member States may permit the scope of the reserved services there to be less than the set defined at a Community level, but always consistent with the objective of ensuring universal service. Whatever the result, the definitions must be such as to distinguish clearly between what is in the reserved area and what in the non-reserved area.*

**3. ENSURE COMPATIBILITY OF OTHER MEMBER STATE COMMITMENTS WITH COMMUNITY LEGISLATION AND POLICIES**

*As with all sectors, efforts need to be made to reduce the possible tensions between, on the one hand, Community law and policies and, on the other, potential obligations arising from other conventions or treaties that Member States may have signed.*

**4. SEPARATE REGULATORY AND OPERATIONAL FUNCTIONS**

*In order to ensure that the user's interests are best served through the impartial treatment of all operators, it is essential that regulatory and operational functions should be separated. The independence of the regulatory function will better enable it to achieve the best balance between public and private operators, and between reserved and non-reserved service providers. It will monitor the effectiveness of the reserved services, in terms of the service provider both maintaining a good universal service and meeting its other obligations shown below at Proposals 5, 6 and 8. If the situation arises, it will need to consider what action may be necessary in the case of performance falling short of the obligations.*

## PART II: OBLIGATIONS OF UNIVERSAL SERVICE PROVIDERS

### 5. ACCESS CONDITIONS TO UNIVERSAL SERVICES TO BE SAME FOR ALL

*The rule must be equality of treatment of users (customers) of universal services. Within this rule, it is recognised that customers have varying requirements and can co-operate with universal service providers to varying extents. This is partly a function of size, but particularly of the ability to prepare mail in ways that are beneficial to the postal operation of the universal service provider, thus allowing the latter to offer discounts.*

### 6. TARIFFS OF UNIVERSAL SERVICES TO BE RELATED TO AVERAGE COSTS

*The guiding principle should be that tariffs should be related to average costs. The consistent application of this principle is the best guarantee of the financial soundness of the postal services. Cross-subsidies can be permitted across geographic areas in order to allow the péréquation tarifaire and from the non-reserved area to the reserved area. There could also be cross-subsidies from the reserved to the non-reserved area if they were necessary to assure the universal service and if they were compatible with competition rules. With these exceptions, in order to ensure fair treatment for all, cross-subsidies, whether from one service to another or, because of discounts, from one group of customers to another, should be minimised and phased out.*

### 7. INTER-ADMINISTRATION COMPENSATION TO REFLECT DELIVERY COSTS

*The existing system of charging between postal administrations (called terminal dues) is not cost based, leading to significant distortions between remuneration and actual delivery costs incurred. The same principle of basing on tariffs on costs should apply to the financial compensation system between postal administrations..*

### 8. SERVICE STANDARDS FOR UNIVERSAL SERVICES TO BE SET AND PERFORMANCE MONITORED

*The justification for establishing a set of reserved services is based on the social requirement for universal service. The actual service performance is therefore crucial in ensuring that the social requirements are met. Standards therefore need to be set for the universal services, performance monitored and control systems put in place. It is important to note that such standards are only thresholds - universal service providers should still try to have a performance higher than the standards.*

### **PART III: HARMONISATION AND COHESION**

#### **9. HARMONISATION APPROPRIATE WHERE BENEFICIAL TO CUSTOMERS**

*The more tangible the benefit for the consumer, the stronger the case for harmonisation. The clearest benefits would seem to be gained from some harmonisation of access conditions and from harmonisation of service standards and performance monitoring (described above at Proposal 8).*

#### **10. COHESION ASPECTS TO BE TAKEN INTO ACCOUNT**

*It is important always to keep in mind the need to ensure that the Community throughout has an effective postal sector that properly meets the postal needs of the whole of the Community. Most of the improvements necessary can be gained through better management. However, some capital investment could be needed, which, particularly in less favoured regions, could entail a significant financial burden.*

**GREEN PAPER ON POSTAL SERVICES**

**RESULTS OF PUBLIC CONSULTATION**

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## 1. INTRODUCTION

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Because of the economic and social importance of the postal service to the Community, its future organization and development deserves particular attention. The postal service is currently facing a number of problems which would be better solved within the context of the single market. The individuals and companies who use the Community's postal services are well aware of its shortcomings, and of the disparities and distortions of competition.

In view of these factors and because of the importance of the postal service to the public, the Council of Ministers for Posts and Telecommunications asked the Commission to come up with a Community postal policy.

The first stage was publication of the Green Paper on the development of the single market for postal services(\*) which formed the subject of a Commission communication of 11 June 1992.

The next stage in the process was to organize widespread consultation on the Green Paper with all the interest groups concerned.

The public debate was valuable and extremely instructive. In view of the need for transparency, it seems appropriate, and useful, for the Commission to give a public account of the debate. That is the purpose of this communication, which gives a general summary of the various oral and written comments made to the Commission.

However, the main value of the exercise, which involved all those concerned in the future of the postal market, is to identify the main expectations and the areas of agreement which could be used as a basis for a policy on the postal service, so that it meets the real needs of its users. This summary thus provides a sound basis for reconsidering the options set out in the Green Paper. The next step will be to publish a communication setting out guidelines for development of Community postal policy.

Because of the wide range of questions on postal activities, a number of very different topics were considered during the consultation exercise, and because the various contributors represented a number of very different interests, opinions on some of the points at issue were very divergent.

However, despite these divergent and contrasting opinions, there was general appreciation of the Commission's analysis, endorsement of the basic guidelines proposed and recognition of the need for Community action.

This is evident from this communication which, after describing the background to this consultation process, gives a general overview of the comments received.

The document goes on to highlight the main areas of agreement and the important points on which opinions diverged. It then considers other factors which do not have the same priority but are nevertheless important. It also considers the question of subsidiarity.

Finally, the last chapter examines reactions in terms of the opinions of the main interest groups involved rather than the points at issue.

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(\*)COM (91) 476 final

## 2. BACKGROUND

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Before analysing the comments received, it is worth describing how the process leading to a Community postal policy started.

It was primarily the postal service which set the process in motion. Described below are the important preliminary stages: the Council's intervention, the Green Paper and initiation of the public consultation process.

### 2.1. The postal service

For a full understanding of all the issues regarding organization of the postal market, it is important to have a precise idea of the scale of the postal service. In order to do this it is essential to consider not only its economic importance but also its subtler role as a key element of the economy and of society.

The importance of postal services within the Community is illustrated by some statistics. The postal services account for 1.3% of GDP, they employ more than 1 700 000 workers and they produce a turnover of more than ECU 60 billion. In addition, the sector enjoys steady and continuous growth.

Because they are an essential vehicle of communication and trade, postal services are vital for all economic and social activities, even if in some cases they may be replaced by other means of communication. In fact, the importance of postal services even seems to be increasing as economic operators use them more and more. This has the effect of making certain economic sectors virtually dependent on postal services.

The most important of these are mail order companies, direct marketing firms and magazine and newspaper services, particularly for specialized publications.

A final important fact is that exchanges of letters help to reinforce social contact and to develop links between individuals and companies in different areas.

For all these reasons, postal services play an essential structural role.

### 2.2. The Council mandate

Aware of the economic and social importance of the sector, the Council of Ministers of Posts and Telecommunications decided in September 1989 to instruct the Commission to do the groundwork on a Community postal policy.

In particular, the Council envisaged introducing new European measures to regulate postal services based on the public interest of the postal authorities and defining a set of reserved services.

It proposed the setting up of the Senior Officials' Group on Posts (SOGP), to act as the channel for official consultation with the Member States.

Other Councils of Ministers subsequently confirmed this desire to have the Commission prepare proposals for organization of the postal market.

The first task of the SOGP was to help the Commission prepare a Green Paper.

### 2.3. The Green Paper

The Commission's views were set out in a Green Paper on the development of the single market for postal services which was published on 11 June 1992.

