

Postal Services Liberalization – Directive 2008/6/EC

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With the publication of Directives 97/67/EC and 2002/39/EC, concerning the postal services, the first steps for the organization and development of the sector as well as for the gradual opening of the market to competition were taken. Based on these Directives and by reason of - more or less - successful adaptation of measures in combination with different factors such as the changing user needs, the differentiation and development of provided services, the introduction of new technologies and mainly because of the international economic environment, the conditions which judge mandatory the further opening of the market to competition were set as the unique and appropriate solution in order to ameliorate and promote the postal services.

The European Community responded to the new challenges by publishing the Directive 2008/6/EC of 20th February amending the Directive 97/67/EC with regard to the full completion of the internal market of Community postal services.

The Directive 97/67/EC is considered having set the conditions and rules for the growth of internal market of community postal services and for the amelioration of provided services. The new Directive has to promote the sector, to improve as well as to integrate the sector to open competition in accordance with the new actual socio-economic demands.

It is beyond any doubt, a crucial decision for the sector, particularly,

for those members states where, on one hand, the applied practice and on the other hand the regulatory framework are in favor of the Universal Service Provider (USP).

Main goal of this Directive is to grant more efficient and high quality services provided by the USP, to all the member states. However, the provisions are not only limited to determine the USP, but they moreover offer to the states (apart from determining one or more USP depending either on different data of the Universal Service (US) or either on the geographical coverage) the opportunity to choose, alternatively and accumulatively, between the provision of the US by market's forces and the provision of services via public procurements.

The main amendment brought by the new Directive is the abolishment of the reserved area and special rights as a means of ensuring that the US is financed. This abolition literally constitutes a big revolution for the postal services, since it leads to liberalization given the fact that the USP becomes one of the courier services providers. Nevertheless, the USP are still holding some kind of privileges that rank them "first among equals".

The privilege of the USP lies in the possibility of members states to maintain the external financing of the residual net costs of the US. The Directive 2008/6 puts an end at the reserved area and special rights but it is appropriate to explicitly clarify the alternatives available in order to ensure the

financing of the universal sector "to that extent that this is needed and is adequately justified" giving to the member states the freedom to choose the alternative.

Concretely, when a member state notices that the US obligations



entail net costs representing an unfair burden on the USP, has the possibility to define a compensation mechanism either by public funds (in this case, the Treaty rules on State aid should be applied) either by cost sharing between services providers and/or users. In the second case, the member states may set up a compensation fund (this possibility was already mentioned at 97/67/EC as well as at L. 2668/1998) which may be funded by service provid-

ers and/or users' fees according to the principles of transparency, non-discrimination and proportionality. The member states have the power to impose to the providers, alternatively, either their contribution to the Fund either alignment with the obligations of the Universal Service. The issue of the license will depend on these conditions.

The deadline for the incorporation of the Directive is the 31st December 2010. However, our

country including other states (i.e. Czech Republic, Cyprus, Latvia, Lithuania, Luxembourg, Malta, Hungary, Poland, Romania and Slovakia) will eventually postpone the implementation of the Directive until the 31st December 2012 and will maintain the reserved area for the above mentioned period. The reason for this exception is, on one hand, the entry of new members at the EU after the entry into force of Directive 2002/39/EC and consequently their weakness to adapt at

a later stage of postal reform process. On the other hand, the specific characteristics of certain member states such as the small population and the limited geographical size, the particularly difficult topography, the huge number of islands, particularly in our case.

We should underline the fact that the new member states such as Estonia, Bulgaria and Slovenia have chosen not to postpone the implementation, thus the opening of the market is scheduled for December 31st, 2010.

This exception may be in favor of Greece, based on the fact that the sector is presenting, because of different objectives factors, an important delay at the adaptation of a free competition market in comparison to the rest of the member states. However, postponing the implementation of the new Directive will eventually put an end, for quite some time, at the evolution of the sector and the optimization of provided services, making the Greek market less prepared for the liberalization comparing to other member states having already open the market to free competition. If this occurs, the USPs as well as the rest operators will end up being at a disadvantage against other postal operators who have already experienced the free competition environment. Consequently, it is important that the period until the implementation is proved productive, implying that meanwhile, regulatory measures and prolific cooperation will contribute achieving further growth of the market and graduate opening to competition.

EETT, as a Regulatory Authority, is expected to play a decisive role within the frames of a free compe-

tition environment. The actual tripartite collaboration among Government-USP-EETT will gradually turn to two-part between the USP and the Regulatory Authority. The government intervention will start to fade, according to liberalization rules, in the light of abolishing special rights, promoting in the same time the benefits of improving the quality of provided services and of achieving lower prices in users favor.

Within this framework, a new amendment of the legislation could have been profitable, focusing on two main objectives: a) the implementation of the Directive as accurately as possible and b) the smooth adaptation at an open competition environment in the light of distinguishing the executive from the regulative and avoiding the discrimination among the USPs.

The new Directive sets the conditions for the opening of the postal market to competition, announcing major changes. Furthermore, it is a unique chance to reconstruct the postal sector in terms of regulation as well as in terms of practice based on the experience of previous Directives. Nowadays, thanks to our experience (through positive and even mistaken regulations) we have the opportunity, given the amendment of the regulatory framework, to update the postal services in our country. In view of this target, the productive and substantial collaboration of all parties (i.e. State, Regulatory Authority, USP and rest postal operators) is mandatory.