

European Commission Public consultation on postal services: part 2

Q1. In relation to the scope of the universal service:

- **What postal services should the universal service include?**
- **What steps should be taken by Member States to ensure that the universal services are clearly defined to reflect the needs of customers?**
- **Should the scope of the universal service products be further harmonised at EU level, or should some elements remain an issue for Member States to determine based on users' needs and market developments?**

ANEC agrees with the definition of universal service (US) given by the European Commission in their Green Paper on Services of General Interest (European Commission COM(2003) 270, May 2003) that the universal service 'establishes the right for every citizen to access certain services considered as essential'. From this understanding we consider that basic postal services should be available to everyone upon reasonable request and at an affordable price. Universal services should include those that are considered essential for everyone in current social and economic conditions, and include services that might not be provided by market forces alone.

ANEC therefore wishes to ensure that any revision of the Postal Services Directive will retain the services specified in the current Directive, European Postal Services Directive 97/67/EC as amended by Directive 39/2002/EC, to form part of the Universal Service (US) as a minimum. Despite the development of competition in the parcels market, ANEC considers that the US should continue to include both national and cross-border services for non priority parcel items up to 20 kilograms and letter service up to the weight of 2 kilograms.

Given there may be some services available in different Member States that consumers value highly (re-forwarding for example), ANEC considers that the revised Directive should allow individual Member States to decide whether services additional to those specified in the Directive should be included in their universal service. However, these additional services should only include those considered to be basic to ensure social inclusion of every citizen, regardless of their income or geographical location. ANEC does not consider that this definition allows services only available to business to be included in the US. However we are aware that this is the case in some Member States and would want the revised Directive to positively preclude the possibility that Member States could include any services such as bulk mail that are only used by businesses in their definition of universal service.

Whilst not part of the US, the current Postal Directive requires that the process of liberalisation should not curtail the continuing supply of certain free services for the blind. ANEC considers that these services should be included in the US in the revised Directive. Whether or not special services are included in the definition of US

or kept as a separate requirement, we think the revised Directive should be more specific in defining what core services should be included in these special services so there is greater uniformity in each Member State than there is at present. We also think consideration should be given as to whether these specific services are appropriate for people with other disabilities and where this is the case, be extended to them.

ANEC considers that it is just as important that these special services are required to be reliable and have a guaranteed speed of delivery in the same way as those provided under the US. We are aware from information received from members of the European Blind Union that the special services they receive are often of a very low quality. We therefore think the Commission should ask CEN TC 331 WG1 to review their current standards (e.g. EN 13850 measurement of transit times for priority mail, EN14508 measurement of transit time for non priority mail and the draft on information available on postal services currently being worked on by WG1) to see if these could also apply to these special services for the blind.

Q2.

- **Are current universal postal service obligations still appropriate?**
- **Should universal postal service obligations be applied uniformly?**

Whilst we are pleased that the Commission recognises that the concept of universal service is a dynamic one and the services it contains will have to be constantly reviewed, we do not think at this stage there are any new postal services that have been developed that need to be included in the revised Directive. However, although quality of service standards have been developed that apply to US currently required, there is no actual reference to require that universal services should be supplied to high quality of service in the Directive. We would like reference to quality of service levels to be included in the revised Directive.

Assuming the second question relates to uniformity across Member States then we think USO should be uniformly applied across all Member States.

Q3.

- **Is a reserved area necessary to maintain a universal service? What are the risks and opportunities to ensuring a universal service in a competitive environment?**

We originally supported the view that postal markets should not be liberalised too quickly in case it damaged the provision of the universal service. However, it seems that this has not occurred in Member States which are more advanced in their liberalisation process. Swedish Post, which was the first to liberalise still has a very high proportion of the market and in the UK where 30% of the market has been liberalised, new licensees still only have less than 1% of the market share. ANEC

therefore does not think it is necessary to maintain a reserved area to ensure the universal service continues to be provided.

Apart from the risk of future funding of the US which we discuss more fully in our answer to Q 5 below, there could be a problem, in those Member States with people living in very remote areas, in continuing to be able to provide a US. However, this could be mitigated by National Regulatory Authorities (NRAs) granting a derogation – fewer deliveries and collections than once every working day for example – as provided for in the Current Directive in Article 3. ANEC is also concerned that the other risk in a competitive environment is the maintenance of postal services access points. There are some concerns among our members that these will be radically reduced once the postal market is liberalised.

Q4.

- **Should a common methodology for assessing the cost of universal service be determined (e.g. following the approach taken in telecoms), and if so, who should determine this? In broad terms what elements should be taken into account in this calculation?**

N/A

Q5. Universal Service Provision- Safeguard mechanisms

- **In the absence of a reserved area, what safeguard mechanisms are needed to ensure the continued ability to provide a universal service that would be appropriate in a liberalised market, equitable to citizens (as both users and taxpayers) and competing market participants, as well as practical and cost effective to administer?**

Whilst we have said above that we do not think there is a need to have a reserved area to safeguard the US, ANEC does consider that some care must be taken to ensure that should the current universal service provider be unable to fund the costs of the US some time in the future, that mechanisms are in place that would enable a levy based on their share of the market to be placed easily on other postal operators in business in a Member State to contribute to a universal postal service fund. We know of one such mechanism, a requirement that any operator must be licensed by the NRA in order to conduct business in a Member State, but there may be other appropriate mechanisms. ANEC thinks this is necessary as we see no prospect in the current political climate in most Member States that governments will be prepared to fund the US out of taxation.

