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COMMUNICATION FROM THE COMMISSION

on the set of measures proposed for the development of Community postal services

Proposal for a
EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

on common rules for the development of Community postal services
and the improvement of quality of service

(presented by the Commission)

COMMUNICATION FROM THE COMMISSION

on the set of measures proposed for the development of Community postal services

1. Postal services constitute an essential means of communication and trade and are thus of a vital importance for many social and economic activities throughout the Community. In the Community, postal services generate about 1.3% of GDP and employ about 1.8 million workers of which 1.4 million are employed by the public postal operators. Postal services in the Community comprise 80 billion items of mail per year, of which 3 billion constitute intra-Community cross-border mail. An efficient postal sector in Europe is to be considered as an important prerequisite for the further development of competitiveness and employment in the European economy. It is of utmost importance to guarantee within the whole Community the maintenance of a good quality universal service accessible for all users at affordable prices. The financial viability of such universal service must be ensured.

The completion of the internal market for the postal sector requires the further development of the Community postal services and in particular the implementation of the fundamental principles of freedom to provide services and freedom of establishment. It is therefore essential that competition can play an important role in this sector of the economy as well, and that there is a level playing field for all economic actors concerned.

2. In the Commission's "Green Paper on the development of a single market for postal services"⁽¹⁾ of 11 June 1992 and the subsequent public consultations which led to the Commission's Communication to the European Parliament and the Council on Guidelines for the development of Community postal services⁽²⁾ of 2 June 1993, a number of problems were identified which require action at Community level. The European Parliament, in its Resolutions of 22 January, 25 June and 29 October 1993 and 14 July 1995 invited the Commission to submit proposals for the sector⁽³⁾. The Council, in its Resolution of 7 February 1994 on the development of Community postal services⁽⁴⁾, invited the Commission to propose the measures necessary for implementing a Community policy on postal services. These measures should refer specifically to the definition of the universal service, the obligations of the providers of the universal service, the definition of services which may be reserved to the universal service providers, the quality of the universal service, and required technical standardization. The Council stressed that the measures proposed should be transparent, simple and easy to manage, to ensure the best possible conditions of monitoring and enforcement.
3. In this context, the Commission submits to the European Parliament, the Council, the Social and Economic Committee and the Committee of the Regions the attached package of measures, which consists of a "Proposal for a European Parliament and Council Directive establishing common rules for the development of Community postal services and improvement of quality of service" and a draft "Notice on the application of the competition rules to the postal sector and in particular on the assessment of certain state measures relating to postal services". This package constitutes a comprehensive approach for establishing, for the first time at Community level, a universal postal service and gradual liberalization and opening up of the postal market to more competition. This will have to occur in two stages in order to give the providers of this service sufficient time to adapt to the new situation. Harmonization

(1) COM(91) 476 final.

(2) COM(93) 247 final.

(3) OJ No C 42, 15.2.1993, p. 240, OJ No C 194, 19.7.1993 p. 397, OJ No C 315, 22.11.1993, p. 643, OJ No C

(4) OJ No C 48, 16.2.1994, p. 3.

measures in the postal sector will have to go together with gradual liberalization, as requested by the Council.

The proposed Directive and the draft Notice are complementary to each other. While the proposed Directive will provide for a harmonized regulatory framework at Community level for the postal sector, the Notice seeks to provide the actors in this sector with the necessary clarity as regards the application of the Treaty rules. It will make it easier for Member States and for undertakings to assess whether their individual rules or their behaviour are consistent with the Treaty provisions, especially those on competition and freedom to provide services and freedom of establishment. Both documents, the proposal for a Directive and the draft Notice, build on the results of the public consultation following the submission of the Commission's Green Paper, as well as on the objectives set out by the Council Resolution of 7 February 1994, and are fully in line with the principle of subsidiarity.

4. The proposed European Parliament and Council Directive based on Article 100a of the EC Treaty aims at the introduction of harmonized provisions for universal postal services, services that may be reserved for the universal service providers, the improvement of quality of service, the promotion of standardization and related issues.

The proposed Directive provides for a minimum mandatory universal service to be provided throughout the Community to all citizens, wherever they are located, at affordable prices, and for a high degree of quality to be guaranteed to all users of universal service. These provisions are very important for remote areas within Member States and for peripheral regions of the Community. Currently, universal service obligations and quality of service are not always explicitly defined in national legislation or administrative rules, so that it is sometimes difficult to enforce them. Where there is not a well-functioning basic postal service, people and businesses have to rely on express services and pay much higher prices in order to get a reliable, timely service. This risk is higher the further the point of posting is away from the main business-centres. The proposed Directive will oblige those Member States which at present do not have strict rules on universal service and quality of service, to introduce such obligations for the universal service providers. These will be for the benefit of users (both senders and receivers) and especially those located in remote and peripheral areas.

In order to ensure the financial viability of the universal service, the proposed Directive defines harmonized criteria for the services which may be reserved to the universal service providers to the extent necessary for the maintenance of the universal service, i.e. collection, transport, sorting and distribution of domestic mail which does not weigh more than 350 grammes and where the tariff is below five times the basic tariff (that is to say the tariff for letters up to 20 grammes).

Outgoing cross-border mail which is already de facto liberalized in most Member States will be excluded from the reservable services.

Incoming cross-border mail may continue to be reserved until 31 December 2000 if this is necessary for the financial viability of the universal service provider. Incoming cross-border mail represents, as an average in the Community, 4% of volume and 3% of revenues of the public postal operators for their letter service. Therefore, the opening up to competition of this market segment can be expected to have a limited impact only, thus not endangering the viability of the universal service providers; it would, however, constitute a significant step forward towards the realization of the internal market for postal services. Member States could provide for the introduction of an objective, transparent and non-discriminatory system of licences, in order to avoid abusive diversion of domestic traffic from the reserved area.

Direct mail may continue to be reserved until 31 December 2000 if this is necessary for the financial viability of the universal provider. On average, direct mail represents in the Community 17% of volume and 12% of revenues of the public postal operators for their letter service. This segment of the market has a high rate of growth and a large majority of Posts apply specific tariffs for these items. The risk for the Posts of the establishment of alternative networks for the delivery of direct mail is reduced since they benefit from very important economies of scale by using the same existing universal network to deliver other types of correspondence. The delivery of direct mail is already liberalized in some Member States, where experience shows that the public postal operators have been able to maintain a dominant position on this market despite competition, and that any control problems arising can be overcome.

The Commission will decide by 30 June 1998 whether it is appropriate to keep direct mail and incoming cross-border mail in the reserved area even after 31 December 2000, taking into consideration the developments, in particular economic, social and technological developments, which have occurred in the postal sector in the meantime and taking also into consideration the financial viability of the universal service provider(s).

During the first half of the year 2000 at the latest a major review will take place on the scope of the reserved area.

With regard to tariffs, the proposed Directive requires that Member States implement the principles of affordability and cost-orientation for tariffs for the universal service. However, Member States may decide that for every service that forms part of the universal service a uniform tariff is to be applied on their territory.

Operators providing the universal service are to be subject to an obligation to establish transparent cost accounting systems as well as separate accounts for reserved services on the one hand, and non reserved services on the other hand.

As regards the establishment of service quality standards, the Member States will be responsible for the establishment of quality standards for the national service, which have to be consistent with Community standards, while the Commission will, assisted by an Advisory Committee composed of Representatives of the 15 Member States, set out the quality standards for intra-Community cross-border services.

As regards the harmonization of technical standards, the proposed Directive sets out a procedure allowing for the elaboration and adoption of harmonized standards on the basis of mandates entrusted to the European Committee for Standardization.

Finally, and in conformity with the principle of separation of regulatory and operational functions, the proposed Directive requires the establishment of a national regulatory authority independent of the postal operators in all Member States.