The Commission communication contains:

- an analysis of the current situation
- an examination of the problems
- a description of the issues
- an assessment of the possible solutions
- a list of political options.

The Green Paper is a discussion document. The options it proposes are designed as guidelines to be evaluated by the interest groups concerned in order to stimulate a wide ranging debate.

### 2.4. The options in the Green Paper

The basic principal of the initiative is the universal postal service. The basic approach adopted is a balanced solution, combining further opening up of the market with measures to reinforce the concept of universal service.

In order to maintain the universal service, certain restrictions on the free play of market forces may be allowed. The proposal could result in the establishment of a set of reserved services by granting exclusive or special rights to providers of the universal service.

However, the extent of the reserved service will have to be strictly proportional to the objective of providing the universal service in accordance with the Treaty and secondary legislation.

With these basic considerations as a starting point, the thrust of the Green Paper is towards:

- a universal service of quality
- liberalization
- more harmonization.

As regards liberalization in particular, proposals include:

- liberalizing express courier services, parcel services, magazine and newspaper services, and self-posting;
- putting in the non-reserve sector those new services which are significantly different to standard postal services.

It is also envisaged:

- to liberalize cross-border traffic;
- a priori, to liberalize direct mail.

The Green Paper also contains options regarding:

- the separation of regulatory and operational functions;
- compatibility of the international commitments of Member States with Community policy;
- the obligations of universal service providers (equal access, relating tariffs to costs, establishing a system of compensation between postal administrations which reflects actual delivery costs, and setting service standards);
- Community cohesion.

A more detailed description of all these options is given in Annex.

Community policy should be implemented progressively without seriously endangering continuity of the universal service. The principal aims will be to consolidate those areas which are already working well and to improve those areas where performance is inadequate<sup>(\*)</sup>.

## 2.5. Public Consultation

The Commission called for all parties interested to participate in the initial discussions on decisions which will affect the future of Europe's postal services.

In fact, dialogue is an essential prerequisite if the service is to be properly regulated and if policies are to meet users' needs.

The consultation period ran from the date of publication of the Green Paper to the beginning of 1993. This relatively long period - more than six months - seemed necessary because of the complexity of the issue and the number of parties potentially interested.

The Commission received a wealth of comments, remarks and suggestions from a wide range of different sources, most of them in the form of written contributions (An Annex lists all the contributions and their sources). Other comments were made orally at meetings.

The debate was sustained, valuable and wide-ranging:

- sustained because of all the different stages which marked the debate (seminars and symposia), and because of the continual assistance given by the national authorities in the Member States, who also generally organized consultation at their own level, as the Commission had hoped;
- valuable because comments were indisputably of high quality and made an extremely useful contribution to discussions;
- wide-ranging because of the level of participation, which reflects the value of the postal service to large sections of the economy and society in the Community.

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<sup>(\*)</sup> See Green Paper, Summary (pp. 11 to 13) and Chapter 9 (pp. 241 to 254) for more details.

The consultation process emphasized the desirability of ongoing discussion between Community authorities, national officials, European citizens and those involved in administrative, economic and social activities in order to identify those Community policies which best suit the needs of all concerned.

### 3. OVERVIEW

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There was clear consensus on the desirability of Community action and support for the general approach proposed by the Commission for the future of postal services.

In fact, none of the contributors contested the need to discuss organization of the postal market at Community level, even if opinions on the extent and nature of Community intervention differed.

Many of these opinions will have to be examined in the context of application of the principle of subsidiarity.

Similarly, most of those who took part in the debate fully endorsed the Commission's analysis of the situation, its findings and the issues it identified. The few criticisms concerned only matters of detail (e.g. some of the statistics in the Green Paper should already be updated) or additional features to be added to the already broad and detailed canvas of the Green Paper.

Basically, there was broad agreement on the main options proposed by the Commission and virtually all concerned gave their unanimous approval of the basic scenario.

Naturally a number of often very crucial points remain to be settled, some issues are being vigorously discussed and other areas will have to be explored in order to regulate the postal services coherently and effectively.

However it is very clear that the Green Paper is a sound basis for developing Community action on postal services in the coming years.

#### 3.1. Main areas of agreement

Discussed below are those key elements to which the large majority of the organizations that contributed, reacted very favourably.

In fact, there was virtually unanimous approval of the essential concepts and principles which form the basis for the whole scenario set out in the Green Paper.

The same applies to the concept of universal postal service, which seems to be a prime concern of all contributors. The attempt to arrive at a solution of gradual change was also generally preferred to scenarios where the short-term impact would be much more radical.

The idea of a reserved sector was accepted with a few rare exceptions. All agreed that emphasis should be placed on improving the quality of the service. The need to change the current system of terminal dues was particularly evident, and it was unanimously felt that regulatory and operational functions should be separated.

Finally there was a general request that consultation should not stop at this stage but should continue throughout the process of defining and introducing a Community postal policy.

### 3.1.1. *The notion of universal service*

This was considered to be the fundamental concept. There was a call for a precise definition of universal service as this would be essential for developing the other facets of postal policy.

The definition should take account of economic and social aspects, and it would be essential to have a clear idea of users' expectations.

Frequent mention was made of two factors closely linked to the notion of universal service:

- equal treatment;
- the possibility of geographical cross-subsidies.

Certain essential features of the universal service will have to be defined, and in particular:

- the type of service covered;
- proximity, continuity and accessibility;
- speed and reliability;
- the responsibilities of the service provider.

### 3.1.2. *Balance between harmonization and opening up the market*

The balanced scenario proposed by the Commission was broadly approved.

As regards opening up the market, it was generally accepted that the reserved area should be the least restrictive solution.

Several contributors also suggested that, under certain circumstances, the exclusive service could be provided by several operators, the postal authorities and others.

As regards harmonization there will have to be further work on certain points which are particularly affected by the proposed regulatory measures, namely conditions of access to the universal service and tariff policy.

Any harmonization in the competitive sector should rather be the result of the free play of market forces.

### 3.1.3. *Agreeing to maintain a reserved area*

Virtually all contributors considered it justifiable to maintain a reserved area.

However, this area should be no greater than is necessary to provide the universal service. The aim is to apply the principle of proportionality, which everyone understands and accepts.

Consequently, as is already the case, not all universal services will necessarily result in the establishment of reserved areas.

However it should be pointed out that there are those who consider that ultimately exclusive rights for postal services could disappear.



Whatever happens, a clear and precise definition of the reserved sector is essential, the most widely accepted criteria being price and weight.

Finally, the comment was made that the universal service and the reserved sector could be allocated to different operators (tendency towards a duopoly, for example).

#### 3.1.4. *Improving the quality of services*

It emerged that the basic question is where to concentrate efforts (regulatory and operational). It would appear that service quality should be improved both at national level (even though standards in some Member States already seem relatively satisfactory) and at Community level.

Policy on service quality must be ambitious.

Contributors demanded that sufficiently high quality criteria be set at Community level, although they do ask for time to adjust to these quality standards in view of the ground which certain Member States have to make up.

This should not prevent Member States from setting more stringent standards if they so wish. It was stressed that Community standards should not, under any circumstances, serve as an excuse for reducing domestic standards where they are already high.

It was strongly recommended that these standards should be published and that there should be a blanket measure on quality control. Some contributors asked whether it was worth setting up an independent body or using external observers to do the work of setting standards and controlling their application.

Several also emphasized that authorities who fail to respect the standards should be sanctioned. Even though this could prove difficult, it was suggested that:

- the amount of terminal dues received should be related to the quality of the service provided;
- that the reserved sector might even be reduced or discontinued if a postal authority failed to fulfil its obligations in respect of service quality.

There was a wider range of opinions on whether service quality standards should apply only to the reserve sector or to all universal services.

Lastly, it was suggested by some commentators that quality standards and control of those standards should also apply to services provided by private operators.

