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P8_TA(2016)0357

Application of the Postal Services Directive**European Parliament resolution of 15 September 2016 on the application of the Postal Services Directive (2016/2010(INI))**

(2018/C 204/18)

The European Parliament,

- having regard to Articles 49 and 56 of the Treaty on the Functioning of the European Union (TFEU) on the freedom of establishment and the freedom to provide services within the Union,
- having regard to Articles 101 and 102 TFEU on the competition rules applicable to undertakings,
- having regard to Article 14 TFEU,
- having regard to Protocol (No 26) of the TFEU on services of general interest,
- having regard to Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service ⁽¹⁾, as amended by Directives 2002/39/EC and 2008/6/EC (hereinafter 'the Postal Services Directive'),
- having regard to the Commission decision of 10 August 2010 establishing the European Regulators Group for Postal Services ⁽²⁾,
- having regard to Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC ⁽³⁾,
- having regard to Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC ⁽⁴⁾,
- having regard to Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council ⁽⁵⁾,
- having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ⁽⁶⁾,
- having regard to the Commission report of 17 November 2015 on the application of the Postal Services Directive (COM(2015)0568), and to the accompanying staff working document (SWD(2015)0207),

⁽¹⁾ OJ L 15, 21.1.1998, p. 14.

⁽²⁾ OJ C 217, 11.8.2010, p. 7.

⁽³⁾ OJ L 165, 18.6.2013, p. 63.

⁽⁴⁾ OJ L 165, 18.6.2013, p. 1.

⁽⁵⁾ OJ L 304, 22.11.2011, p. 64.

⁽⁶⁾ OJ L 281, 23.11.1995, p. 31.

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- having regard to the Commission communication of 6 May 2015 entitled ‘A Digital Single Market Strategy for Europe’ (COM(2015)0192),
 - having regard to the Commission communication of 16 December 2013 entitled ‘A roadmap for completing the single market for parcel delivery: Build trust in delivery services and encourage online sales’ (COM(2013)0886),
 - having regard to the Commission Green Paper of 29 November 2012 entitled ‘An integrated parcel delivery market for the growth of e-commerce in the EU’ (COM(2012)0698),
 - having regard to the Commission communication of 11 January 2012 entitled ‘A coherent framework for building trust in the Digital Single Market for e-commerce and online services’ (COM(2011)0942),
 - having regard to the Commission White Paper of 28 March 2011 entitled ‘Roadmap to a Single European Transport Area — Towards a competitive and resource efficient transport system’ (COM(2011)0144),
 - having regard to its resolution of 4 February 2014 on an integrated parcel delivery market for the growth of e-commerce in the EU ⁽¹⁾,
 - having regard to its resolution of 19 January 2016 on Towards a Digital Single Market Act ⁽²⁾,
 - having regard to Rule 52 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinions of the Committee on Employment and Social Affairs and the Committee on the Internal Market and Consumer Protection (A8-0254/2016),
- A. whereas the postal market is still an area of the economy with strong prospects for growth and increasing competition, even though between 2012 and 2013 letter post services shrank by 4,85 % on average in the EU according to the European Commission Postal Statistics Database, which is in line with the decline in letter volume during the last 10 years, in large part owing to the process of electronic substitution;
- B. whereas the implementation of the Postal Services Directive helped to open up domestic markets for competition in letter markets, but development has been slow and did not lead to the accomplishment of the internal market for postal services, the sector in most Member States still being dominated by the universal service providers (USPs);
- C. whereas the use of ICT has been continuously boosting the postal services sector by providing opportunities for innovation and allowing the market to expand;
- D. whereas new competitors have mainly focused on large business customers and highly populated areas;
- E. whereas the parcel delivery market is a highly competitive, innovative and fast-growing sector which attained growth of 33 % between 2008 and 2011 in terms of volume, and whereas e-commerce is a driving factor for market growth;
- F. whereas the widespread use of remotely piloted aircraft systems (drones) provides for new, rapid, environmentally friendly and efficient modes of parcel delivery, especially in low population density, isolated and distant areas;

⁽¹⁾ Texts adopted, P7_TA(2014)0067.

⁽²⁾ Texts adopted, P8_TA(2016)0009.