5. The Court of Justice has recognized that the rules of the EC Treaty and, in particular, its competition rules, apply to the postal sector⁽⁵⁾. The Commission's draft Notice, which is complementary to the proposed legislative measure, sets out and explains the guiding principles according to which the Commission intends to apply the competition rules of the Treaty to the postal sector, in order to further the gradual, controlled liberalization of the postal market while maintaining the necessary safeguards for the provision of a universal service. It takes into account the specificities of the sector and

⁽⁵⁾ See, in particular, Judgments of 12 February 1992, The Netherlands and Koninklijke PTT Nederlands NV and PTT Post BV v Commission, Joined Cases C-48/90 and C-66, [1992] ECR I-565 and of 16 May 1993, Paul Corbeau, Case C-320/91, [1993] ECR I-2533.

is fully in line with the approach defined in the Council Resolution. The Notice aims at establishing a clear and reliable framework with regard to the future application of the competition rules, which can, at this stage, be considered sufficient for provision of the degree of legal certainty necessary for a smooth development of the sector.

In particular, the Notice sets out the approach the Commission intends to take when addressing the compatibility of State measures restricting the freedom to provide services and/or to compete in the postal markets with the competition rules of the Treaty. It confirms the Member States' right to maintain, at this stage, a defined area of reserved services. In addition, it addresses the issue of non-discriminatory access to the postal network and the necessary regulatory safeguards required to ensure fair competition in the sector.

6. The Commission recognizes that the postal sector is critical for the future development of the European economy. At this stage, a balance between the requirements of a public service and the application of competition rules has to be developed at Community level in which both aspects are complementary and mutually reinforcing.

The Commission aims at the phased development of a comprehensive Community policy for the postal sector, firmly based on legislation adopted by the European Parliament and the Council within the framework of the Treaty, and in particular its competition rules, respecting the duties assigned to the Commission by the Treaty.

The attached measures should be considered as a first step of a progressive and future-oriented policy towards the completion of the internal market and the development of the Community postal services. It is with this objective in mind that this set of measures is submitted.

**Proposal for a
EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE**

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EXPLANATORY MEMORANDUM

I CONTEXT

This proposal for a Directive represents the result of a process covering several stages which can be summarized as follows:

1. In June 1992 the Commission published a Green Paper on the development of the single market for postal services⁽¹⁾. On the basis of this document, it has been possible to identify three major objectives in the postal sector:

- **search for a balance between, on the one hand, the need for a universal service providing a basic postal service affordable to all users together with, as a corollary, the definition of a range of services which may be reserved for the universal service providers so as to enable them to provide such a service under sound economic conditions and, on the other hand, opening-up of the sector to more competition for the benefit of users;**
- **establishment at Community level of common obligations for those providing universal service, especially compliance with standards which guarantee a high quality of service;**
- **strengthening the harmonization of the basic services which make up the universal service with a view to providing an efficient postal service throughout the territory of the Community; harmonization of the conditions of access to the postal services, of service quality standards and of the monitoring of the performance of the universal service.**

Large-scale public consultation has made it possible to hear the views of all the parties concerned: representatives of the national governments, users and consumers, operators, trade unions, etc.

2. A year later, in June 1993, the Commission submitted to the European Parliament and the Council the results and guidelines which had emerged from this consultation process, through its Communication on the guidelines for the development of Community postal services⁽²⁾.

A general consensus has emerged on the need for Community action, particularly with regard to:

- **the definition of the universal service and a list of services which may be reserved;**
- **common criteria for access (non-discrimination, transparency);**
- **separation of regulatory and operating functions;**
- **common specifications with regard to the quality of services, at least in the area reserved for the universal service providers;**
- **technical standardization.**

It was clear that the Commission Communication constituted only an intermediate stage in the wide-ranging debate on the future development of postal services.

(1) COM(91) 476 final.

(2) COM(93) 247 final.

3. In the course of 1993⁽³⁾ the European Parliament adopted three resolutions on the postal sector. In these Resolutions the European Parliament invited the Commission to prepare, inter alia, a set of proposals for the development of the single market for the postal sector and, in particular, to establish at Community level a common definition of the mandatory universal service and a common definition of the reservable sector which, while being as restricted as possible, would be large enough to enable the universal service providers to offer this service at a reasonable cost.
4. In its Resolution of 7 February 1994 on the development of Community postal services⁽⁴⁾ the Council, supporting the general approach set out in the Commission's Green Paper on the development of the single market for postal services, and the Communication on guidelines for the development of Community postal services, laid down the objectives for this development and invited the Commission to propose the measures necessary for the implementation without delay of a Community policy on postal services, with a view to adapting these services to the requirements of the single market and increasing their efficiency.

The Council also invited the Commission "to base its proposals for future regulation of postal services on measures which are transparent, simple and easy to manage, to ensure the best possible conditions of monitoring and enforcement".

The following measures were advocated:

- **lasting guarantee of universal service** which can justify, to the extent necessary to maintain the universal service, exclusive or special rights for the benefit of the universal service providers;
 - **gradual introduction of more competition** in the postal services market;
 - **establishment of quality of service standards** which meet the expectations of European users;
 - **development of a policy for the harmonization of technical standards** with a view to improving the efficiency and interconnection of postal networks, in the interests of the users;
 - **designation** in the postal sector of **independent national regulatory authorities**.
5. The development of Community policy in the postal sector is based on the idea that the provision of a postal service must respect the following general principles:
 - **universality**: access to anyone, anywhere, at affordable prices;
 - **equality**: under equivalent conditions, all users are entitled to identical treatment;
 - **neutrality**: treatment is independent of the status of the person sending the mail;
 - **confidentiality**: inviolability and secrecy of postal items;
 - **continuity**: provision of an uninterrupted service;
 - **adaptability**: any service to be adaptable to technical progress and changes in demand.

⁽³⁾ OJ No C 42, 15.2.1993, p. 240, OJ No C 194, 19.7.1993, p. 397, OJ No C 315, 22.11.1993, p. 643.

⁽⁴⁾ OJ No C 48, 16.2.1994, p. 3.

II. PROPOSED MEASURES

1. RESPECT OF UNIVERSAL SERVICE OBLIGATIONS

- (a) **The aim of the universal postal service is to meet the needs of users, notably domestic consumers, and to promote the economic and social development of the Community. There is still a long way to go towards ensuring an optimum service in the Community, mainly because of the heterogeneity and disparities between Member States both as regards the definition of the obligations comprising universal service and the availability and quality of the services provided and the tariffs applied.**

In addition, the way the services are organized penalizes cross-border trade and seriously hampers the establishment of the single market. The average time taken for the routing and delivery of a postal item between Member States is more than four working days, whereas the time taken for domestic mail is significantly less.

Consequently, each Member State must ensure the application, on its territory, of minimum common criteria adopted at European level for the universal service - albeit allowing for enlargement in scope in accordance with the principle of subsidiarity.

- (b) **The postal services provided under universal service obligation are subject to the obligation of transparency, equal access and non-discrimination, notably with regard to:**
- **quality of service;**
 - **the setting of tariffs and transparency of accounts;**
 - **conditions for access to the universal service;**
 - **characteristics of the universal service (frequency of collections and deliveries, points of contact, etc.).**

2. IMPROVEMENT OF QUALITY OF SERVICE

In order to consolidate and improve the quality of service, **three principles** will be applied:

- **laying-down of standards** by the Member States for the national services, and laying-down of standards at a Community level for intra-Community cross-border services;
- **performance monitoring**, to be carried out impartially and in accordance with harmonized procedures, by bodies not involved in the provision of the universal service;
- **annual publication of results.**

These quality standards will concentrate in particular on delivery times and on the regularity and reliability of services. Furthermore, transparent procedures for users will need to be established in order to handle complaints relating to the provision of services.