#### 3.1.5. *Terminal dues*

It is clear from the contributions received that a more rational system should be adopted.

It was widely felt that relating terminal dues to costs exactly can cause complications and practical problems. It might be worth considering establishing as a reference percentage of domestic tariffs (at least when they themselves are related to costs).

The international dimension is essential here, particularly the role of the

Universal Postal Union, which is widely mentioned.

Many contributors raise the issue of the relationship between terminal dues and certain kinds of remail service which exist only because of the present terminal dues system. It is essential to tackle the problem of type A-B-A remail and its possible impact on the control of the exclusive rights of universal services.

### 3.1.6. *Separating regulatory and operational functions*

All agree to this principle. Since it is necessary to have in each Member State a regulatory function which can:

- ensure that the universal service is provided,
- set limits on reserved services,
- provide clear information on regulatory matters,
- take account of users' needs,
- apply regulations effectively (protection of the reserved area and fair competition in the non-reserved area).

Progressive changes in regulations mean an even more important role for the regulators, particularly in view of application of the principle of subsidiarity, which is considered to be an additional level in between action by the Member States and Community policy.

Also important is the way in which regulatory authorities exercise their power. It was considered that they should remain neutral and it would appear that many of the parties concerned will remain extremely vigilant on this point.

Finally, users also raise the question of representation on these regulatory bodies.

### 3.1.7. *The need for ongoing consultation*

Many of the parties concerned very much wished to be involved in the process of establishing a Community postal policy.

Operators and users in particular strongly welcomed the proposal in the Green Paper to set up working parties on some of the important issues. It was also suggested that independent economic experts be involved.

Finally, the workers representatives in particular clearly want to see the Joint Committee on Postal Affairs set up very soon.

## 3.2. **Areas of disagreement**

Whereas there is broad agreement on the most important aspects, there are other by no means negligible issues where opinions differ, sometimes to the point where there are two largely opposing views.

The areas of disagreement include the precise definition of universal services, the extent of the reserved area, the link between universal and reserved services, the network and the method of implementation of Community postal regulation.

3.2.1. *Precise definition of universal services*

As far as mail is concerned there are two main positions, reflecting two different points of view.

On the one hand, there are those who support the idea of an extensive universal service and propose extending this definition to all correspondence (a 2 kg limit would seem to be acceptable). This universal service would be based on standard reasonable prices and a universal network.

Each Member State would be able to impose even more stringent obligations in order to provide a more extensive service.

On the other hand, there are those who would prefer a more limited definition and suggest that universal services apply essentially to correspondence between individuals, although this could also include the mailing requirements of small businesses.

Opinions were also divided on parcel post and goods transport. It was widely considered that they should not necessarily form part of the universal service.

3.2.2. *The extent of the reserved area*

Some contributors consider that the zone should be very extensive in order to increase the supply of universal services. They suggest that a very limited reserved area could hamper the development of the universal service provider.

Other contributors, particularly private, and in some cases public, operators and certain major customers propose that the reserved area should be as small as possible.

Many of them argue that some of the universal service obligations should not necessarily be compensated for with reserved areas.

They consider that social costs should be specified and external subsidies paid. It would then be possible to have a small reserved sector.

Some suggested that more than one universal service provider could be allowed, e.g. by establishing a legal duopoly system.

On the subject of reserved services, reactions included:

- general agreement that magazine and newspaper services, parcel services and express services should not longer be reserved as is usually the case at present;
- widespread agreement that special services and genuinely new services should be in the competitive sector;
- agreement that letter services should be a reserved service with price and weight limits, although the limits proposed were very different;
- support for liberalization of self posting provided that there is a precise definition of this type of service;
- intense discussion on applying to the letter service the content criterion and the rules governing cross-border traffic.

To summarize, the views expressed during the debate are as follows. Firstly, it is proposed to reserve distribution of all types of addressed correspondence. The content criterion cannot be applied because of the inviolability of mail (and for this reason direct mail must be reserved). Even if this obstacle were overcome, it would not be possible to give a precise definition of direct mail to distinguish it from letters.

It was felt that liberalization of cross-border mail might have the effect of eroding the national reserved area.

On the other hand, a number of major customers and private operators proposed liberalizing direct mail (and some even wanted to liberalize all non-addressed direct mail) and all of cross-border traffic.

An intermediate position (adopted by many of the postal authorities) was to establish an "average" reserved area using price/weight as a criterion. They consider that a distinction could be made between outward cross-border traffic (to be liberalized) and inward cross-border traffic (to be reserved), but they do not consider it feasible to liberalize direct mail without adversely affecting the financial viability of the postal authorities.

In most cases, the reserved sector was seen as an area which would change over time. It was assumed that there would be more and more liberalization as time went on.

### 3.2.3. *Universal services versus reserved services*

Most contributors welcomed the fact that the universal service and reserved service were not of the same size. It was generally accepted that the universal service would be more extensive than the reserved service.

However, this could lead to problems of competition in the non-reserved part of the universal service where universal service providers with specific obligations (e.g. to provide the service and to operate a standard tariff) are in competition with other operators who are not subject to the same obligations. As a result:

- the "other" operators can cream off the market
- the postal authorities can cross-subsidize the non-reserved area from the reserved area.

To avoid these problems and to simplify regulation, some contributors suggested that the same definitions should apply to universal service and reserved services.

Some went on to propose that the present reserved area be extended to make it exactly the same size as the universal service area.

Others preferred to limit the universal service in each Member State to the area reserved at Community level.

Mention was also made of the possibility of imposing the same obligations on all operators working in the non-reserved part of universal services. This could be done for example by using contracts between the Member State and the operators concerned, who would have exclusive or special rights.

Some even envisage for the competitive sector of the universal service different obligations to those in the reserved sector, particularly with regard to tariffs

(e.g. much greater freedom to conclude contracts on tariffs, or even tariff obligations which apply only to charges to the general public).

Finally there were questions regarding application of the proportionality criterion. Some preferred a direct formula (once the costs of providing the universal service are known) and others envisaged more flexible application as in other sectors.

#### 3.2.4. *The universal network*

It was agreed that universal services can only be provided if there is a universal network, and it is in fact the cost of this network which to a large extent dictates the need for a reserved area.

There was also acceptance of the idea that the universal network can be used to supply both reserved and non-reserved services, i.e. services other than universal services. It was felt that conditions on access to networks should be non-discriminatory. Following on from this principle, a number of points were made on tariffs and subsidies.

In general, the postal authorities considered that:

- cross-subsidies, when they are necessary to provide the universal service, give users an advantage;
- close attention should be given to the relationship between "péréquation tarifaire" and the potential for creaming off the market;
- tariff reductions should generally follow cost reductions.

Private operators expressed other concerns particularly that:

- effective measures should be taken to put a stop to state aid or special rights for services in the competitive sector;
- there should not be discriminatory application of tariff reductions nor should they be used as a means of obtaining cross-subsidies between users.

Finally there were a number of comments on the setting of tariffs. Some were in favour of tariffs based on market prices while others preferred tariffs related to costs. Views differed however on whether tariffs should always be based on average costs or whether, under certain circumstances, they could be based on marginal costs.

In any case, with regard to the accounts of the postal authorities, there was general recognition of the need for transparency and for itemized accounts.

#### 3.2.5. *Implementation*

There was general agreement on the basic conditions for implementation of Community postal regulation.

Because of the complexity of the area implementation should be gradual giving the Member States reasonable time to make the adjustments required. Similarly, the postal authorities should also be given enough time to make the necessary changes.

Nevertheless, it was generally felt that the adjustment period should be clearly

defined, although opinions on the length of this period differed with regard to implementation of postal policy in general and rules on cross-border traffic in particular.