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- G. whereas consumers and small businesses report that problems with parcel delivery, in particular high prices, prevent them from selling more to, or buying more from, other Member States;

I. *Universal service: enhancing the independence of national regulatory authorities*

1. Notes that while the minimum standards associated with the universal service obligation (postal items up to 2 kg, postal packages up to 10-20 kg, registered and insured items, and other services of general economic interest such as newspapers and periodicals), regulated in the EU in particular by guaranteeing an essential minimum range of services in every part of the EU, without preventing Member States from applying higher standards, generally meet customers' demands, certain detailed requirements, which are not subject to regulation at EU level, are rightly set by the national regulatory authorities (NRAs) entrusted with this task;

2. Notes that the primary task of NRAs is to meet the overall objective of the Postal Services Directive to ensure the sustainable provision of the universal service; calls on the Member States to support the role and independence of NRAs through high professional qualification criteria for staff, with fair and non-discriminatory access to in-service training guaranteed, fixed terms of office and legal protection against dismissal without cause, and, in case of dismissal, with an exhaustive list of reasons justifying such dismissal (e.g. a serious violation of the law), so that NRAs can fulfil their obligations arising from the Postal Services Directive in a neutral, transparent and timely manner;

3. Considers that any expansion of the role of NRAs under new regulation in the parcels market should tackle 'cherry picking' in the deliveries sector and establish minimum standards for all operators to ensure fair and equal competition;

4. Believes that obligations of independence can only be fulfilled if NRAs' regulatory functions are structurally and functionally separated from activities associated with ownership or control of a postal operator; considers that senior NRA officials should not be permitted to work for the public postal operator or other interested parties for at least six months after leaving the NRA, with a view to preventing conflicts of interest; considers that, for this purpose, Member States should introduce legislative provisions allowing the imposition of sanctions for violating the aforementioned obligation;

5. Asks the Commission to facilitate and reinforce cooperation and coordination between NRAs with a view to greater efficiency and interoperability in cross-border delivery and to monitor the regulatory activities of NRAs — including the provision of universal services — in order to ensure a uniform approach to the application of European law and the harmonisation of the postal market within the EU;

6. Recalls that the Postal Services Directive provides Member States with the flexibility necessary to address local specificities and to ensure the long-term sustainability of universal service provision while meeting the needs of users and adapting to the changes in the technical, economic and social environment;

7. Notes the Commission's confirmation that the Postal Services Directive does not require any particular ownership structure for USPs; believes that USPs should not be prevented from investing and innovating in the provision of efficient and quality postal services;

II. *Maintaining universal service and enabling fair competition: access, quality of service and user needs*

8. Considers that the trend is moving towards a narrower scope for the universal service obligation (USO); encourages the promotion of consumer choice in order to define the delivery of letters within the range of the USO; stresses, therefore, the importance of providing a high-quality universal service under affordable conditions, comprising at least five delivery and five collection days a week for every citizen; notes that with a view to ensuring the long-term sustainability of the

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universal service, and given their specific national characteristics and geographical situations, some Member States allow a degree of flexibility; recalls that whereas some flexibility is allowed by the Directive, this should not be exceeded by national regulations;

9. Recalls that the universal service must evolve in response to the technical, economic and social environment and to the needs of users, and that the Postal Services Directive provides Member States with the flexibility necessary to address local specificities and to ensure the long-term sustainability of universal service provision;

10. Considers that geographical coverage and accessibility to universal services for parcel deliveries can and must be improved, especially for citizens with disabilities and reduced mobility and those in remote areas; stresses the importance of ensuring barrier-free accessibility to postal services and the consistency of the Postal Services Directive with the Accessibility Act;

11. Notes that in many Member States the decline in letter volumes is making the provision of universal postal services more and more difficult; recognises that many designated USPs use revenues from non-USO commercial activities, such as financial services or parcel delivery, to finance the USO;

12. Notes that there are a number of instances of unfair competition in the postal sector and calls on the responsible authority to sanction any misconduct;

13. Calls on the Member States and the Commission to monitor the provision of postal services as a public service in order to ensure that public service compensation is implemented in a manner that is proportionate, transparent and fair;