3. OPENING-UP TO MORE COMPETITION

- (a) **The maintenance of a reserved sector must be compatible with the objective of a gradual opening-up of the postal market to competition** in accordance with the rules of the Treaty. If Member States are obliged to guarantee the financial viability of the postal operators responsible for providing the universal service, they are equally obliged to comply with Community law and, in particular, the rules on competition, pursuant to the principle of proportionality.

The extension of exclusive or special rights requires an appropriate protection for consumers, taking into account the provisions of Article 129a of the Treaty.

- (b) **The postal services liable to be reserved with a view to providing a universal service, to the extent necessary to maintain such a service, involve the collection, transport, sorting and delivery of domestic postal items subject to the weight (350 grammes) and price (5 times the basic tariff) limits laid down at Community level.**

The following services cannot be included in the reserved area: express mail service, delivery of postal packages (even with accompanying postal items) and delivery of brochures, catalogues, newspapers, magazines, etc.

New services shall be offered under free-market conditions, provided that they can be clearly distinguished and differentiated from the reserved service (on the basis of an assessment by the national regulatory authority).

Outgoing cross-border mail that is already de facto liberalized in the majority of Member States, can no longer be reserved .

The distribution of incoming cross-border and direct mail, a segment of the market with a high rate of growth, where a large majority of public postal operators already apply specific tariffs for these items, may continue to be reserved until 31 December 2000, in so far as their reservation is necessary for the financial equilibrium of the universal service provider(s). The Commission will decide on 30 June 1998 at the latest, on the appropriateness on maintaining these services within the reserved area after 31 December 2000, taking into consideration the development of the sector, in particular economic, social and technological developments, as well as the financial equilibrium of the universal service provider(s).

4. RE-EXAMINATION IN THE YEAR 2000

A re-examination of the extent of the reserved area will take place during the first half of the year 2000, at the latest. For this purpose, the Commission will be assisted by a review body that will monitor the evolution of postal activities to better foresee the implications of the progressive liberalization of the sector.

5. HARMONIZATION OF TECHNICAL STANDARDS

Work must continue, in line with the process of international standardization, on the harmonization of the technical standards needed to strengthen network inter-operability and conceived in the interests of users.

In accordance with the principles set out in Directive 83/189/EEC in the field of standards and technical regulations, responsibility for drawing up technical standards applicable to the postal sector rests with the European Committee for Standardization (CEN), acting on a mandate from the Commission and after consultation with the actors concerned.

Accordingly, an initial mandate was drawn up in 1993 and was the subject of a report in 1994. Specific areas of activity in the postal sector were identified, guidelines were fixed, and a framework was worked out for future actions.

6. SEPARATION OF OPERATING AND REGULATORY FUNCTIONS

Furthermore, it is essential to separate operating and regulatory functions in the postal sector throughout the Community in such a way as to ensure that the power to regulate rests with bodies that are independent of the undertakings providing the universal service. The obligations incumbent on national regulatory authorities in ensuring such separation include the following:

- defining regulatory measures encompassing the universal service;
- determining the providers of the universal service;
- specifying the obligations and defining the rights of the universal service providers;
- monitoring the conditions of competition in the postal sector;
- publishing findings on the quality of services;
- ensuring that the users receive equality in treatment;
- ensuring that there are simple procedural rules in case of complaints from domestic consumers.

7. INDEPENDENCE OF UNIVERSAL SERVICE PROVIDERS

It is important that the universal service providers should have the commercial, operational and financial independence needed to ensure efficient compliance with customer requirements and technological developments in an increasingly competitive environment.

8. INTERFACE WITH OTHER PARTS OF THE WORLD

Lastly, steps must be taken to ensure compatibility between Community regulatory initiatives and initiatives in other parts of the world, with special reference to decisions taken in the framework of the Universal Postal Union (UPU), and in this way to make it easier for European operators to gain access to markets outside the Community, and vice versa.

9. SOCIAL AND ECONOMIC IMPACT OF THE PROPOSED MEASURES

The social and societal dimensions of the postal sector have to be taken duly into account. The public postal operators in the European Union employ about 1.4 million people and with the addition of the private operators this figure would increase by one fifth.

- the absolute levels vary widely from one operator to another according to factors such as density of population, postal consumption per head, the mix of services offered and the level of operating efficiency (globally measured by items per employee);
- there is a trend for employment levels to fall over time (if allowance is made for the impact of re-unification on the German public operator) reflecting productivity gains (as traffic levels are generally increasing also).

The postal sector is in transformation due to the technological evolution in the sector itself, but also and above all, in the sector of telecommunications. The international situation is characterized by a strong trend for modernization and opening up of the postal markets as emphasized by the last Universal Postal Union Congress in 1994.

The real threat to all postal operators - be they public or private - in the medium to long-term will come from other communication means (faxes, e-mail, data networks, etc.). It can be assumed that only if the public postal operators adapt their structure to be able to compete with private operators in the short-term, will they get the strength to face the even more challenging competitive situation in the long-term. This adaptation process will lead to job losses for the postal operators.

Liberalization of the postal sector should recognize the possibility that private operators will hire staff to undertake the same activities as the public operators. Experience of the growth of the express service market since the 1970s has demonstrated that employment in the sector as a whole can actually increase rather than fall as a result of liberalization, as well as leading to improvements in competitiveness.

Improvements in efficiency in the postal sector can be expected to improve the general competitiveness of economic activities for services where postal costs are significant (for example, mail order goods) and this will strengthen the economy as a whole thus creating a favourable climate for new employment.

It is difficult accurately to foresee the economic and social impact of opening up the various market segments to competition, since the future behaviour of the relevant parties in a liberalized market, subject to strong technological evolution, cannot be predicted. The Commission will take the needed steps to monitor this evolution.

The experiences in countries which have already liberalized postal services show that the smooth evolution towards an efficient, competitive postal service is possible, if the opening of the market is phased over a number of years and accompanied by measures such as voluntary redundancy.

III. ASSESSMENT OF THE PROPOSED MEASURES IN THE LIGHT OF THE PRINCIPLE OF SUBSIDIARITY

1. Objectives of the action envisaged

The principal objective of the action envisaged is to guarantee in the whole European Union the long-term provision of a good quality universal service at affordable prices, accessible to all, for which financing is assured and durable. In particular, the alignment of conditions governing the supply of postal services and the removal of legal and technical barriers to cross-border trade, are obligations which are incumbent on the Community in order to attain the internal market. This Directive is conceived as an instrument which seeks, in accordance with Article 7a of the Treaty, to establish the internal market comprising an area without internal frontiers in which the free movement of goods, persons, services and capital is assured. The Directive will establish a framework in which national initiatives can be taken.

2. Community dimension of the problem

All the Member States are concerned, and all citizens and moral persons in the Community will benefit from the proposed measures which will have the effect of improving the efficiency and performance of postal services.

Postal traffic in the Community involves 80 billion items per year, some 3 billion of which are associated with intra-Community trade. On average, each citizen in the Community receives 300 postal items a year.

Up to now postal administrations have initiated a number of harmonization actions. However the limitations of this activity have become apparent, partly because the measures taken do not have binding force. As regards the area of quality of cross-border services, in particular, no significant progress has been made over the past few years (cf. results of the joint studies carried out by the EBCU and the Commission in 1990 and 1993).

3. Necessity for Community action

Member States have at their disposal relatively less effective means to achieve rapid results, especially as regards the improvement of cross-border mail and the area of technical standardization. The only alternative to Community legislation would be a system of bilateral agreements which would be difficult to achieve between all Member States.

Any attempt by Member States to embark on uncoordinated action could have the effect of hampering the proper functioning of the internal postal market.

Failure to take action would result in a widening of the gap between situations which are already highly divergent and would make it more difficult for the internal market to function. In addition, it cannot be excluded that a two-speed Europe in postal services would be the result: a Europe of the North with relatively efficient services, and a Europe of the South offering users an inadequate level of services.

Failure to act would also have an indirect but significant impact on other economic sectors that are particularly dependent on the postal services.