On the one hand, some postal authorities and some users suggested:

- a relatively long transitional period, not only to give postal authorities time to adjust to the new system but also to allow operators and users to make the commercial changes required;
- sufficient time to establish and apply the new system of terminal dues before liberalization of cross-border traffic.

On the other hand, some major customers and private operators preferred:

- relatively swift general implementation;
- immediate liberalization of cross-border traffic.

With regard to implementation procedures, much emphasis was placed on the complementary role to be played by Community bodies and the national authorities in the Member States.

Repeated mention was made of the legal basis for the directives required, particularly the possible directive on reserved services. It was generally considered that, at least initially, the Commission should not use Article 90(3) so as to allow sufficiently wide-ranging consultation of all parties and institutions concerned.

However, it was felt in some quarters that Article 90(3) was the most suitable legal instrument for a directive on reserved services or even for settling the matter of terminal dues.

### 3.3. Other issues

Certain issues were mentioned by only some contributors, notably those particularly concerned by them.

Other issues were mentioned more frequently but were clearly not considered to have the same priority as those discussed in the two previous sections.

Finally, other matters were raised in certain contributions but often were not discussed in sufficient detail to provide any real insight.

However, all these various issues are nevertheless key elements for establishment of a Community postal policy and for this reason are summarized in this section.

#### 3.3.1. *The level of harmonization desirable*

Although it was generally agreed that there should be more harmonization in the sector than at present, there was very little clear indication of the specific areas where there should be more harmonization.

However, some priority areas were mentioned: post codes, bar codes, tracking and tracing, and dimensions of envelopes.

It was also considered useful to implement the CEN standards.

It is probably possible to achieve a reasonable level of harmonization of universal services only in the medium term, according to the opinions expressed.

On tariffs, contributors agreed that it would be possible to harmonize the tariff structures of public operators for basic services.

On the other hand, only a few commentators suggested introducing a single Community postal tariff. Even those who supported the idea considered that it would take a relatively long time to achieve.

Private operators proposed harmonizing the accounting methods used by the postal authorities.

Finally, it was emphasized that harmonization measures should not have the effect of reducing levels of service or increasing the price for users.

There were two schools of thought on implementation procedures:

- some considered that the regulatory authorities should take deliberate action or even impose harmonization;
- others considered that harmonization should be allowed to take place naturally as a result of market forces and the laws of supply and demand, and that it could even result from pressure by customers.

### 3.3.2. *Methods of controlling the regulation process*

There are two areas where it was considered particularly important to control the regulation process.

Firstly, there should be control measures to protect reserved areas. To this end, regulations should be clear, simple and precise and should give rise to no serious practical or legal difficulties. Also, the cost of control measures should be relatively small.

Many contributors emphasized that these conditions would not be met if direct mail or inward cross-border traffic were liberalized. Unless there were a control system, this liberalization would have the effect of seriously eroding the reserved sector.

However, liberalizing direct mail would entail using the content criterion, which would mean defining what may be contained in ordinary letters as distinct from direct mail letters. It was widely felt that it would be impossible to check the content of letters, particularly sealed letters, because of the problem of confidentiality.

In order to liberalize inward cross-border traffic, it would be necessary to be able to distinguish national mail from cross-border mail. Many felt that this would not be easy.

Secondly, frequent reference was made to the need to monitor operation of the market to ensure fair competition in the non-reserved area. This was mentioned by all the main users and private operators.

### 3.3.3. *The role of users*

At the very least, users wish to receive detailed information on the studies

carried out and the measures envisaged by the regulatory authorities so that they are fully aware of the approaches adopted and the issues involved.

Users would also like to play an active role in helping to develop Community regulations. They heartily endorse the Commission's proposals that they should be systematically consulted and given the opportunity to express their opinions.

There should not be participation only at Community level; there is also considerable demand for participation at Member State level too. This raises the question of proper representation of users, and the consultation procedures which should be introduced, and the way in which the whole regulation process should be organized. Some contributors suggest that users should be permanently represented on national regulatory bodies.

The areas where users' opinions are considered essential are primarily service quality and harmonization measures.

#### *3.3.4. The impact of other Community policies on the postal service*

Repeated mention is made of the essential economic and social role which the postal service plays in the Community. This explains why various other Community policies can also affect the postal service.

Many contributors wondered about the effect of specific sectoral or general policies on operation and development of the postal service. It was widely considered, for example, that any changes in the VAT rules applicable to postal services would considerably affect the current financial stability of the sector.

Customs legislation and data protection measures are other areas of concern.

There is also frequent reference to Community transport policy and particularly the European Parliament resolution on the Green Paper on Postal Services. This raises two points with regard to the transportation of postal consignments, namely combined transport and environmental impact.

In any case, there is a clear need for closer coordination between Community postal policy and other Community regulation which could have an appreciable effect on the former.

Finally, these various policies should be applied to all postal operators in the non-reserved sector in a similar manner. All forms of discrimination which could falsify competition should be avoided.

#### *3.3.5. Community cohesion*

Some mention was made of Community cohesion in connection with the postal sector.

On the one hand, an efficient and harmonized postal service will certainly facilitate Community cohesion and the harmonious development of the internal market. On the other hand, Community cohesion requires that postal services be equally efficient throughout the Community so that individuals and companies are not discriminated against because they happen to be in a particular part of the Community.

Although these points are made in many of the submissions, in most cases no details are given of how a cohesion policy could be implemented in the area of postal services.



Nevertheless, there were two contradictory proposals on the financial resources which could be used to encourage Community cohesion:

- any funds made available for improving quality in the less developed regions should come from a central budget and not from the cross-subsidizing of the least efficient authorities by the most efficient authorities;
- terminal dues might be one way of constituting a fund for Community cohesion; this proposal was made by postal regulators and the postal authorities.

### 3.3.6. *The international aspect*

Frequent reference was made to the international dimension of postal services:

- with regard to the definition of universal service, where it was thought useful, or even essential, to refer to the obligations of the Member States set out in the UPU Convention;
- in connection with control of remail, with regard to the implication of Article 25 of the UPU Convention, which provides a legal basis for objecting to the various types of remail, particularly the ABA system (where mail is taken from one country A to a second country B for mailing back to the first country A) or remail via a third country;
- with regard to terminal dues, where the proposal to base rates on the costs borne by the country of destination would be feasible only if adopted by the UPU;
- with regard to the possibility of establishing an international arbitration system designed to monitor the different routes used for remail or to intervene in cases where there is no agreement on application of a new system of terminal dues.

Contributors considered that Member States should:

- coordinate their positions in international forums;
- be consistent in their commitments to non-Community countries and on Community postal policy.

Finally, frequent reference was made to possible international developments in the postal sector in the context of GATT/GATS.

## 3.4. **Applying the principle of subsidiarity**

Although the principle of subsidiarity was mentioned fairly frequently at seminars or meetings held during the consultation period, very few of the written contributions mention it at all.

Nevertheless, the question of subsidiarity is clearly behind many of the comments, and those to which it is relevant are listed below.

### 3.4.1. *Support for Community action*

Generally there is considerable support for development of a common postal policy. Consequently the Community authorities should play an essential role. The main areas for Community action are:

- developing and implementing the concept of a Community universal service;
- defining the set of reservable services;
- setting standards and taking the other measures required to improve the quality of the postal service within the Community;
- measures on compliance with competition rules;
- the role to be played by users in achieving commercial and technical harmonization, and with regard to the quality of cross-border services;
- settling the issues of remail and terminal dues.

Naturally there is sometimes disagreement as to whether the specific measures proposed by the Commission on each of these points are appropriate. However, comments are very rarely unanimously in favour of a particular approach. In any given case there are those who consider the Commission's proposals too precise, or even excessive, while others consider that they don't go far enough or are even virtually worthless.