14. Stresses how important it is that prices within the scope of the USO must be affordable and provide access to all users to the services provided; recalls that NRAs must clearly define affordability for an item of correspondence and that Member States may maintain or introduce free postal services for blind and partially sighted persons;

15. Calls on the Member States to maintain territorial and social cohesion and the associated quality requirements and notes that Member States may already adapt some specific features to accommodate local demand by applying the flexibility provided for in Directive 97/67/EC; recognises that postal networks and services are of great importance to EU citizens; calls on the Member States to use State aid tools only in exceptional cases, in accordance with EU competition policy, and in a transparent, non-discriminatory and appropriate manner, and to ensure that customers continue to have access to postal services, by guaranteeing, where appropriate, a minimum number of services at the same access point; calls on the Commission to ensure that compensation funds are proportionate and that public procurement procedures are transparent and fair;

16. Asks the Member States to ensure that market opening continues to benefit all users, in particular consumers and small and medium-sized enterprises, by closely monitoring the market developments; encourages further improvements in the speed, choice and reliability of services;

17. Calls on the Commission to improve the present definition of universal service in order to stipulate a minimum guaranteed level of service for consumers, to make the USO fit for evolving markets, to take into account market changes in different Member States and to foster economic growth and social cohesion; maintains, however, given that each market has its own specific constraints, that operators should be allowed a measure of flexibility in organising the universal service; calls on the Member States to implement licensing procedures according to the current Directive and further harmonise licensing and/or notification procedures in order to reduce unjustified barriers to entry into the internal market, without creating any unnecessary administrative burdens;

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18. Emphasises that the introduction of conciliation procedures that are easily accessible and affordable has interesting potential with regard to achieving an easy and short-term solution for both operators and consumers in cases of dispute; encourages the Commission to introduce legislation on postal consumer rights;
19. Urges the Commission, in drafting legislative proposals, to take account of digitalisation and the opportunities it brings, the specific characteristics of the Member States and overall trends in the postal and parcel markets;
20. Recalls that VAT exemption for postal services has to be applied in a way that minimises distortions of competition between former monopolies and market entrants, whilst guaranteeing long-term sustainability of the USO, so that all operators can continue to provide postal services across Europe; notes that guaranteeing VAT exemption only for the incumbent service provider for services other than universal service, when other service providers are subject to VAT, is a significant obstacle to the development of competition in the market;
21. Calls on the Commission to ensure a common level playing field among providers, both for traditional mail and the fast-expanding field of parcel delivery and between postal incumbents and new entrants; suggests that the Commission should be entitled to assess whether tender procedures impose an unfair burden;
22. Calls on the Member States to consider that former incumbents must be neither advantaged by state support nor disadvantaged by their public service obligation or legacy costs vis-à-vis new entrants;
23. Considers competition and the market to be drivers for innovation and the development of value-added services and asks the Commission to support, by taking into account the principle of proportionality and economic justification, innovation in the sector in order to promote value-added services such as track-and-trace, pick-up/drop-off locations, flexible delivery time, suitable return procedures and access to easy recourse procedures; recognises the work already undertaken and the investments already made by postal operators in this area;
24. Calls on the Commission to monitor closely Member States' support of USOs and other legacy costs of postal services providers according to the main set of rules for State aid control of services of general economic interest (2012 Framework on Services of General Economic Interest);
25. Considers that service quality should be judged in the light of the standards set out in the Directive and reflect consumers' needs in order to increase interoperability and improve service quality;
26. Notes that the European postal operators have invested in upgrading their network interconnectivity and introduced innovative, user-friendly services to consumers and SME e-retailers who use cross border e-commerce; considers that these investments should be protected with fair access conditions;
27. Reiterates its support for the Postal Users Forum, which was established in 2011 by the Commission and aims to facilitate discussion between users, operators, trade unions and other stakeholders on issues including end-user satisfaction, business-user requirements and how to improve e-commerce delivery; is of the opinion that the Forum is very useful and should meet regularly in order to identify potential solutions to improve postal and parcel delivery services;