Lastly, it would be prejudicial to social and economic cohesion. In particular, the social role of the postal service, especially in remote areas, and its role for regional planning, are not insignificant.

4. Action open to the Community: potential benefits of a Directive

The formulation of a recommendation will not suffice in this case, mainly because postal administrations depend on one another to ensure the cross-border service. It is therefore essential that all Member States participate in the action envisaged. Indeed, they expressed their intention of doing so in the Council Resolution of 7 February 1994 inviting the Commission to propose Community measures in this area. The Telecommunications Council of 13 June 1995 has re-affirmed the urgent necessity to have available a regulatory framework for postal services in the interests of all the parties active in the postal sector.

This proposal for a Directive sets out general rules and lays down basic principles. The provisions envisaged constitute a minimum basis of harmonized measures.

It is a matter for the Member States to transpose these Community provisions into national laws, regulations and administrative provisions and to determine the exact modalities for the system best suited to their own situation.

IV. STRUCTURE OF THE DIRECTIVE

After establishing the objectives and area of application in Chapter 1, the Directive provides in Chapter 2 a definition of the universal service to be guaranteed by each Member State on its territory.

Chapter 3 sets out the principles governing the harmonization of services which may be reserved for the universal service provider(s), in order to ensure the functioning of the reserved service under properly balanced financial conditions.

Chapter 4 concerns the conditions for the provision of non-reserved services and access to the network.

Chapter 5 defines the tariff principles applicable to the universal service as well as the transparency of the accounts of the universal service providers.

Chapter 6 seeks to lay down quality standards for the national and intra-Community cross-border services in order to respond better to the expectations of the users of the universal service.

Chapter 7 introduces a mechanism which will be developed by the European Committee for Standardization (CEN) to encourage the technical standardization needed to improve the interoperability of postal networks and the quality of service provided for users.

Chapter 8 deals with consultations involving interested parties in the sector. An Advisory Committee responsible for assisting the Commission on matters relating to quality of service and technical standardization will be set up for this purpose.

Chapter 9 provides for the creation of a national regulatory authority independent of the postal operators.

Chapter 10 stipulates, apart from the final provisions, that the Commission will establish a report on how this Directive has been applied by the Member States three years after the entry into force of this Directive or, at the latest, during the first half of the year 2000. The Commission will be assisted for that purpose by a review body, which will monitor the development in the postal sector.

V. CONCLUSION

The present proposal for a Directive, whilst also providing for an opening up to more competition of some postal services, guarantees for the first time a universal service at the level of the European Union. It constitutes a regulatory framework defining universal service as well as the modalities of its financing over the long terms, by the definition of a reserved sector of appropriate size.

The development of a Community universal service will help to strengthen social and economic cohesion and improve the efficiency of the services offered to users including domestic consumers.

The Commission therefore presents this proposal for a Directive in accordance with Article 189b of the Treaty relating to the codecision procedure, and invites the European Parliament and the Council to decide as soon as possible on these proposals, with a view to moving forward towards the attainment of the internal market in the postal sector.

Proposal for a
EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

on common rules for the development of Community postal services
and the improvement of quality of service

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Articles 57(2), 66 and 100a thereof,

Having regard to the Resolution of the European Parliament of 22 January 1993 concerning the Green Paper on the development of the single market for postal services⁽¹⁾,

Having regard the Council Resolution of 7 February 1994 on the development on Community postal services⁽²⁾,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

1. Whereas measures should be adopted with the aim of establishing the internal market in accordance with Article 7a of the Treaty; whereas this market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;
2. Whereas the establishment of the internal market in the postal sector is of proven importance for the economic and social cohesion of the Community, in that postal services are an essential instrument of communication and trade;
3. Whereas the Commission presented, on 11 June 1992, a Green Paper on the development of the single market for postal services and, on 2 June 1993, a Communication on the guidelines for the development of Community postal services;
4. Whereas the Commission has conducted wide-ranging public consultation on those aspects of postal services that are of interest to the Community;
5. Whereas the current extent of the universal postal service and the conditions governing its provision vary significantly from one Member State to another; whereas, in particular, performance in terms of quality of service is very unequal amongst Member States;
6. Whereas cross-border postal links do not always meet the expectation of users and European citizens, and performance, in terms of quality of service with regard to Community cross-border postal services, is at the moment particularly unsatisfactory;
7. Whereas the disparities observed in the postal sector have considerable implications for those sectors of activity which rely especially on the postal services and effectively impede the progress towards internal Community cohesion, in that the regions deprived of postal services of sufficiently high quality find themselves at a disadvantage as regards both their letter service and the distribution of goods;

⁽¹⁾ OJ No C 42, 15.2.1993, p. 240.

⁽²⁾ OJ No C 48, 16.2.1994, p. 3.

8. Whereas the measures seeking to ensure the gradual opening-up of the market and to secure a proper balance in their application are necessary in order to guarantee, throughout the Community, and subject to the obligations and rights of the universal service providers, the free provision of services in the postal sector itself;
9. Whereas action at Community level to ensure greater harmonization of the conditions governing the postal sector is therefore necessary and steps must consequently be taken to establish common rules;
10. Whereas, in accordance with the principle of subsidiarity, a set of general principles should be adopted at Community level, whilst the choice of the exact modalities should be a matter for the Member States, which should be free to choose the system best adapted to their own circumstances;
11. Whereas it is essential to guarantee at Community level a universal postal service encompassing a minimum range of good quality services to be provided in all Member States at an affordable price for the benefit of all users, irrespective of their geographical location in the Community;
12. Whereas the aim of the universal service is to offer all users easy access to the postal network through the provision, in particular, of a sufficient number of fixed points of contact, and by ensuring satisfactory conditions with regard to the frequency of collections and deliveries; whereas the provision of the universal service must meet the fundamental need to ensure continuity of operation, whilst at the same time remaining adaptable to the needs of users as well as guaranteeing them fair and non-discriminatory treatment;
13. Whereas universal service must cover national services as well as cross-border services;
14. Whereas users of the universal service must be given adequate information on the range of services offered, the conditions governing their supply and use, and the tariffs;
15. Whereas the maintenance of a range of those services that may be reserved, in compliance with the rules of the Treaty and without prejudice to the application of the competition rules, appears justified on the grounds of ensuring the operation of the universal service under financially balanced conditions;
16. Whereas postal items weighing 350 grammes and over represent less than 2% of letter volume and 3% of the receipts of the public operators; whereas the criteria of price (five times the basic tariff) will better permit the distinction between the reserved service, and the express service, which is already liberalized;
17. Whereas direct mail should, in principle, be excluded from the services which may be reserved, as it constitutes a distinct segment of the postal market, which represents on average in the Community 17% of the volume and 12% of the receipts of the public postal operators of the letter service; whereas the maintenance of this service in the reserved sector could nevertheless be justified until 31 December 2000, in so far as it is necessary for the financial equilibrium of the universal service provider; whereas the Commission will decide on 30 June 1998 at the latest on the appropriateness of postponing the date of liberalization, taking into account the developments, in particular economic, social and technological developments that have occurred in the sector and taking also into account the financial equilibrium of the public service provider(s);
18. Whereas steps should be taken to exclude the distribution of incoming cross-border mail from the services which may be reserved, which represents on average in the Community 4% of volume and 3% of receipts of public postal operators for the letter service; whereas the maintenance of this service in the reserved sector could nevertheless be justified until 31 December 2000, in so far as its contribution to the financial equilibrium of the universal service provider is necessary; whereas the

