

Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council on cross-border parcel delivery services’

(COM(2016) 285 final — 2016/0149 (COD))

(2017/C 034/16)

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Referral	European Parliament, 9.6.2016 Council of the European Union, 21.6.2016
Legal basis	Article 114 of the Treaty on the Functioning of the European Union <i>(COM(2016) 285 final — 2016/0149 (COD))</i>
Section responsible	Single Market, Production and Consumption
Adopted in section	4.10.2016
Adopted at plenary	19.10.2016
Plenary session No	520
Outcome of vote (for/against/abstentions)	212/0/8

1. Conclusions and recommendations

1.1. A number of studies commissioned by the European Commission have shown that cross-border parcel delivery tariffs, particularly for individuals and SMEs, are sometimes close to five times higher than the domestic equivalent and that these differences cannot be explained by labour or other costs in the destination country. This means that consumers and e-retailers cannot take full advantage of the single market.

1.2. The EESC recognises that it is now essential that the Commission take further action to ensure that all e-retailers and consumers, and particularly individuals and SMEs in remote areas, can finally benefit from cross-border parcel delivery services that are accessible, high quality and affordable.

1.3. The Commission intends to address excessive delivery tariffs through the regulation under consideration here, which, however, applies only to universal service providers that provide parcel delivery services.

1.4. The EESC fears that the measures proposed in this regulation, notably the introduction of transparency on tariffs and terminal rates, the publication of reference offers, and assessment of the affordability of tariffs — measures that are undoubtedly needed — may, in the absence of additional measures, not be enough and do little to encourage the cross-border parcel delivery services concerned to charge reasonable tariffs.

1.5. The EESC regrets that the Commission is shelving any more stringent measures until the end of 2018 as it waits to see whether the situation has improved by then. The Commission, however, does not give any indication of its future plans if the improvement it hopes for does not come to pass.

1.6. The EESC calls on the Commission to take the same approach it took to roaming charges in mobile communications, and, at the very least, make a final urgent appeal to all cross-border parcel delivery services to lower their tariffs, and announce now that, if that does not happen, it will intervene by means of a regulation and a cap on tariffs.

1.7. With regard to the assessment of affordability, for many years now, the EESC has been calling for clarification of the concept of affordable services of general economic interest and for legislative measures to be introduced requiring Member States to define indicators to establish the affordability of these services. It therefore sees the provisions of this regulation as an initial step in the right direction, on the understanding that such an assessment must, if necessary, be followed by appropriate measures.

2. Delivery services in e-commerce

2.1. Physical delivery of goods ordered online is one of the key elements for e-commerce growth. Within the European Union, cross-border e-commerce is developing much more slowly than national e-commerce. For example, in 2014 — to widely varying degrees across the Member States — only 15 % of consumers bought online from other EU countries, while 44 % did so in their own country.

2.2. The tariffs and the procedures for and quality of the physical delivery of goods ordered online, along with the conditions for potential return of the parcel, are among the factors which influence a consumer's decision to place an order online. The satisfaction of an online buyer thus depends partly on their delivery experience. Access to efficient, affordable delivery solutions is particularly important for SMEs, micro enterprises and individual consumers located in remote or outlying areas.

2.3. Parcel delivery up to a weight of 31,5 kg is a fast-expanding service in many Member States. Numerous operators have developed solutions to better meet their clients' expectations, offering a whole range of ancillary services such as standard or deferred, express or same-day delivery, parcel tracking, proof of delivery, choice of delivery location, parcel points, automated parcel machines, registered post, declared value, etc., while postal items under 2 kg — estimated to account for 80 % of post generated by e-commerce — is often considered to be a 'small parcel' and treated as letter post.

2.4. Delivery of parcels weighing up to 10 kg — which can be increased to 20 kg — is covered by a universal service obligation whereby Member States have to ensure provision of an affordable basic national and cross-border service for all users throughout the country.

2.5. The e-commerce market is extremely varied. It is often dominated by several large e-retailers which generate a very large number of parcels every day and which are therefore very well equipped to negotiate tariffs and shipping conditions with parcel delivery operators, which are under pressure to agree to extremely advantageous 'negotiated' tariffs and specific delivery conditions. These e-retailers often bear the costs of parcel delivery, even across borders, themselves. Only a few large parcel distributors can compete on either of these 'negotiated' national or cross-border markets, while, in addition, for the cross-border market it is important to have access to an international distribution network.

2.6. However, these opportunities do not exist at present for smaller or infrequent cross-border online purchases or for individual senders, including many SMEs; delivery services do not benefit from negotiated tariffs and only have access to an international distribution network at high prices, to the extent that, ultimately, the end consumer often has to pay excessive delivery prices. In such cases, cross-border delivery tariffs can be three to five times higher than the domestic equivalent⁽¹⁾ and these differences cannot be explained by labour or other costs in the destination country. Examples of inflated prices and substantial discrepancies in the two-way relationship between various Member States are documented in the Commission's impact assessment (SWD(2016) 166 final).

2.7. The Commission has been concerned with this issue for years and has issued a number of communications on the subject:

— COM(2011) 942 final: A coherent framework for building trust in the Digital Single Market for e-commerce and online services,

— COM(2012) 698 final: Green Paper — An integrated parcel delivery market for the growth of e-commerce in the EU,

⁽¹⁾ Copenhagen Economics, E-commerce and delivery: An integrated parcel delivery market for the growth of e-commerce in the EU (COM(2012) 698 final).