#### *3.4.2. Achieving a balance between national measures and Community policy*

It can be concluded from the contributions that, given the reference framework established at Community level, the role of the Member States should be:

- to define the concept of universal service at national level;
- to draw up a list of reserved services;
- to ensure provision of the universal service;
- to guarantee protection of the area reserved for the operator responsible for the universal service;
- to set quality standards for national services;
- to monitor and control operation of national markets.

Those contributors which comment on the subject suggest some kind of co-responsibility between the Community and the Member States, as is clear from the comments on this point in the European Parliament resolution.

According to the principle of subsidiarity, this co-responsibility should allow action on the coordination, continuity and quality of postal services within the Community to be taken at the most effective level, whether national level or Community level.

Although the majority endorsed this view, there were some dissenters:

- those who considered that action should be taken virtually exclusively at national level;
- those calling for standard regulations (particularly on the reserved sector) at Community level, and hence for much more Community involvement.

## 4. THE SOURCE-BASED APPROACH

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The approach followed in Chapter 3 has been to analyse the results of the consultation procedure in terms of individual subjects and according to the basic principles of the future common postal regulation proposed by the Commission in the Green Paper.

In order to facilitate comprehension and readability, only a general reference has been given as regards the sources of the various contributions. The effect of this may be that:

- the overall strength and intrinsic consistency of individual reactions is to some extent lost in the general review;
- individual socio-professional groups, e.g. major users or postal administrations, may appear to be in agreement, whereas the various organizations within a particular category often expressed different views on certain aspects of the postal field.

The summary may be rendered somewhat more lucid by presenting the reactions received during the consultation procedure in terms of the opinions of the main interest groups involved rather than the points at issue.

This Chapter is therefore structured accordingly.

### 4.1. Institutional sources

At the Community level, the European Parliament (EP) and the Economic and Social Committee (ESC) studied the Commission's Green Paper in great depth. The study involved long discussions both in committees and in plenary sessions. Finally, these two Community bodies adopted an opinion on the Green Paper.

Some of the Member States also sent the Commission their positions on the options set out in the Green Paper, along with the position, if any, of the national Parliament.

#### 4.1.1. *The European Parliament*

During the January 1993 part session, Parliament discussed and by a large majority approved the report prepared by Mr Simpson, which had itself been the subject of detailed discussion in the Committee on Transport and Tourism. The subject had also been discussed by the Committee on Economic and Monetary Affairs and Industrial Policy on the basis of an opinion prepared by Mr Merz.

The resolution contains a very positive assessment of the Green Paper in terms of its analysis of the sector, its description of the problems at issue and its presentation of the options available. While emphasizing the justification of Community action, the resolution approves the basic principles set out in the Green Paper, in particular the concept of universal service, the need to maintain a balance between harmonization and opening up of the market and need for efforts to improve the conditions under which the service is provided.

However, the resolution does depart from the options suggested by the Commission on certain points of application. Parliament proposes that:

- the distribution of direct mail and cross-border mail should not be liberalized

as this might endanger the continuity of supply of the universal service and, for the same reason, not to ensure that new services will automatically be in competition with each other;

- the Commission should not have recourse to Article 9(3) of the Treaty as the legal basis for the development of the common postal policy for the reserved services because the use of that Article would mean that Parliament and other Community bodies would be unable to play a full part in the organization of the postal sector.

Parliament's suggestion to take fuller account of the transport policy dimension should be emphasized, in particular the scope offered by combined means of transport, and the impact of the transportation of postal items on the environment.

#### 4.1.2. *The Economic and Social Committee*

In the sections in particular but also in plenary session, the discussion focused mainly on the extent to which the market should be opened up and the ways of implementing such a policy.

Two points were made:

- the need for broad and rapid liberalization, which would mainly allow market forces to operate, thus enabling services to be provided in line with customer expectations;
- a limited and in all events phased opening up of the market would be an essential requirement of Community policy if the prime objective is to guarantee the continuity of the universal service.

#### 4.1.3. *The Member States*

The Member States which communicated their positions at this stage of the consultation warmly welcomed the Green Paper and supported most of its proposals.

In this respect, there is no dispute as regards, inter alia, the concept of universal service, the maintenance of a reserved area, separation of the functions of regulation and operation, the need to have postal services adapted to users' requirements and the need for an able, effective postal administration.

Where views were at variance with the options set out in the Green Paper, these concerned in particular the liberalization of the distribution of direct mailing and cross-border mail.

A majority of the Member States do not want the direct mail sector to be opened up. With regard to cross-border traffic, a distinction was often made between outward traffic, which could be liberalized, and inward traffic which should be kept in the reserved area.

The justification given for these positions was the need to ensure the long-term financial viability of the universal service provider. It was feared in particular that the opening of direct mail and cross-border traffic would enable private operators to erode the remaining reserved sector substantially.

## 4.2. Professional users

There was a massive response from these users during the public consultation procedure, with reactions from trade associations and other bodies representing such users at both national and Community level. A number of companies also privately submitted their views on the Green Paper.

### 4.2.1. *The trade associations*

Whether they were speaking on behalf of all the undertakings concerned or only the largest of them, the trade associations welcomed the concept of universal service but generally felt that a distinction should be made between major users and other customers.

This distinction should cover not only the operational aspects (conditions of open access to universal networks) and tariffs (scope for negotiation of contracts) but also the regulatory side. It was proposed that, in some cases, the concept of universal service should not cover bulk mail and that the distribution of such mail should not fall within the reserved sector.

Separation of the regulatory from the operational aspects was considered to be essential for the development of the sector (opening up of the market, control of competition).

As regards harmonization, it was felt that, notwithstanding any standards adopted, major customers should continue to be able, where necessary, to obtain special conditions from their service providers.

### 4.2.2. *Specific customers*

As would be expected, most of the response during the public consultation procedure came from those sectors most dependent on the postal services.

The mail order companies attached importance to being able to have access to the postal services throughout the EC and to the quality of the service. The third essential point for them was the tariff conditions.

Commercial and technical harmonization, which offers interesting opportunities provided it is not turned into a rigid framework that does not allow for change, is considered to be desirable, although in general no specific points in this respect were made in the comments received.

The need to solve the problems of cross border trade (customs, different VAT systems and rates, etc.) was also stressed as being vital. If these problems continued, they would restrict the scope for creating a genuine Community and international market in mail order.

The links with other policies (distance selling, data protection, liability of service providers) were also extremely important.

Direct marketing companies were divided as to the possibility of obtaining a clear definition of direct mail items. If the distribution of these items were to be liberalized without an appropriate definition, it would be difficult for envelopes containing such items to be recognized.

An equally important aspect is the possible impact of Community data protection policy on companies in the sector, which might, if the need arose, have to start looking for means of advertising other than direct mail.

The press (especially weekly and specialized publications) took the view that a definition is needed for printed postal items, with specific characteristics in terms of network access, service quality and tariff conditions. The press should be considered in two ways:

- in terms of a cultural policy taking account of the social importance of the press, and
- by recognition on the part of the postal operators that senders of publications are major customers with specific needs with whom a cooperative customer/service supplier relationship needs to be developed.

Book publishers have different postal requirements to other publishers as regards the weight of the items to be transported, the requested distribution times and the regularity of delivery. Their products are also cultural products which should be granted concessionary tariffs, these being traditional in many countries.

The trade and industry sector representatives stressed, in particular through the Committee on Commerce and Industry, that the importance of intra-Community services would increase with the completion of the single market and that this type of service should therefore be given very special attention.

It was furthermore recommended that the postal administrations should listen very closely to their customers, in particular people in business who would increasingly be expressing their particular requirements.

Lastly, companies in the financial sector (banks, insurance companies) expressed two concerns:

- first, the need to ensure a high-quality universal service, which was essential to maintain regular contacts in line with customer requirements, e.g. for sending out bank statements and canvassing customers before offering new financial services);
- second, it was essential to ensure fair competition. They took the view that in some Member States and in certain areas the financial services offered by the post office were not always subject to the same rules as other banking or insurance activities. They also wondered what advantage the post office may have by offering its financial services at a low cost through the universal network, in particular the network of post office counters.