- Commission will decide on 30 June 1998 at the latest on the feasibility of postponing the date of liberalization, taking into account the developments, in particular economic, social and technological developments, that have occurred in the sector and taking also into account the financial equilibrium of the public service provider(s);
19. Whereas a general re-examination of the scope of the reserved sector is scheduled for the first half of the year 2000;
 20. Whereas, for reasons of public order and public security, Member States may have a legitimate interest in conferring the right to site letter-boxes intended for the reception of postal items on the public highway on one or more entities designated by them; whereas, for the same reasons, they are entitled to appoint the entity or entities responsible for issuing postage stamps bearing the name of the country;
 21. Whereas special services, such as the express mail service (apart from greater speed and reliability in the collection, distribution and delivery of items, this service features all or some of the following supplementary facilities: guarantee of delivery by a fixed date; collection from domicile; personal delivery to addressee; possibility of changing the destination and addressee in the course of delivery; confirmation to sender of reception of the item dispatched; monitoring and tracking of items dispatched; personalized service for customers and provision of an *à la carte* service, as and when required), as well as the new services (services quite distinct from the conventional services) and document exchanges, do not form part of the universal service, and consequently there is no justification for their being reserved to the universal service providers; whereas the foregoing applies equally to self-provision (provision of postal services by the natural or legal person who is the originator of the mail, or collection and routing of these items by a third party acting solely on behalf of that person), which does not fall within the category of services;
 22. Whereas Member States should be able to regulate, on their territory, the provision of postal services which are not reserved to the universal service providers by declaration procedures and, where justified, by authorization procedures; whereas those procedures must be transparent, non-discriminatory and based on objective criteria;
 23. Whereas the Member States should have the option of making the grant of licences subject to universal service obligations or contributions to a compensation fund intended to compensate the universal service provider for the provision of services representing an unfair financial burden; whereas Member States should be able to include in the authorizations an obligation that the authorized activities must not improperly impair the exclusive or special rights granted to the universal service providers from the reserved services; whereas an identification system for direct mail may be introduced for the purposes of supervision when direct mail is liberalized;
 24. Whereas it may be necessary in the future to harmonize at Community level the authorization procedures laid down by the Member States, in justified cases, for the commercial provision to the public of non-reserved services;
 25. Whereas it may be necessary in the future to harmonize, at Community level, the conditions governing access to the public postal network in Member States;
 26. Whereas, in order to ensure sound management of the universal service and to avoid distortions of competition, the tariffs applied to the universal service should be objective, transparent, non-discriminatory and cost-based;
 27. Whereas, in the case of cross-border mail, the universal service provider in the incoming country should receive remuneration covering its costs; whereas this remuneration should also include an incentive to improve the quality of Community cross-border service;

28. Whereas separate accounts for the different reserved services and non-reserved services are necessary, in order to introduce transparency into the actual costs of the various services, and in order to ensure that cross-subsidies from the reserved sector to the unreserved sector cannot affect the competitive conditions in the latter;
29. Whereas consideration should be given to the interests of users, who are entitled to services of a high quality; whereas, therefore, every effort must be made to improve and enhance the quality of services provided at Community level; whereas such improvements in quality require Member States to lay down standards, to be attained or surpassed by the universal service providers, in respect of the services forming part of the universal service;
30. Whereas the quality of service expected by users constitutes an essential aspect of the services provided; whereas the evaluation standards for this quality of service and the levels of quality achieved must be published in the interests of users; whereas it is necessary to have available harmonized quality of service standards and a common methodology for measurement in order to be able to evaluate the convergence of the quality of service throughout the Community;
31. Whereas national quality standards consonant with Community standards must be determined by Member States; whereas, in the case of intra-Community cross-border traffic requiring the combined efforts of at least two universal service providers from two different Member States, quality standards must be defined at Community level;
32. Whereas compliance with these standards must be independently verified at regular intervals and on a harmonized basis; whereas users must have the right to be informed of the results of this verification;
33. Whereas Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts⁽³⁾ applies to postal operators;
34. Whereas the need for improvement of quality of service means that disputes have to be settled quickly and efficiently; whereas, in addition to the forms of legal redress available under national and Community law, a simple conciliation procedure should be provided, which should be flexible, inexpensive and transparent, and should enable all relevant parties to participate;
35. Whereas progress in the interconnection of postal networks and the interests of users require that technical standardization be encouraged; whereas technical standardization is indispensable for the promotion of interoperability between national networks and for an efficient Community universal service; whereas users should be actively involved in the harmonization of technical standards;
36. Whereas the detailed drafting of those harmonized technical standards must be a step-by-step process; whereas guidelines on European harmonization provide for specialized technical standardization activities to be entrusted to the European Committee for Standardization;
37. Whereas the future work on the development of measures relating to the quality of Community cross-border service and technical standardization must be prepared under the aegis of the Commission, assisted by the Member States in consultation with interested parties, including associations of consumers, and with the assistance of a committee set up for this purpose;

⁽³⁾ OJ No L 95, 21.4.1993, p. 29.

38. Whereas, in order to ensure the proper functioning of the universal service and to ensure undistorted competition in the non-reserved sector, it is important to separate the functions of the regulator, on the one hand, and the operator, on the other; whereas no postal operator may be both judge and interested party; whereas it is a matter for the Member State to define the statute of one or more national regulatory authorities, which may be chosen from public authorities or independent entities appointed for that purpose;
39. Whereas the effects of the harmonized conditions on the functioning of the internal market in postal services will need to be the subject of an assessment; whereas, therefore, the Commission will present a report to the European Parliament and the Council on the application of this Directive three years following the date of its entry into force, and, at the latest, during the first half of the year 2000; whereas it is appropriate that the Commission should be assisted in this task by a review body which will monitor the evolution of the sector, that it should be composed of up to five independent experts appointed by the Commission who, together, will provide the necessary expertise and will collect all appropriate information about the developments in the sector, particularly concerning economic, social and technological aspects, as well as quality of service;
40. Whereas the Court of Justice has confirmed the applicability of the rules on competition to the postal sector; whereas this Directive must comply with the Treaty; whereas, in a Notice of, the Commission explained how the competition rules, and in particular Article 90 of the Treaty, applied to the postal sector; whereas the rules on competition require the creation of an independent authority to ensure the effective monitoring of the reserved services as well as the transparency of the postal organizations' accounting systems; whereas competition rules require that non-discriminatory access to the postal network be guaranteed;
41. Whereas this Directive does not affect the application of the rules of the Treaty, and in particular its rules on competition and the freedom to provide services,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER 1 **Scope and definitions**

Article 1

This Directive establishes common rules concerning:

- the provision of a universal postal service within the Community;
- the criteria limiting the services which may be reserved to the providers of universal service;
- tariff principles and transparency of accounts;
- the fixing of quality standards and the setting-up of a system to ensure compliance with those standards;
- the harmonization of technical standards;
- the creation of independent national regulatory authorities.

Article 2

For the purposes of this Directive, the following definitions shall be applicable:

1. **postal services:** services involving the collection (including public collection), carriage, and delivery of postal items;
2. **public postal network:** a system of human resources and tangible assets necessary to ensure:
 - the public collection of postal items covered by the universal service obligation from mail boxes or other access points throughout the territory;
 - the routing and handling of those items from their point of access to the postal network and the distribution centre;
 - the delivery of those items to the addressees on the basis of regular delivery rounds;
3. **collection:** the process of gathering, transporting and relaying postal items from the place of packaging and from mail boxes where they have been deposited for that purpose, to a point giving access to the postal network;
4. **clearance:** the process of collecting postal items deposited in mail boxes on the public highways or on the premises of the universal service providers suitable for reception of postal items;
5. **distribution:** operations ranging from sorting in the distribution centres to the delivery of postal items to the addresses shown on the items;
6. **postal item:** any addressed item whose technical specifications allow it to be carried in the postal network. Such items include books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without commercial value;
7. **item of correspondence:** a communication in written form on any kind of physical medium to be conveyed and delivered at the address indicated by the sender of the item itself or on its wrapping. Books, catalogues, newspapers and periodicals shall not be regarded as items of correspondence;
8. **document exchange:** delivery of mail by the senders to ad hoc exchange centres in which correspondents have designated boxes where they can come to retrieve their mail. Users of an exchange center must belong to a group of subscribers to this service;
9. **registered item:** a postal item guaranteed on a flat-rate basis against risks of loss or damage and delivered against signed confirmation of receipt;
10. **insured item:** a postal item the contents of which are insured up to the value declared by the sender in the event of loss or damage;
11. **incoming cross-border mail:** incoming mail from another Member State or from a third country;
12. **direct mail:** item of correspondence consisting of the same message and sent to a significant number of addresses for advertising or marketing purposes;
13. **universal service provider:** public or private entity designated by a Member State to ensure the provision of a universal service, or parts thereof;