- COM(2013) 886 final: A roadmap for completing the single market for parcel delivery — Build trust in delivery services and encourage online sales,
- COM(2015) 192 final: A Digital Single Market Strategy for Europe.

2.8. Its aim was to develop solutions which would better meet consumers' expectations.

2.9. As these measures have only been partly successful, the Commission has been forced to issue the regulation under consideration, supported by an accompanying document (SWD(2016) 167 final), an annex (COM(2016) 285 final) and a bulky 289-page impact assessment (SWD(2016) 166 final).

3. Content of the proposal for a regulation

3.1. Improving cross-border parcel delivery services is one of the measures provided for in the Digital Single Market strategy for Europe, aiming to improve access for consumers and businesses to online goods and services across the EU.

3.2. The proposed measures include:

- making markets work more effectively by (a) making the regulatory oversight of the parcels markets more effective and consistent; and (b) encouraging competition in the field of cross-border parcel delivery services,
- increasing the transparency of tariffs and terminal rates in order to (a) reduce unjustifiable tariff differences; and (b) lower the tariffs paid by individuals and small businesses, especially in remote areas,
- assessment by the national regulatory authority of the affordability of delivery tariffs,
- transparent and non-discriminatory access to the services and infrastructure necessary for the provision of cross-border parcel delivery services.

4. General comments

4.1. Given that the various initiatives taken by the Commission — including the 2012 Green Paper on *An integrated parcel delivery market for the growth of e-commerce in the EU* and a 2013 roadmap for completing the single market for parcel delivery. *Build trust in delivery services and encourage online sales* ⁽²⁾ — have yielded only meagre results as regards cross-border tariffs, it is now essential that the Commission take further action to ensure that all e-retailers and consumers, and particularly individuals and SMEs in remote areas, can finally benefit from cross-border parcel delivery services that are accessible, high quality and affordable.

4.2. The study carried out by the University of St Louis in Brussels concluded that universal service providers' published cross-border parcel prices paid by individuals and small businesses were almost five times higher than their domestic equivalents, while the Copenhagen Economics study noted that other operators' prices were three to five times higher than their domestic equivalents, and these differences cannot be explained by labour or other costs in the destination country.

4.3. The EESC therefore finds that the prices charged to individuals and small business are excessive, irrespective of the parcel delivery service. The Commission intends to address this problem by obliging national regulatory authorities to assess the affordability of cross-border delivery tariffs.

4.4. The EESC welcomes the fact that, in order not to lose any more time, the Commission has opted for a regulation. It is concerned, however, that the measures proposed in this regulation will again be ineffective. Limiting its ambition to introducing transparency of tariffs and terminal rates, the publication of reference offers, and assessment of the affordability of tariffs — measures that are undoubtedly needed — may, in the absence of additional measures, do little to encourage the delivery service providers concerned to charge reasonable prices.

⁽²⁾ OJ C 451, 16.12.2014, p. 51.

4.5. The EESC regrets that the Commission is shelving any more stringent measures until the end of 2018, pending an evaluation report on the application of this regulation. In this report, the Commission intends to assess whether the affordability of cross-border parcel delivery services has improved, and whether transparent and non-discriminatory wholesale cross-border access has been granted by universal service providers providing parcel delivery services. However, the Commission does not give any indication of its future plans should the aforementioned improvement and non-discriminatory access not come to pass.

4.6. The EESC would have preferred the Commission to take the same approach that it took to roaming charges in mobile communications, and, at the very least, make a final urgent appeal to all cross-border parcel delivery services to lower their prices, and announce now that, if that does not happen, it will intervene by means of a regulation and a price cap.

4.7. Moreover, the regulation's proposals on transparency of tariffs and terminal rates, publication of a reference offer, assessment of the affordability of tariffs and transparent, non-discriminatory cross-border access apply only to universal service providers which provide parcel delivery services.

4.8. However, in the total parcel delivery market, the share of universal service providers varies from 10 % (Bulgaria, Spain, United Kingdom, Italy) to 25 % (Czech Republic, Denmark, France, Estonia), while only a small percentage (5 to 10 %) of these parcels are covered by universal service obligations. Thus, the regulation under consideration addresses only a small section of the market, which nevertheless is essential for consumers and SMEs in remote areas without other alternatives.

4.9. With regard to the assessment of affordability, for many years now, the EESC has been calling for clarification of the concept of affordable services of general economic interest and for legislative measures to be introduced requiring Member States to define indicators to establish the affordability of these services ⁽³⁾. It therefore sees the provisions of this regulation as an initial step in the right direction, on the understanding that such an assessment must, if necessary, be followed by appropriate measures.

4.10. However, the assessment provided for in this regulation will be confined to the tariffs for the shipping categories included in the public list of cross-border tariffs provided for in the annex to the regulation, i.e. parcels weighing 0,5, 1, 2 or 5 kg (with or without track and trace). The EESC believes that this assessment should be extended to 10 kg, 15 kg and 20 kg parcels, again with a view to possible future regulation of cross-border parcel delivery tariffs.

Brussels, 19 October 2016.

The President
of the European Economic and Social Committee
Georges DASSIS

⁽³⁾ OJ C 177, 11.6.2014, p. 24.