#### 4.2.3. *Small businesses*

All of the comments setting out the expectations of small businesses, be they from associations which represent them in the stricter sense or from organizations with a broader remit, e.g. chambers of commerce, etc., make it quite clear that the postal requirements of small businesses need to be considered in depth and covered by a specific approach.

Because of their size, individual small businesses expressed their fear that postal operators would not take sufficient account of their requirements.

In particular, the fact that some small businesses are located in regions in which the postal services are least developed means that the concept of a universal service needs to be associated with action with regard to Community cohesion.

The customers of non-standardized services, in particular those who use

document exchange systems, these mainly being small businesses or the liberal professions, wish to be able to continue to use these services outside the reserved area, without a minimum price limit being laid down.

#### 4.3. The postal industry

Although the major postal service operators, be they the postal administrations or the major international courier services, are the largest and the best known part of the postal sector, they are not all of the postal industry. This also includes:

- the operators who work at national, regional and even local level in certain gaps in the market for end-to-end services and those who operate in the pre-distribution phase (mail preparation, pre-sorting, sorting, collection, etc.);
- manufacturers of franking and sorting equipment and stationery manufacturers.

All of these people also took part in the public consultation procedure and their views are set out below.

##### 4.3.1. *The postal administrations*

Although their positions were in general very similar on matters of principle, the postal administrations nevertheless had divergent views on a number of key points.

The overall assessment of the situation in the sector, the need to adapt the regulations to the changes taking place and the establishment of a clear reference framework for the near future were in general well received.

The concept of universal service with its principle features such as network accessibility, frequency of services, speed and reliability, affordable prices and the maintenance of a single unitary tariff, at least for small customers, were largely welcomed.

The maintenance of a reserved area was justified by the need for economies of scale and the desire to ensure a minimum revenue to pay fixed costs, which for the universal network required to provide a universal service were relatively high, and was also unanimously considered to be essential.

A large group of postal administrations take the view that they should retain a more commercial approach and act on the basis of fair competition in the non-reserved sector. For this reason, they accept a large number of the options in the Green Paper, in particular as regards the conditions of access, the basic criteria for the establishment of tariffs, and the introduction of Community service quality standards.

The harmonization aspects are approved of provided they are in keeping with customer requirements and enable operators to be more efficient.

The postal administrations also raised a number of questions on other aspects such as:

- precise definitions of universal service and reserved services;
- the maintenance of a single unitary tariff;

- the obligations of the postal administrations;
- the need for simple, easily controllable regulations.

They suggested in particular that their obligations in the non-reserved sector should be kept to a minimum and that they should be able to compete efficiently with other operators. In particular, a creaming-off of the most lucrative parts of their market should be avoided.

They also proposed that the reserved area should be adequately extended.

They agreed that the definition of the limits in the reserved sector should be based on weight and price. The proposed levels for these limits varied according to the proposer.

A large number of the administrations took the view that the distribution of direct mail should be reserved.

A distinction was made as regards cross-border traffic between outward mail and inward mail.

Views on the former were divided. Some administrations wanted it to be reserved, while others accepted liberalization. A majority of the latter wanted this to be conditional upon the advance establishment of a new system of terminal dues based on costs.

Nearly all of the administrations felt that inward mail should be in the reserved sector.

However, some of them would accept all cross-border mail being liberalized in due course, provided a new system of terminal dues was laid down in advance.

The new services, however, could only be liberalized if they had been clearly defined and placed in the competitive sector on a sufficiently clear basis. Views were divided on the regulatory system to be adopted with regard to the physical transportation, in particular outside of the distribution phase, of hybrid mail (postal electronic mail).

Finally, they requested that the undesirable types of remail, in particular A-B-A remail, should be controlled and a new system of terminal dues drawn up. If necessary, this system could be restrictive.

On the outer fringe of this group are the postal administrations which, without wishing to maintain the current situation, take the view that some of the Commission's proposals (especially, but not only, as regards the opening up of the market) go too far and that the action proposed is too fast. In this way, the basic principle, namely the continuity of the universal service, would no longer be guaranteed.

Conversely, one other postal administration took the view that the Commission's approach (especially as regards liberalization) was the minimum action required to resolve the problems in the sector and to improve the efficiency and quality of the services.

In particular, the reserved sector would be needed for a limited period only and not in the long term.

Lastly, it was pointed out, with regard to concessionary tariffs for the



distribution by post of press items, that fair compensation for the postal administrations should come from a subsidy in the general budget rather than a cross subsidy from the reserved sector.

#### 4.3.2. *Other postal operators*

There was general agreement on the overall view of the sector, although differences could be identified on less important matters. Local operators, in particular, did not always express the same point of view or interest as the major operators. The local operators in particular referred to specific problems they met at national level.

All of these operators regretted to some extent that, in their view, the Green Paper seemed to focus more on the future of postal administrations than the development of the postal sector.

They did not dispute the need for a universal postal service, even if in general they considered it should be on a minimum scale.

Their suggestion therefore was that the universal service should cover the requirements of private individuals only and that the postal requirements of companies should be met solely by the action of free market forces.

Some of them proposed distinguishing between the distribution of mail in built-up areas or by a certain date, for which free market forces would establish the level of service, and distribution in rural areas where State intervention was essential to avoid the disappearance of mail as a means of communication.

While recommending the total opening up of the market in the longer term, they accepted the maintenance of a reserved sector in the short term. However, the area encompassed by this sector should be very small. They nevertheless called for immediate, full liberalization of cross-border mail.

They approved the use of price and weight as criteria for delineating the reserved sector, some of them proposing a threshold of 20 g for weight and of twice the general tariff in the first step by weight for price. All services above these thresholds should be competitive.

Furthermore, they particularly called for a clear, effective separation between regulatory and operating functions and asked the Commission to guarantee the neutrality of action of the national regulator. The task of the latter would in particular be to ensure fair competition in the postal sector.

They requested the abolition of all distortion of competition, the current situation in their view still being a long way from this objective.

They particularly emphasized the disparities in customs procedures.

The problem was the same as regards VAT from which the public postal services were exempt under Article 13 of the Sixth VAT Directive of 1977. They felt there was no justification for the system in the non-reserved sector differing according to whether the operator was public or private.

They therefore recommended that the activities of the postal administrations in the competitive sector should be subject to VAT and therefore advocated the drawing of a legal distinction between these activities. In particular, they took the view that parcel and express services now handled by the postal administrations should be run by individual, legally separate companies offering

the reserved sector services.

They referred to the possibility of abuse of a dominant position on the part of the postal administrations and thus expressed their keen interest in the abolition of all discrimination as regards access to the universal postal network. The various postal operators should have access to the network of the universal service provider on the same terms as all other users, including the terms offered to other postal administrations.

They also expressed concern with regard to the principles underlying the tariffs laid down by the postal administrations and the possibility of providing cross-subsidies. In this regard, they did not accept the possibility of a cross-subsidy from the reserved sector to the competitive universal services.

On the subject of compliance with competition rules, a number of operators wondered what the consequences would be of creating joint ventures between the postal administrations and private operators.

The agreement between TNT and five postal administrations, for example, seems to pose a threat to other operators.

Lastly, there were various views regarding the systems for the exchange of documents. It was proposed that these systems should fall within the competitive sector throughout the Community since they would not be detrimental to the development of the universal service, in particular because of:

- the small volume of mail handled;
- the fact that the services were in competition with express services and not basic services.

#### 4.3.3. *Others involved in the postal industry*

A whole series of people are involved in the postal sector. Manufacturers of sorting equipment, mail consolidators, transport firms, envelope manufacturers, printers.

Their expressed wish is for the postal services to develop as their own future will depend on this development.