14. **terminal dues:** the remuneration applied between universal service providers for the delivery of incoming cross-border mail;
15. **sender:** natural or legal person responsible for originating the postal items;
16. **users:** professional users, domestic consumers and postal operators other than those responsible for the universal service (including intermediaries), where postal operators wish to have access to the services in order to provide an end-to-end service;
17. **intermediary:** any economic operator who acts between the sender and the universal service provider, by collecting, routing and/or pre-sorting postal items, before channelling them into the public postal network of the same or of another country;
18. **national regulatory authority:** the body or bodies in each Member State, to which the Member State entrusts inter alia the regulatory functions falling within the scope of this Directive.

CHAPTER 2 Universal service

Article 3

Member States shall ensure that users enjoy the right to a universal service involving the provision of a good-quality postal service for all users at all points on their territory at affordable prices.

To that end, Member States shall take steps to ensure that the density of the points of contact, and of the points where mail is collected, take account of the needs of users.

They shall take steps to ensure that the universal service providers guarantee every working day, and not less than five days a week save in exceptional circumstances or geographical conditions:

- one collection from the clearance points;
- one door-to-door delivery for every natural or legal person;

Each Member State shall take the measures necessary to ensure that the universal service includes the following minimum facilities:

- the collection, transport and distribution of addressed mail items and addressed books, catalogues, newspapers and periodicals up to 2 kg and addressed postal packages up to 20 kg;
- services for registered items and insured items.

The maximum and minimum dimensions envisaged for postal items are those laid down in the Agreement concerning Postal Parcels adopted by the Universal Postal Union at its Congress in Washington in December 1989.

Universal service as used in this Article covers both national and cross-border services.

Article 4

Each Member State shall appoint one or more postal operators to be responsible for providing universal service and shall notify the Commission thereof. In accordance with Community law, each Member State shall determine the obligations and rights assigned to the universal service provider(s), and shall publish them.

Article 5

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

- it shall offer a service guaranteeing the inviolability and secrecy of correspondence;
- it shall offer an identical service to all users whose circumstances are similar;
- it shall be made available without any form of discrimination whatsoever, especially without discrimination arising from political, religious or ideological considerations;
- it shall not be interrupted or terminated, except in cases of force majeure;
- it shall evolve in response to the technical, economic and social environment and to the demands of users.

Article 6

Member States shall take steps to ensure that users are regularly given sufficiently detailed information by the universal service provider(s) regarding the particular features of the universal services offered, with special reference to the general conditions of access to these services as well as to prices and quality standard levels. This information shall be published, in particular, through the use of publicly displayed notices or brochures.

Member States shall notify the Commission, within six months of the date of entry into force of this Directive, of how the information to be published in accordance with the provisions of the preceding paragraph is being made available. Subsequent modifications shall be notified to the Commission at the earliest opportunity.

Article 7

Each Member State shall take steps to offer lasting guarantees regarding the provision of a universal service, as defined in this Directive.

CHAPTER 3

Harmonization of the services which may be reserved

Article 8

1. To the extent necessary to ensure the maintenance of the universal service, the services which may be reserved to the universal service provider(s) in each Member State are the collection, sorting, transport and delivery of items of domestic correspondence whose price is less than five times the public tariff for an item of correspondence in the first weight step, provided that they weigh less than 350 grammes, and without prejudice to paragraph 2.
2. The distribution of incoming cross-border mail and direct mail may continue to be reserved until 31 December 2000, wherever their reservation is necessary for the financial equilibrium of the universal service provider(s). The Commission shall decide on 30 June 1998 at the latest as to the appropriateness of maintaining the reservation of those services after 31 December 2000, taking into account the developments, in particular economic, social and technological developments, that have occurred by that date and also taking into account the financial equilibrium of the universal service provider(s).

3. Without prejudice to paragraph 2, the provisions of paragraph 1 shall be re-examined when the Commission reports to the European Parliament and the Council on the application of this Directive pursuant to Article 23, and no later than the first half of the year 2000.
4. Member States, upon request of the Commission, shall provide the necessary information for the decision envisaged in paragraph 2 and the report referred to in paragraph 3.

Article 9

Member States shall appoint the entity or entities that are entitled to place letter-boxes on the public highway for the reception of postal items and to issue postage stamps bearing the name of the country.

CHAPTER 4

Conditions governing the provision of non-reserved services and access to the network

Article 10

1. Member States may apply declaration procedures and, where justified, authorization procedures for the commercial provision to the public of postal services that are not reserved to the universal service providers. These procedures shall be transparent, non-discriminatory, and based on objective criteria.
2. The granting of authorizations may, where appropriate, be made subject to universal service obligations which are proportional, and to the obligation not to improperly impair the exclusive or special rights granted to the universal service providers, for the reserved services referred to in Article 8(1).
3. Where a Member State determines that the universal service obligations under this Directive represent an unfair financial burden on the universal service provider, it may make the granting of authorization subject to an obligation to make a financial contribution to a compensation fund established for that purpose and administered by a body independent of the beneficiary or beneficiaries. In that event, the Member State must ensure that the principles of transparency, non-discrimination and proportionality are respected when fixing the level of the financial contributions.
4. Member States must ensure that the reasons for refusing an authorization are communicated to the relevant party and establish an appeal procedure.
5. Member States may provide for an identification system for direct mail, allowing the supervision of such services once they are liberalized.

Article 11

1. The European Parliament and the Council, acting on a proposal from the Commission and on the basis of Articles 57(2), 66 and 100a of the Treaty, shall adopt the measures necessary for the harmonization of the authorization procedures governing the commercial provision to the public of non-reserved postal services, with the exception of those services that cannot be subjected to such constraints, such as document exchange and outgoing cross-border mail to other Member States.
2. The harmonization measures referred to in paragraph 1 shall concern, in particular, the criteria to be observed and the procedures to be followed by the postal operator requesting the authorization, the detailed rules governing publication of those criteria and procedures, and also the appeal procedures to be followed in the event of refusal of an authorization.

Article 12

The European Parliament and the Council, acting on a proposal from the Commission and on the basis of Articles 57(2), 66 and 100a of the Treaty, shall adopt such harmonization measures as are necessary to ensure that users and providers of the universal service shall have access, under conditions that are transparent and non-discriminatory, to the public postal network during the various stages preceding the final distribution of postal items.

CHAPTER 5

Tariff principles and transparency of accounts

Article 13

Member States shall take steps to ensure that universal service tariffs comply with the following principles:

- prices must be affordable and must be such that all users have access to the services provided;
- prices must be fixed in relation to the costs for each service making up the universal service; Member States may decide that a uniform tariff is to be applied on their territory for each service composing the universal service;
- tariffs must be transparent and non-discriminatory.

Article 14

Member States shall take steps to ensure that terminal dues are determined in relation to the costs of the universal service providers responsible for the non-discriminatory handling and distribution of the mail in the country of arrival, and so as to ensure the quality of the services provided.

