

Establishment of an Internal Postal Market

Joint responsibility of all stakeholders

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Outline

- Main objectives of the EU postal reform
- Main elements of the 3rd Postal Directive
- Challenges
- Market Opening Agenda
- Conclusions

Why EU postal reform?

Green Paper in 1992

- low quality of postal services
- no customer focus
- inefficient national postal operators
- diverge developments of universal postal service

Communication in 1994

- **need for higher quality**
- **need to create more choice (customer orientation)**
- **need to safeguard provision of Universal Postal Service – affordability and availability**
- **Internal Postal Market and a level playing field**

EU Postal Reform – The Regulatory Timetable

- 1992: Green Paper on the development of the single market for Postal Services
- 1994: Council Resolution setting EC policy objectives
- 1997: 1st Postal Directive (**Directive 97/67/EC**)
- 1999: 1st reduction of reserved area (to 350 gr.)
- 2002: 2nd Postal Directive (**Directive 2002/39/EC**)
- 2003: 2nd reduction of reserved area (to 100 gr.)
- 2006: 3rd reduction of reserved area (to 50 g.)
- 2006: - Prospective study on the impact of FMO on universal service
- 3rd Application Report
- Commission Proposal for a Directive
- 2008: 3rd Postal Directive (**Directive 2008/6/EC**)
- 2011: FMO for 16 Member States (95% of the EU postal market)
- 2013: FMO for all (remaining) Member States

Regulatory Tool Box

Licensing

- Possibility
- Safeguarding USO
- Essential requirements

Liberalisation

- Speed
- Flanking measures
- Funding USO

Complaints procedure

- Reliability

NRAs

- Independence
- Capacity
- Supervision

Price control

- Level
- Coverage

Quality of service

- Reliability
- Liability
- Speed

USO

- Uniform tariffs
- Affordable
- Delivery
- Bulk mail

Separate cost accounting

- Cross-subsidization
- Cost orientation

Standardisation

- Voluntary
- Mandatory

Service orientation

Level playing field

Customer orientation

Obligations under the EU regulatory framework (1)

- **obligation of Member States to ensure provision of universal postal service** (high quality, cost oriented tariffs, consumer protection etc.);
- possibility of an exclusive right – **only to the extent necessary to safeguard the provision of universal postal service – and only until 31 December 2010 (31 December 2012)**
- possibility of a licensing system – **should not prevent or restrict market entry and market participation;**
- **establishment of the independent NRAs**

Obligations under the EU regulatory framework (2)

- **obligation for affordable and cost oriented universal postal services**
- **obligation of universal service providers to establish separate cost accounts**
- **obligation to safeguard access to the elements of the postal infrastructure**
- **obligation to deal with complaints**
- **obligation to establish a legal basis for postal statistics**

Ensuring the provision of universal postal service

- **universal service requirements**

- provision of high quality postal service
- (at least) five times a week
- throughout the entire territory
- at the affordable price

**limited
derogations**
(difficult
topography)

- **obligation to provide universal service**

- attention on universal service and not on a provider
- different solutions to provide this service (e.g. designation, public procurement etc.)

Authorization/Licensing and permitted conditions

- **licensing regimes: a possibility not an obligation (Article 9)**
- **general authorization for services outside the universal service area** – (permitted, not mandatory)
 - may impose conditions only to guarantee compliance with the “essential requirements” (e.g. working conditions, confidentiality);
- **individual licence for services within the universal service** - (permitted, not mandatory)
 - may impose conditions:
 - to guarantee compliance with the essential requirements (e.g. working conditions, confidentiality);
 - to ensure, where needed, the provision of the universal service obligations (e.g. “pay” or “play”, quality requirements).

Authorization/Licensing and permitted conditions

- any conditions must be limited so as not to create market entry barriers
- clear definition of “essential requirements” (e.g. working conditions, confidentiality);
- principles to be respected:
 - *transparency*
 - *necessity*
 - *non-discrimination*
 - *proportionality*
 - *objective justification*

Article 9 of the Postal Directive and the EC Treaty

Access to the postal network (downstream access)

left to Member States (*principle of subsidiarity*)

different regimes (from contractual arrangements to
mandatory *ex ante* access)

even if no *ex ante* obligation envisaged by the regulatory
framework – application of competition law to market
dominant players (e.g. *refusal to deal*)

Access to the postal infrastructure

Article 11a of the 3rd Postal Directive

important issue in a multi-operator environment

Assessment needs to be done by Member States
Member States decide upon the system they may apply

Objectives

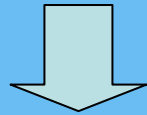
to protect interest of users
to promote effective competition

IMPORTANT

no distortion of competition by market dominant player

Tariff and cost accounting principles

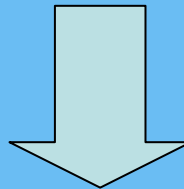
- **separation inside cost accounting** (universal postal service and other services)
 - to prevent unlawful cross-subsidization;
 - to ensure compliance with tariff principles.
- **terminal dues principles**
 - cost orientation;
 - link to the quality of service;
 - transparent and non-discriminatory application.



to ensure high quality cross-border postal services

Special tariffs – principle of non-discrimination

- judgement of ECJ in ***Vedat Deniz*** case – clarification of fifth indent of Article 12 of the Postal Directive



application of the principle of non-discrimination

there is no objective justification regarding price arrangements to discriminate between larger mailers and consolidators

National Regulatory Authorities (NRAs)

Independent NRAs - cornerstone of the EU postal reform

- independent NRAs
- clear mandate
- sufficient resources, powers and capacity

independent NRAs envisaged by regulatory frameworks of all Member States

Is this enough?