Q6.

- **Should minimum domestic quality of service levels be further harmonised, to what degree of convergence, for which product types, and how should targets be set?**

EN 13850 – Measurement of the transit time of end to end services for single piece priority mail and first class mail is the only standard to have been made mandatory.

Whilst ANEC supports some standards being made mandatory, we have been concerned at the effect this has had on the attitude of universal postal operators to the standardisation process. We have detected much more caution from them in their input into the standardisation process which we think arises from a fear on their part that other standards may be made mandatory as well. We are concerned that this may have led to consensus only being reached on standards that require a lower level of performance than may have been the case if postal operators were not concerned that they may also be made mandatory in future. So for example, despite many of them being part of the CEN TC 331 WG1 that drafted this standard and part of their National Standards Bodies that agreed to it, there have been recent representations made to CEN TC 331 by universal postal operators about the costs and complexity of EN 14012- measurement of complaints and redress procedures. As a result of these representations, the standard is being revised well before the date it would normally be revised under the CEN procedures. ANEC has some concerns that this revision may result in a lowering of the quality of the standard. We therefore have serious reservations about making further standards mandatory.

Q7.

- **Should complaint and redress procedures be strengthened at EU level; if so, what proportionate intervention would be needed, taking into account experience with existing approaches?**

It is extremely important for consumers that postal operators have adequate and responsive complaints and redress procedures. ANEC considers that a requirement for universal postal operators to have complaints and redress procedures that are easily accessible to the public, including those with disabilities, should be added to the requirements contained in Article 4 in the current Directive. Whilst, as stated above, we have some reservations about the revision, we consider that the standardisation of complaints and redress procedures has been a suitable mechanism for addressing this issue.

However, despite having a standard, we are concerned that problems for consumers may arise with the introduction of multiple operators. Cross border complaints are often dealt with in unsatisfactory terms from the point of view of the consumer since it is difficult to establish whether it was the fault of the domestic or cross border postal operator with neither taking responsibility. We do not want this to happen in the case of multiple operators for similar reasons. We are expecting the revision of the complaints and redress standard to take into account the multiple operator situation. Assuming it does, it will be important that NRAs pay particular attention to the reports submitted to them on complaints and redress to ensure that multiple operator situations are not causing particular difficulties for consumers.

Q8.

- **What role should standardisation play in the future postal marketplace?**

The requirement in Article 20 of the current Directive that the European Committee for Standardisation should be entrusted to draw up technical standards applicable to

the postal sector is unusual. Having participated in this standardisation process, ANEC thinks it has been extremely effective in drawing up independent quality of service measures, particularly those relating to the areas of greatest interest to consumers, the US. A recent survey conducted by the European Group of Postal Regulators, CERP, has found that Member States consider the existence of these quality of service standards has improved the level of service provided by the universal postal operators. Given that we see little prospect that liberalisation in postal services will bring any competition for the domestic consumer in the foreseeable future, it will continue to be particularly important that quality of service standards are developed to cover universal services where appropriate and that performance of the provision of these services should be monitored, preferably by using the standards, by the regulators in the Member States. ANEC considers that the development of quality of service standards should be added to the new standardisation programme for any services that are added to the Universal Service provision in the amended Directive.

However, there are areas where standardisation is not appropriate. For example damage to items is an area of high interest to consumers and we have submitted this as a new work item to CEN TC 331. However, we are persuaded that it is not possible to draw up a measurement standard for damaged items, so standardisation is inappropriate to ensure quality of service with regard to damaged items. For completely different reasons ANEC considers that standardisation is an inappropriate method to deal with integrity of mail. This is of course an extremely important issue but should be dealt with in legislation (such as the Directive) and not through the voluntary standardisation process. It should also apply to all postal operators and not just the universal standards postal operators.

Q9.

- **Respondents are invited to comment on these options, including, where appropriate the nature of conditions that may be associated with authorisations, (in particular universal service obligations), to whom associated conditions should be applied, and how they are to be enforced?**

N/A

Q10.

- **Building on the Postal Directive's objectives, are more precise definitions needed concerning the independence, role and responsibilities of NRA's?**

ANEC has concerns that many Directives, and not just the Postal Services Directive are not implemented in the same way in all Member States which we consider leads to a non-level playing field which could distort competition. It is important that any Directive gives clear guidance as to what is expected and we think the Directive needs to have greater clarity as to what is meant by the independence, roles and responsibilities and we would also add powers of NRAs. For example, independence should include independence from Government. However, it will also be necessary

for the Commission to enforce the rules laid down in the Directive if there is to be consistency of regulation across all Member States.

Q11.