Article 15

1. Member States shall take the measures necessary to ensure, within two years of the date of entry into force of this Directive, that the accounting of the universal service providers is conducted in accordance with the provisions of paragraphs 2 and 3.
2. The universal service providers shall keep separate accounts, within their internal accounting systems, on the one hand for each of the relevant reserved services within the reserved sector (distinguishing between collection, transport, sorting and delivery) and, on the other hand, for the non-reserved services, in the same way as would be required if the services in question were provided by separate undertakings. They shall draw up in their annual report a balance-sheet and a profit-and-loss account for the reserved services, on the one hand, and for the non-reserved services, on the other.
3. Whatever their system of ownership or legal form, the universal service providers shall have their annual accounts verified by an independent auditor. Universal service providers who are not under a legal obligation to publish their annual accounts shall hold a copy of these at the disposal of the national regulatory authority and the Commission.

The Commission shall take the steps necessary to ensure the confidentiality of the information received in this connection.

CHAPTER 6 **Quality of services**

Article 16

Member States shall take steps to ensure that the universal service is of good quality.

Quality standards shall aim, in particular, on transit times and on the regularity and reliability of services.

These standards shall be laid down by:

- the Member States, in the case of the national services;
- the Commission, in the case of intra-Community cross-border services, in accordance with the procedure set out in Article 21.

Independent performance monitoring shall be carried out at least once a year by external bodies unrelated to the universal service providers under standardized conditions to be laid down by the Commission and shall be the subject of reports published at least once a year.

Article 17

Member States shall take steps to ensure that standards are laid down for national mail that are compatible with those laid down by the Commission for the intra-Community cross-border services. However, regard being had to specific national conditions, an initial objective shall be to ensure that in all Member States the items of correspondence of the fastest standard category achieve an end-to-end transit time of one working day from the date of deposit to the date of delivery for at least 80% of the items dispatched.

These standards shall be subject to periodic review.

Performance monitoring and the justification of results shall be carried out in compliance with the provisions laid down in Article 16.

Article 18

In accordance with the provisions of Article 16, the Commission shall, one year after the entry into force of this Directive, lay down quality standards for intra-Community cross-border services. It shall publish these standards in the Official Journal of the European Communities and shall take steps to ensure the regular monitoring and the publication of performance levels certifying compliance with these standards and the progress accomplished. These standards shall be subject to periodic review.

Pending the definition of those standards, Member States shall apply the following standard for items of correspondence in the fastest standard category: an end-to-end transit time of three working days from the date of deposit in the country of origin and the date of delivery in the country of distribution (D+3) for 90% of the items dispatched, and five working days (D+5) for 99% of the items dispatched. The standards in question shall be regarded as averages upon which universal service providers may improve.

Article 19

Member States shall take steps to ensure that transparent, simple and inexpensive procedures are drawn up for dealing with users' complaints, particularly in cases involving loss, theft or damage, or non-compliance with service quality standards. Member States shall ensure that an efficient and speedy system for reimbursement and/or compensation is available, and that disputes are settled fairly and promptly.

Without prejudice to other forms of redress under national and Community legislation, Member States shall ensure that users acting, where national law so permits, jointly with organizations representing the interests of users and consumers may bring before the national regulatory authority cases where complaints made to the universal service provider have not been satisfactorily resolved.

In accordance with the provisions of Article 16, Member States shall ensure that the universal service providers publish, together with the annual report on the monitoring of their performance, information on the number of complaints and the manner in which they have been treated.

CHAPTER 7 Harmonization of technical standards

Article 20

The harmonization of technical standards shall be developed, taking into account in particular the interests of users.

The European Committee for Standardization shall be entrusted with drawing up technical standards applicable to the postal sector on the basis of mandates and pursuant to the principles set out in Council Directive 83/189/EEC⁽⁴⁾. This work shall take account of the harmonization measures adopted at international level, and, in particular, those decided upon within the Universal Postal Union. The standards applicable shall be published in the Official Journal of the European Communities once a year.

Member States shall ensure that, in all matters relating to the provision of the universal service, reference is made to the standards published in the Official Journal of the European Communities.

The status of the work carried out by the European Committee for Standardization and the progress achieved in this area by that body shall be the subject of consultations with the Advisory Committee in accordance with Article 21.

CHAPTER 8 The Advisory Committee

Article 21

The Commission shall be assisted by a committee of an advisory nature composed of the representatives of the Member States and chaired by the representative of the Commission. The Advisory Committee shall establish its own rules of procedure.

The Advisory Committee shall be consulted on the provisions relating to quality of service set out in Article 16 and the provisions relating to the harmonization of technical standards set out in Article 20.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time-limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

⁽⁴⁾ OJ No L 109, 26.4.1983, p. 8.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

The Commission shall also consult the representatives of the postal operators, the industries involved, the users including domestic consumers and both sides of the industry on questions relating to quality of service and the harmonization of technical standards.

It shall keep the Advisory Committee regularly informed of the outcome of those consultations and of the work carried out by the review body referred to in Article 23.

CHAPTER 9

The national regulatory authority

Article 22

Each Member State shall appoint a national regulatory authority for the postal sector that is legally and operationally independent of the postal operators. Member States shall inform the Commission which national regulatory authorities they have designated to carry out the tasks arising from this Directive.

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

The national regulatory authorities shall transmit to the Commission, once per calendar year, a report setting out the progress made at national level in the achievement of the objectives set out in this Directive. The annual report shall be transmitted to the Commission no later than five months after the end of the year covered by the report.

CHAPTER 10

Final provisions

Article 23

1. Three years after the date of entry into force of this Directive and at the latest by the first half of the year 2000, the Commission shall submit a report to the European Parliament and the Council on the application of this Directive. For this purpose, the Commission shall be assisted by a review body which will monitor the evolution of the sector.
2. The review body shall be composed of up to five independent experts, appointed by the Commission, who, together, shall provide the different areas of expertise required. They shall collect all appropriate information on developments in the sector, particularly concerning economic, social and technological aspects, as well as information on quality of service.

Article 24

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than six months after the date of its entry into force. They shall immediately inform the Commission thereof.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

Article 25

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Communities.

Article 26

This Directive is addressed to the Member States.

Done at Brussels,

**For the European Parliament
The President**

**For the Council
The President**

FINANCIAL STATEMENT

I. FINANCIAL IMPLICATIONS

1. Title of the action

European Parliament and Council Directive on common rules for the development of the Community postal services and the improvement in the quality of service.

2. Budget heading

A-250
A-2510 (group 3)

3. Legal basis

- Article 100a;
- Green Paper on the development of the single market for Community postal services, COM(91) 476 final;
- Communication on guidelines for the development of Community postal services, COM(93) 247 final;
- Resolution of the European Parliament of 22 January 1993 concerning the Green Paper on the development of the single market for Community postal services, OJ No C 42, 15.2.1993;
- Council Resolution of 7 February 1994 on the development of Community postal services, OJ No C 48, 16.2.1994.

4. Description

4.1 Objectives

The proposed action seeks to develop postal services by:

- guaranteeing, on a Community scale, a universal postal service;
- improving the quality of services both for inland traffic and for cross-border traffic;
- promoting the harmonization of technical standards.

This will have the effect of ensuring a more efficient postal service in the Community, while at the same time promoting the completion of the single market by facilitating intra-Community cross-border trade. The proposed measures have been drawn up in the interests of all postal users, but in particular of the end users.

4.2 Duration

The duration of the measures to be applied is not limited. However, it is envisaged that in the year 2000, an assessment should be made which could give rise to certain modifications of the initial measures.

4.3 Economic and social players covered by the action

The Directive concerns all users of the postal services, i.e., to a greater or lesser degree, all economic operators and citizens of the Community. However, certain sectors of activity use the postal services more intensively than others. The same applies to mail order sales, the press and direct marketing.

5. Classification of expenditure

- non-compulsory expenditure;
- differentiated appropriations.

6. Nature of the expenditure

Not applicable.

7. Financial implications

No implications for the operation headlines.

8. Anti-fraud provisions

Not applicable.