III. *The cross-border dimension and e-commerce*

28. Asks the Member States to ensure the interoperability and upgrading of postal networks and, where several USPs exist, to prevent impediments to the transport of postal items and to allow small and medium-sized enterprises access to the financially attractive services in cross-border deliveries by increasing the transparency of the tariffs applied by the postal operators;

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29. Considers that parcel delivery is a highly competitive, innovative and fast-growing sector; notes the importance of affordable and reliable parcel delivery services in realising the Digital Single Market; recalls that opening this sector up to competition has boosted the development of value-added services such as track-and-trace, pick-up/drop-off locations, flexible delivery time and return procedures; consequently believes that any new regulation in this market must be proportionate and supported by sound economic evidence;

30. Notes in this respect that all advantages offered by new technologies, including drones, should be considered, since they could ease delivery services, especially in low-populated, isolated or remote areas, while also taking into account safety aspects and environmental sustainability;

31. Considers that the dynamics of the highly competitive, innovative and fast-growing parcel market should not be hampered by unjustified regulation and unnecessary bureaucracy;

32. Calls on the Commission to develop market oversight of parcel delivery where necessary, in a performance-based direction, and to encourage, without undermining the competence of the NRAs, affordability of cross-border tariffs and identify unfair anti-competitive and monopolistic practices; encourages an increase in the transparency of the tariffs and service availability, in particular for retail customers and small and medium-sized enterprises;

33. Welcomes the Commission's proposal on transparent and non-discriminatory cross-border access to all network elements, associated facilities, relevant services and information systems of postal networks for third parties; believes that efficient use of infrastructure could bring economic gains for USPs and increase competition in cross-border delivery;

34. Calls on the Commission and the Member States to collect more data on the parcel delivery market in order to better assess the development of this economic sector and its structural development;

35. Stresses the importance of improving the quality of the service and the protection of consumers' rights in order to restore an adequate level of consumer confidence; considers that greater transparency as regards prices, delivery options, modalities and quality/performance (speed, geographical coverage, delays and the handling of damaged or lost items), as well as trust labels, could address the lack of confidence;

36. Asks the Member States and the Commission to improve transparency as regards public pricing conditions and service performance (delivery options, final delivery, reliability), especially when it comes to e-commerce; asks for transparency checks where prices are not controlled by competition or are unreasonably high; stresses the importance of reducing the gap between domestic and cross-border prices and supports measures that increase consumer awareness and capacity to compare domestic and cross-border price structures; calls on the NRAs to assess the affordability of prices on some cross-border routes, paying particular attention to inordinate disparities;

37. Calls on the Commission to promote the strategy on e-commerce and cross-border parcel delivery; suggests facilitating interoperability along the delivery chain and developing publicly available best practices for e-retailers;

38. Maintains that complaint procedures and dispute settlement arrangements need to be simple and effective and apply on a cross-border basis; highlights that the Alternative Dispute Resolution (ADR) Directive and the online platform established by Regulation (EU) No 524/2013 on online dispute resolution for consumer disputes may benefit consumers and businesses in cross-border transactions; is concerned that, despite the July 2015 transposition deadline, only 24 Member States have so far transposed the ADR Directive and consequently millions of European citizens are being deprived

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of this important redress mechanism; believes that the European Small Claims Procedure (ESCP) could be a useful recourse for consumers and businesses in cross-border transactions; calls for further mechanisms for adequate consumer redress in postal services to be considered, if necessary;

39. Encourages the Member States to support cost reductions by improving the interoperability of parcel dispatch and collection processes, and to develop European standards for integrated tracking systems; appreciates the progress made by the industry in serving consumers and SMEs across the borders by enhancing interoperability and track-and-trace systems; encourages the establishment of open tools and service quality indicators so that consumers can compare offers from different service providers; welcomes the progress which confirms the market approach supported and requested by Parliament; encourages the creation of platforms for cooperation and information exchange between delivery operators in order to create a wider choice of delivery options and return solutions for consumers;

40. Calls on the Commission and the Member States to investigate the functioning of cross-border parcel delivery in accordance with the various rules resulting from either international trade agreements (e.g. the rules of the Universal Postal Union (UPU) and the International Civil Aviation Organisation (ICAO)) or EU law (e.g. the Union Customs Code), especially the USO, which can be misused and create market distortion; encourages the European Union to apply for membership of the Universal Postal Union in order to achieve a fully integrated European postal sector;