For this reason, they are particularly keen on actions that will help to improve the performance of the postal services and to make the postal operators more dynamic.

In this respect, they support all measures which guarantee the continuity of the service and promote quality.

They also mentioned the importance they attach to harmonization. Any standards adopted will have a direct impact on their production activities. For this reason, they wish to be able to play an active part in the various aspects of the standards-making process.

The subjects they propose should be dealt with in a Community framework include:

- the physical characteristics of standardized postal items;

- code control techniques;
- reading techniques for coded items;
- item monitoring systems;
- the development of electronic mail;
- the automated handling of mail.

Lastly, they emphasized that, when drawing up the postal regulations, it would be in the Community's interest to take account of the possible consequences of these industries' production centres relocating outside the Community and the advisability of recovering Community markets which have been lost to suppliers outside the Community.

#### 4.4. Consumers and the trades unions

These play a particularly important role in the postal sector and to a large extent are responsible for giving it the political dimension which ensures that it receives very close attention. The consultation procedure revealed the way in which these groups, mainly of consumer representatives and employees of the postal administrations, will help to shape the future of the postal sector.

Various other social welfare organizations and charities expressed the need for a high-quality universal service and their wish to have specially adapted services and tariffs. An example of this was societies for the blind.

##### 4.4.1. Consumers

Consumers are very strongly in support of the development of a high-quality universal service, taking the view that this service should include not only letter mail but also parcels.

They therefore attach particular importance to the conditions of accessibility to the network, in particular as regards post office counter services, especially the sale of stamps, various financial transactions and other more specific services, e.g. the payment of pensions in some Member States.

They particularly support the maintenance of a uniform price, which they believe is a fundamental characteristic of basic postal services.

It emerged from their comments that their main concern is service quality. In this regard, they support all of the Commission's proposals on distribution times (setting of standards, external end-to-end control, publication of results).

Other points mentioned in addition to the aspect of time are waiting times at counters and the treatment of complaints by the postal authorities.

They are also very keen on the possibility of the service provider being liable in the event of any failure to provide the service and feel that the present system under which the postal authorities may be held liable is inappropriate.

Lastly, they call for ambitious harmonization projects and regret the lack of uniformity in postal services between Member States of the Community.

Consumer representatives also very strongly expressed their desire to play a full part in any future thinking on the construction of the European postal services,

in particular as regards service quality and harmonization.

#### 4.4.2. *Trades unions*

Contributions were received first and foremost from the organizations representing postal workers but also from more general trade union confederations.

In general, they regretted the fact that insufficient account had been taken of social provisions in the Green Paper, in particular that changes in employment in the postal sector, working conditions, training policy and social harmonization had not been covered in greater depth. They expressed keen interest in the Joint Committee on Postal Affairs which is soon to be set up in order to deal with these matters.

They were also very firmly in favour of the public service tasks carried out by the postal authorities and therefore keenly supported any plans to develop the universal service. However, they were extremely reticent about measures to open up the market.

In their view, the Commission's proposals to open up the market would lead to a creaming off of the most profitable sectors, thus weakening the postal administrations and possibly leading to job losses.

Lastly, four other points were firmly supported:

- to need to continue to apply the Commission's 1979 recommendation on extending the inland rate to letters under 20g sent anywhere in the Community;
- to allow cross-subsidies;
- to reject the concept of an open network (they expressed strong support for a reserved area covering all postal functions: collection, sorting, transport, distribution) and even of non-discriminatory access for private operators to the universal network;
- not to use Article 19(3) of the Treaty as the legal basis for Community legislation on the definition of the reserved postal service.

#### 4.5. **Reactions from outside the Community**

The Green Paper aroused a great deal of interest beyond the Community's borders because of its scale, which constitutes a departure from the traditional national approaches to the postal sector, and because many of the problems it discusses also exist in other parts of the world.

The interest visible in certain exchanges of views with some of our international partners was particularly strong in Europe but was also shown by countries such as the USA, Japan and Australia.

This interest generated a large number of comments in particular on the part of the international postal bodies of several postal administrations and national authorities of the European Free Trade Association (EFTA) countries.

##### 4.5.1. *The international postal institutions*

The Green Paper is still being studied by the Universal Postal Union (UPU).

The UPU merely drew attention to the need for compatibility between Community regulations and the international postal rules as laid down in UPU documents. It took the view in particular that measures to combat unlawful remail operations or the introduction of a new system of terminal dues should be decided at UPU level.

The UPU was also concerned that any reform of the rules applicable to international mail services should take account not only of the interests of the developed countries, between which most mail was exchanged, in particular the Community countries, but also of the needs of the developing countries.

The Postal Regulators Committee (CERP) of the European Conference of Postal and Telecommunications Administrations (CEPT), which includes 36 European countries, also submitted comments on the Green Paper, mainly emphasizing the need for the following:

- development of the universal postal service (the minimum level laid down on a Community scale, each Member State able to work to a higher level);
- a balance between liberalization and harmonization (for the liberalization of cross-border mail, it is planned, at least for outward mail and subject to certain conditions such as the introduction of a new system of terminal dues, to establish relevant control systems, with an appropriate timetable for this to be laid down);
- to preserve the financial viability of the universal service provider (caution thus being needed to prevent the most attractive parts of the market from being creamed off).

The CERP made the point that it was essential to take account of UPU obligations.

It also asked to be sent a timetable for the introduction of the measures required.

#### 4.5.2. *The EFTA countries*

A number of countries, in particular those in Scandinavia, proposed to maintain a universal service but at the same time to open up the postal market widely if not completely, their view being that this is the best way to develop the sector and to obtain a range of services that best meets users' expectations.

In their plans, it is proposed that the cost of public service tasks carried out by the post office should be mainly funded from the national budget or even with local authority assistance.

They also distanced themselves from the Green Paper by proposing charges for services based not on costs but on market prices.

Other countries, in particular Switzerland, on the other hand, attached particular importance to the range of social services which the universal service had to provide. Their approach to the reserved sector was quite similar to that proposed by the Commission, i.e. progressive, controlled opening up of the market to guarantee the universal service.

The contributions also showed an interest in the need to solve the problems of terminal dues and remail.

## 5. CONCLUSIONS

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The broad consultation procedure obviously aroused a great deal of interest.

The public discussion without doubt provided an opportunity for clarification, understanding and constructive thinking;

- clarification because all interested parties in the Community now support the same concepts with regard to the postal sector and have similar analytical viewpoints. This educational aspect of the discussion is essential for a constructive dialogue;
- understanding because the consultation procedure also provided an opportunity for genuine exchanges of views not only between the Commission and the various groups operating in the postal sector but also between these groups themselves. In this way, each group described its main expectations, its chief interests and its prime concerns. This openness will be of great help in paving the way ahead and enable compromises acceptable to the broad majority to be reached;
- constructive thinking because concurring views were expressed on a large number of crucial issues. The objective is to establish the future basis of Community postal policy. Where there were differences of opinion, the matters concerned were considered in great detail and in some cases will require further analysis and scrutiny. This extremely positive approach has meant that it has been possible to overcome initial opposition in numerous areas.

In the light of its summary of the discussion, the Commission will be able to publish firm guidelines for the development of the single market in postal service to follow on from the Green Paper.

**LIST OF WRITTEN CONTRIBUTIONS  
SENT TO THE COMMISSION DURING  
THE CONSULTATION PERIOD  
OF THE POSTAL GREEN PAPER**

**A. WITHIN THE EEC <sup>(1)</sup>**

**I. INSTITUTIONS**

**1. Community Bodies**

- Résolution du Parlement Européen adoptée le 22 janvier 1993
- Avis du Comité Economique et Social adopté le 25 mars 1993

**2. Governments of the Member States**

- Belgium
- Germany
- France
- Greece
- Ireland
- Italy
- Netherlands
- Portugal
- Spain

**3. Parliaments of the Member States**

- Assemblée Nationale française (rapport de M. Durieux)

**4. International Bodies**

- Conférence européenne des Postes et Télécommunications (Comité européen de la réglementation postale)
- Universal Postal Union (UPU)

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<sup>(1)</sup> or European or international organisations which include the 12 Member States.