II. ADMINISTRATIVE EXPENDITURE

This expenditure covers:

- the expenses for convening a team of experts, the review body, whose creation is foreseen to assist the Commission to monitor the evolution of the postal sector.

The review body would meet six times a year. It will be composed of five people who, together, will cover all needed backgrounds for the tasks required.

Taking as an average basis ECU 1 100 per person and per meeting in respect of travel expenses for members of the group, the cost over a full year should be as follows: $6 \times 5 \times 1\ 100 = \text{ECU } 33\ 000$ to be allocated to heading A-250.

- the operation of the Advisory Committee made up of representatives from the Member States, under the chairmanship of the Commission. This Committee has been set up in order to assist the Commission in carrying out the various tasks involving quality of service and technical standardization.

This committee could meet six times per year. It will be composed of 30 persons.

Taking as an average basis ECU 770 per person and per meeting in respect of travel expenses for members of the group, the cost over a full year should be as follows: $6 \times 30 \times 770 = \text{ECU } 138\ 600$ to be allocated to heading A-2510 (group 3).

Following the adoption of the Directive, the review body and the Consultative Committee will be established in 1996, at the earliest.

The actual mobilization of the necessary administrative resources will depend on the Commission's decision on the allocation of resources, taking particular account of staffing levels and such additional amounts as may have been granted by the budgetary authority.

III. COST-BENEFIT ANALYSIS

1. Objectives

The proposed Directive reflects the obligations incumbent on the Commission and the declared objectives of the Council to establish the internal market in postal services.

The measures to be introduced will place at the disposal of postal users, including end users, a range of quality services better adapted to meet their needs, particularly as regards intra-Community cross-border postal services.

2. Grounds for the action

The proposed Directive contains the legislative measures necessary for the development of the internal market in postal services.

Major differences exist between the Member States with regard to the definition of the obligations incumbent on the universal service, the quality of the services provided and the tariffs applied. In addition, cross-border trade is hampered by various barriers of an operational, technical or regulatory nature.

The harmonization of the conditions governing the provision of the universal service and the improvement of trade between Member States will be achieved more effectively through Community action.

As far as a framework Directive is concerned, however, the Member States retain an essential active role. In particular, they guarantee the provision of the universal service and, on the basis of the relevant provisions of the Directive and pursuant to the rules of the Treaty, they determine the obligations and rights of the universal service providers. They apply the rules on improving the quality of service and promoting technical standardization, while at the same time setting up an independent national regulatory authority for the sector.

3. Monitoring and assessment of the action

Article 23 of the proposal for a Directive stipulates that in the year 2000, the Commission shall submit a report to the European Parliament and the Council on the application of this Directive and, where necessary, shall make appropriate proposals for amendments with a view to the future development of the internal market in postal services. The Commission will be assisted by a review body which will monitor the evolution of the sector.

Impact Evaluation Dossier

IMPACT OF THE PROPOSAL ON ENTERPRISES, and, in particular, on small and medium size enterprises (SME)

Title of the proposal : Directive by the Parliament and Council concerning common rules for the development of Community postal services and the improvement of quality of service.

Document reference number :

Proposal

1. Necessity for the proposed Community legislation

The principal objective of the action envisaged is to guarantee throughout the European Union the long-term provision of a good quality universal service at affordable prices, accessible to all, whose financing is assured over the long term. In particular, the alignment of conditions governing the supply of postal services and the removal of legal and technical barriers to cross-border trade, are obligations which are incumbent on the Community in order to achieve the internal market.

Member States have at their disposal relatively less effective means to achieve rapid results in the attainment of this objective, especially as regards the improvement of cross-border mail and in the area of technical standardisation. The only alternative to Community legislation would be a system of bilateral agreements which would be difficult to achieve between all Member States.

Should Member States take unco-ordinated action, the smooth operation of the internal postal market could be compromised.

Failure to take action at Community level would result in a widening of the gap between situations which are already highly divergent and would make it more difficult for the internal market to function. In addition, it cannot be excluded that a two-speed Europe in postal services would be the result : a Europe of the North with relatively efficient services and a Europe of the South offering users an inadequate level of service.

Equally, such a failure would have significant indirect effects on other economic sectors, which are particularly dependent on postal services, and would be detrimental to social and economic cohesion. In particular, the social role of postal services in less-favoured regions, as well as their role in regional development cannot be ignored.

Impact on companies

2. Who will be affected by the proposal ?

The proposed directive seeks to introduce harmonised provisions concerning the universal postal service and those services likely to be reserved to providers of universal service, improvement in the quality of service, and the promotion of technical standardisation.

The planned measures thus form a global approach seeking for the first time to establish at Community level, a universal postal service as well as a progressive liberalisation of the market and its opening-up to competition, which must be implemented in stages.

The proposed directive would require those Member States which currently do not have strict rules on universal service and service quality, to place obligations on providers of universal service.

This is of particular importance to individual users and companies which, in the absence of a correctly functioning basic postal service, have to fall back on express services and thus pay more in order to benefit from a sufficiently rapid and reliable service. This risk is higher for users whose collection points for mail are far from principal business centres, are located in less-favoured regions of the Member States, or in peripheral regions of the Community.

3. What measures should enterprises take to be in conformity with the proposal?

Member States will identify the universal service providers, will specify the obligations and rights, and will supervise the competitive postal sector. The Commission will be informed of the operators identified as providers of universal service.

4. What economic effects may the proposal be expected to have ?

The adoption of a clear and coherent framework for harmonisation measures in the postal sector, together with a gradual liberalisation, will provide the necessary degree of legal security for investment and economic development of the sector. The gradual opening to competition, which will act to stimulate productivity in certain Member States, may lead to a reduction in the staffing levels of public operators charged with providing universal service.

On the other hand, moves towards liberalisation will stimulate the offer of and requirements for, open service provision and freedom to innovate, which will translate into the creation of employment in the liberalised sector.

The proposed directive does not contain specific actions aimed at SMEs, which, however, may benefit from market opening and play their role in the development of the sector.

5. Consultation

In June 1992, the Commission published a Green Paper on the development of the single market for postal services¹. This document has permitted the identification of major objectives which should be the subject of a Community initiative in the postal sector.

A broad public consultation has allowed the views of all concerned parties to be heard : representatives of national governments, users and consumers, operators, staff unions, etc. (see list in annex).

One year later, in June 1993, the Commission presented to the European Parliament and the Council the results and orientations which resulted from the consultation in a Communication on guidelines for the development of Community postal services². A broad consensus formed on the need for Community action in the following areas :

- * definition of universal service, and a listing of the services likely to be reserved;
 - * common criteria for access (non-discrimination, transparency);
 - * common specifications for service quality, at least in the field reserved to providers of universal service;
 - * technical standardisation.
- In March and April 1994, a new consultation on the proposal for a regulatory framework for postal services in the European Union, was organised in the form of hearings. The following organisations were consulted :
- * The Mail Users Association (MUA)
 - * European Express Organisation (EEO)
 - * Internationale du Personnel des Postes, Télégraphes et Téléphones (IPTT)
 - * EUROFEDOP
 - * Federation of European Direct Marketing (FEDIM)
 - * Bureau Européen des Unions de Consommateurs (BEUC)
 - * Service Public des Consommateurs (SPC)
 - * SOGP (Senior Official Group for Posts)

¹ COM(91) 476 final.

² COM(93) 247 final.

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

A. WITHIN THE EEC⁽¹⁾

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)

⁽¹⁾ 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
- Unión 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 - Asociación Profesional de Empresas de Reparto y Manipulado de Correspondencia
- Asociación española de Marketing Direct
- Association Française des Banques
- Barclays Bank Plc
- BDZV - Bundesverband deutscher Zeitungverleger
- Belgische Vereniging 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'Ile 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 Beamtenbund
- 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

1. STATES

- Ministry Transport Communication (Suède).
- Gouvernement Suisse

2. OPERATORS

- Post Finland
- PTT Suisses

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