- **Should the detailed definition of regulatory tasks and the sharing of best practice be facilitated by setting up a European Group of Postal Regulators, or progressed through existing bodies?**

Whilst we think this may be desirable – and we think that although it has a wider remit than the European Union, the European Committee on Postal Regulation, CERP which already exists could undertake the role of sharing best practice – ANEC does not think such a body would, on its own, be able to ensure consistency on regulatory tasks amongst NRAs. We would prefer the revised Directive to have greater clarity.

Q12.

- **Should measures determining the financing of NRA's be prescribed at EU level, or left to Member States to determine?**

ANEC thinks the funding of NRAs should be determined at Member States level provided the way they are funded does not compromise their independence.

Q13.

- **Should the Postal Directive's provisions on downstream access be maintained or is a more detailed mandatory model necessary?**

N/A

Q14.

- **Leaving aside the issue of downstream network access to which elements of the postal infrastructure should equitable access be required, and how should this be remunerated?**
- **Which elements, if any, would best be prescribed at EU level?**

With the introduction of multiple operators we consider all elements should offer equitable access and the revised Directive should require this.

Q15. Cost of coverage:

- **Cost of coverage: should the authorisation for the imposition of uniform tariffs be applicable to all universal service products? How should the decision on uniform tariffs vs. Cost coverage be regulated?**
- **Should the Directive's provisions on terminal dues be maintained?**
- **In the framework of EU competition law, should the postal Directive's provisions for achieving non-discrimination in respect of special tariffs be maintained?**

ANEC considers there should be uniform tariffs for all universal service products otherwise it would be very confusing for consumers. However, we understand that there are extreme circumstances – for example one person living in a very remote area – where this may not be appropriate and that the person concerned may have to pay more than the universal tariff to send and receive postal services. We think that the definition of extreme circumstances which would fall outside the US should be set at a lower level for businesses than for domestic consumers.

Q16. Cost accounting:

- **Are the current cost-allocation principles in the Directive unnecessarily rigid?**
- **Are the cost accounting rules in the Directive too rigid or too open, or insufficiently clear? Should a common cost allocation methodology be made mandatory?**
- **What should be the level of public disclosure of regulatory accounts of universal service providers, and would full market opening change the appropriate level of disclosure?**

ANEC is concerned that different accounting rules operating in different Member States could be anti-competitive. We are particularly concerned about the situation where a monopoly provider in one Member State sets up operations in another Member State. It is particularly important that their accounts for their monopoly operation are kept separate from those where they operate in another country as a non monopoly provider. If this does not happen there is a danger that they may use excess profits from their monopoly operation to subsidise the cost of their services in the Member State where they are not the monopoly provider. We think there should be a common methodology across all Member States to ensure this cannot happen.

Given that we consider it likely that universal service providers will remain monopoly postal providers in the timescale of the revised Postal Services Directive, we do not think it would be appropriate for them to hide behind the ‘commercial confidentiality’ argument as to why they should not publish their regulatory accounts, or indeed their quality of service and complaints and redress results which relate to their provision of the universal service. We would like to see the revised Directive require them to publish this information while they remain a monopoly provider.

Q17.

- **Should price controls be restricted to postal services provided under conditions of market dominance? If so, in broad terms, how should dominance be assessed, at what level, and by whom?**

ANEC considers that price controls should remain for all services where it is judged there is no competition. We consider that the share of the market is not in itself the sole way to judge market dominance. Product differentiation and the scope for new entry must also be taken into account when deciding on market dominance.

Q18.

- **Do you envisage overall economic growth in the postal sector following full market opening and how might this develop over time? What will be the impact on employment?**

Whilst we are aware that there has been a growth in the postal market in recent years, ANEC does not know if there will be further economic growth in the postal services sector. Whilst it is argued that competition engenders innovation which should encourage growth in the sector, we are not sure that liberalisation would necessarily bring growth since we consider the greatest competition for the postal sector could come from the growth in other communication methods such as the internet, digital television and email.

Regardless of growth, from experience in the Member States that have liberalised their services of general interest, we would expect there to be a significant reduction in the number of employees in the postal sector. For example, in the 15 years since it was privatised but not liberalised, UK water companies have more than halved their labour forces despite having more functions to perform.

Q19.

- **What positive or negative social impacts could result from full market opening? How might negative impacts be avoided or limited?**

We are concerned that full competition could affect the number of postal access points that the US postal operators currently support. Post offices are still highly valued, particularly by more vulnerable consumers, and ANEC considers that it is important at the present time that a sufficiently wide network of these continues to be available.

Q20.

- **Please explain the nature of your interest in the sector (or that of your obligation), and in what capacity you are responding to this consultation. Anonymous contributions to Part 2 are not possible.**

This response is submitted by ANEC which was set up in 1995 as an international not-for-profit association under Belgian law. It represents consumer organisations from the European Union Member States and the European Free Trade Association (EFTA) countries. The ANEC General Assembly is composed of one national member per country, nominated jointly by the national consumer organisations in their country. ANEC is funded by the European Commission and EFTA, while national consumer organisations contribute in kind. Its Secretariat is based in Brussels. ANEC is represented on the postal services standardisation committee, CEN TC 331 and its quality of services working group (WG1).

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