**5. Groups with a Community Perspective**

- Comité Consultatif des Consommateurs
- Comité du Commerce et de la Distribution

**6. Others**

- Bundesrat (Germany)
- Commission Supérieure du Service Public des PTT (France)
- POUNC - Post Office Users' Council (Royaume-Uni)

**II. INTERESTED PARTIES**

**7. USERS**

**7.1. CONSUMERS ASSOCIATIONSS**

- Arbeitsgemeinschaft der Verbraucherverbände e.V.
- Association Etudes Consommateurs - CFDT
- BEUC - Bureau Européen des Unions de Consommateurs
- Consumers Association
- Consumers in the EEC Group
- CSF - Confédération Syndicale des Familles
- Fédération Nationale des Familles Rurales
- Union de Consumidores de Espana
- Union Fédérale des Consommateurs
- Verband der Postbenutzer e.V.

**7.2. BUSINESS USERS**

- AEMD Venta por Correo
- AEVD - Association des Entreprises de Vente à Distance
- Agence Centrale des Organismes de Sécurité Sociale.
- Allied Irish Bank
- American Express
- ASEMPRE - Asociacion Profesional de Empresas de Reparto y Manipulado de Correspondencia
- Asociacion espagnole de Marketing Direct
- Association Française des Banques
- Barclays Bank Plc
- BDZV - Bundesverband deutscher Zeitungverleger
- Belgische Vereninging van Banken
- Boersenverein des deutschen Buchhandels e.V.
- Bundesverband deutscher Industrie e.V.
- British Printing Industries Federation
- CAEJ - Association Européenne des Editeurs
- Caisse Nationale d'Assurance Vieillesse
- Caisse Nationale de Crédit Agricole
- Caisse Nationale des Allocations Familiales
- CEEP - Centre Européen des Entreprises à Participation Publique
- Chambre Commerce et d'Industrie de Paris
- CNPF - Conseil National Patronat
- Comité National Français - Chambre de Commerce Internationale.
- Confederacion Española de Organizaciones Empresariales



- Confédération Générale des Petites et Moyennes Entreprises
- Confederation of Irish Industries
- Deutschen Industrie und Handelstag
- Direct Mail Services Standards
- Direct Marketing Association
- Dublin Solicitors Bar Association
- Electricite de France
- Electricity Supply Board - ESB
- EMESUA - European Mail and Express Services Users Association
- EMOTA/AEVPC - European Mail Order Traders Association/Association Européenne de Vente par Correspondance
- EUROCHAMBRES
- FEB - Fédération des Entreprises Belges
- Federacion Nacional de Empresas Publicidad
- Fédération Bancaire de la C.E.
- Fédération Française des Sociétés d'Assurance
- Fédération Nationale de la Presse Francaise
- FEDIM - Fédération Européenne du Marketing Direct
- FNPS - FAEP / Fédération Nationale de la Presse d'Information Spécialisée - Fédération des Associations d'Editeurs de Périodiques de la C.E.
- Garantie Mutuelle des Fonctionnaires
- Gesamtverband der Deutschen Versicherungswirtschaft e.V.
- Groupement Européen des Caisses d'Epargne
- Imperial Chemical Industry
- IFSDA-International Federation of Stamp Dealers's Association
- IOD - Institute of Directors
- Law Society
- Marketing y Publicidad directa
- Mutuelle Générale des PTT
- National Newspapers of Ireland
- NOTU - Nederlandse Organisatie van Tijdschrift-Uitgevers
- Office des Transports et PTT de l'île de France
- Paul Spain Group Ltd
- Periodical Publishers Association
- Postal Users' Platform
- Postbank
- Reader's Digest
- Royal National Institute for the Blind
- Syndicat des Entreprises de Vente par Correspondance et à Distance
- Syndicat National de la Communication Directe
- The Irish Mail Order Ass.
- The Irish Trade Board
- The Packing Shop
- Timewarner
- UNICE - Union des Confédérations de l'Industrie et des Employeurs d'Europe
- Union des Offices des Transports et des PTT
- Union Internationale Editeurs
- Union Nationale Interprofessionnelle pour l'Emploi dans l'Industrie et le Commerce
- Voluntary Health Insurance Board

## 8. OPERATORS

### 8.1. PUBLIC

- Amministrazione delle Poste e Telecomunicazioni (Italie)
- Correos y Telégrafos (Spain)
- An Post (Irlande)
- La Poste (Belgique)
- La Poste (France)
- Plateforme La Poste/Postdienst (France/Germany)
- Postdienst (Allemagne)
- PostEurop
- PTT Nederland (Pays-Bas)
- The Post Office (Royaume-Uni)

### 8.2. PRIVATE

- AEEC - Association of European Express Carriers
- AICES - Association of International Courier and Express Services
- Air France
- Association française des Transports Routiers Internationaux
- Association of European Document Exchange (branche irlandaise)
- Belgian International Express Carriers Association
- Business Post Holdings Ltd
- DHL Espagne
- EEO - European Express Organisation
- Entrega en Mano
- European Association of Document Exchange
- Francedoc S.A.
- Groupement des Activités de Transport et de Manutention de la Région Ile de France
- Irish Association of International Express Carriers
- Société Nationale des Chemins de Fer
- Syndicat Français de l'Express International
- Syndicat Français des Entreprises de Transports légers
- Syndicat National de Messagerie et Abonnements Périodiques
- Syndicat National des Entreprises de Logistique et Publicité

## 9. POSTAL INDUSTRY SUPPLIERS

- CALIBAN S.A.
- Compagnie Générale Automatismes
- GPMU - Graphical Paper & Media Union
- Néopost - Société pour l'Affranchissement et le Timbrage Automatique
- Pitney-Bowes (France)
- Sociedad de Desarrollo Postal S.A.
- Société d'Etude et de Construction d'Appareils de Précision
- Syndicat Général des Fabricants d'Enveloppes, Sachets et Pochettes

## 10. EMPLOYEES

- Association des Administrateurs des PTT
- Confédération Européenne des Syndicats
- CFDT - Confédération Française Démocratique du Travail
- CGP - Christliche Gewerkschaft Post
- CIF - Confédération Internationale des Fonctionnaires
- Confédération Française Encadrement - Confédération Française des Cadres

- Confédération Générale du Travail
- Confédération Générale du Travail Force Ouvrière
- CVVU Communication Workers Union
- DBB - Deutscher Beamtenschaft
- Deutsche Postgewerkschaft
- Deutscher Postverband
- DGB - Deutsche Gewerkschaftsbund
- EUROFEDOP
- Federation of Irish Employers
- Fédération Syndicale des Travailleurs des PTT
- IPTT - Internationale des Postes, Télégraphes et Téléphones
- Irish Congress of Trade Unions (see CVVU)
- Post Office Unions' Council
- Sindicato Federal de Correos y Telegrafos
- Syndicat Chrétien Communication et Culture
- Syndicat Libre de la Fonction Publique
- Vereniging Van Hoger Personeel PTT

#### 11. RESEARCH INSTITUTES AND CONSULTANTS

- Fachhochschule des Bundes für öffentliche Verwaltung, Deutsche Bundespost Telekom, Dieburg
- Omega Partners
- Rickard Johnson
- WIK - Wissenschaftliches Institut für Kommunikationsdienste GmbH

#### B. EFTA

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##### 1. STATES

- Ministry Transport Communication (Suède).
- Gouvernement Suisse

##### 2. OPERATORS

- Post Finland
- PTT Suisses