41. Supports the principle of compiling statistics on the parcel delivery market in order to gain a clearer picture of the leading market players, the competition pattern and market trends;

IV. *Social dimension: improving employment*

42. Calls on the Member States to guarantee all workers in the postal services sector decent working conditions, including the required level of health and safety protection at work, regardless of the size and type of the company which employs them, the place of employment or the underlying contract; stresses the importance of health and safety at work, particularly in the light of demographic changes and the high level of mobility of workers in the postal sector; welcomes the cooperation between the European Agency for Safety and Health at Work (EU-OSHA) and the sectorial social partners on the 'Healthy Workplaces Manage Stress' campaign;

43. Notes that in recent years technological advances and digitalisation have transformed the postal services sector and that the modernisation and diversification of postal services has had a major impact on working conditions and employment in the sector;

44. Takes note that the liberalisation of the postal sector has, in some Member States, led to substantial differences in working conditions and wages between USPs and competing companies providing specific postal services; considers that increased competition should not generate illegal social practices or lead to the degradation of working conditions;

45. Notes that, if postal undertakings have the opportunity to develop and expand their production innovatively, particularly in peripheral areas, this should also have the effect of promoting employment;

46. Notes that the number of part-time workers, agency workers and self-employed people in the sector has increased and that the general trend is towards more flexible employment contracts, which in some circumstances can cause precarious employment without adequate protection for employees; welcomes the development of new working time models that enable workers, for example, to improve the balance between family and working life, to complete in-service training or to have the option of working part-time; notes that new, flexible employment contracts must exclude potential risks such as worker overload or pay levels that are not commensurate with performance; stresses, therefore, the need for

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labour market flexibility, on the one hand, and for economic and social security for workers on the other; stresses that lowering labour costs by reducing working conditions and employment standards should not be regarded as flexibility; calls on the Commission and the Member States to monitor activities to tackle bogus self-employment in the postal sector; urges the Member States, more generally, to prevent the flexibility of employment contracts from having a negative impact on workers;

47. Welcomes the important role of trade unions, which in many Member States work together with USPs in an effort to make the transformation of the postal services sector socially sustainable; highlights the importance of strong and independent social partners in the postal sector, an institutionalised social dialogue and the participation of employees in company matters;

48. Stresses the importance of monitoring compliance with mandatory driving and resting times, as well as working hours, in the postal sector; believes that monitoring should take place by means of digital monitoring devices installed in vehicles; recalls that Regulation (EU) No 165/2014 on tachographs in road transport does not apply to vehicles of less than 3,5 tonnes; calls, therefore, for checks on working and rest times to be stepped up; recalls that all tasks in relation to the activity of an employee are to be considered working time; stresses, likewise, the importance of monitoring compliance with European and national legislation regarding the protection of health and safety at work, including conditions in vehicles, for all people involved in postal deliveries, irrespective of their employment status — self-employed, subcontractor, temporary staff member or contract worker;

49. Believes that a balance should be struck between free competition, consumer requirements, sustainability of the universal service and its financing, and the maintenance of jobs;

50. Is concerned about attempts to circumvent existing minimum wage regulations by increasing the workload to an extent which cannot be managed during paid working hours;

51. Welcomes the essential work of the Social Dialogue Committee for the Postal Sector and highlights the project launched by the European social partners entitled 'Managing demographic challenges and finding sustainable solutions by the social partners in the postal sector';

52. Calls on the Commission and the Member States to compile more data on workforce size and working conditions in the postal service sector in order to better assess the actual situation following the complete opening up of the markets and to respond promptly to developments and tackle potential problems; calls on the Commission and the Member States to closely monitor new means of automated postal deliveries and their impact on working conditions and employment, and to assess the need for the modernisation of social and employment legislation, where appropriate, in order to stay abreast of changes in the postal sector; encourages the social partners likewise to update collective agreements where necessary so that high working and employment standards can be ensured;

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53. Instructs its President to forward this resolution to the Council and the Commission.