Challenges (mandate, resources and powers)

- **EETT - an essential element in the postal reform process**
- **an efficient NRA – important to continue on this path and that its resources are strengthened**
- **important that operational independency is safeguarded**

new Sector Study in 2009

The role of regulators in fully liberalized market

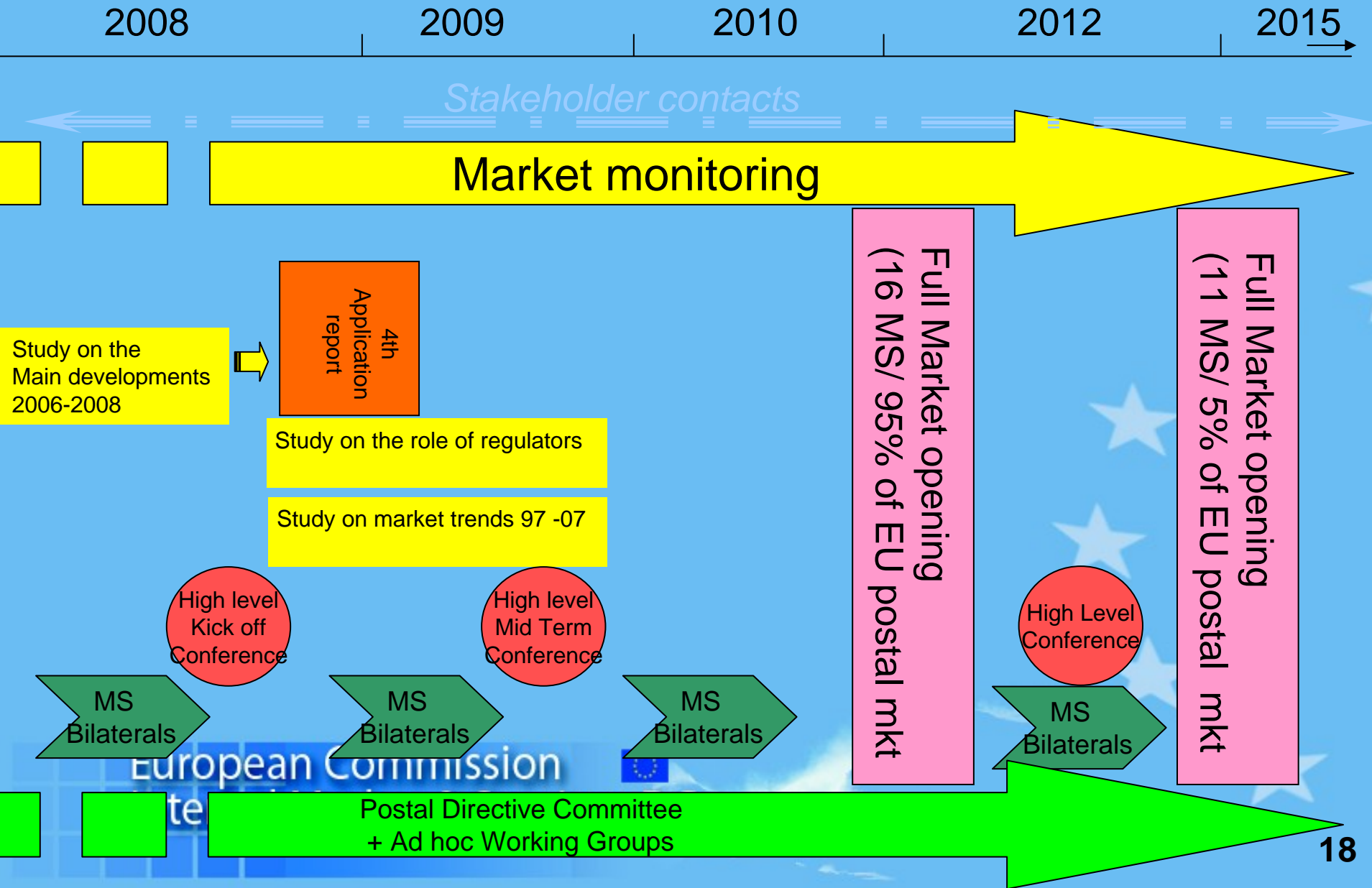
Complaints procedure and market monitoring

- obligation for **all postal services providers** to deal with consumer complaints – **wider Article 19 of the Postal Directive**
- possibility of an appeal to the independent regulatory authority
- obligation for all postal services providers to provide NRAs with statistical information (**the basis for market monitoring**)
- **market monitoring: the essential tool for making EU postal reform a sustainable success**

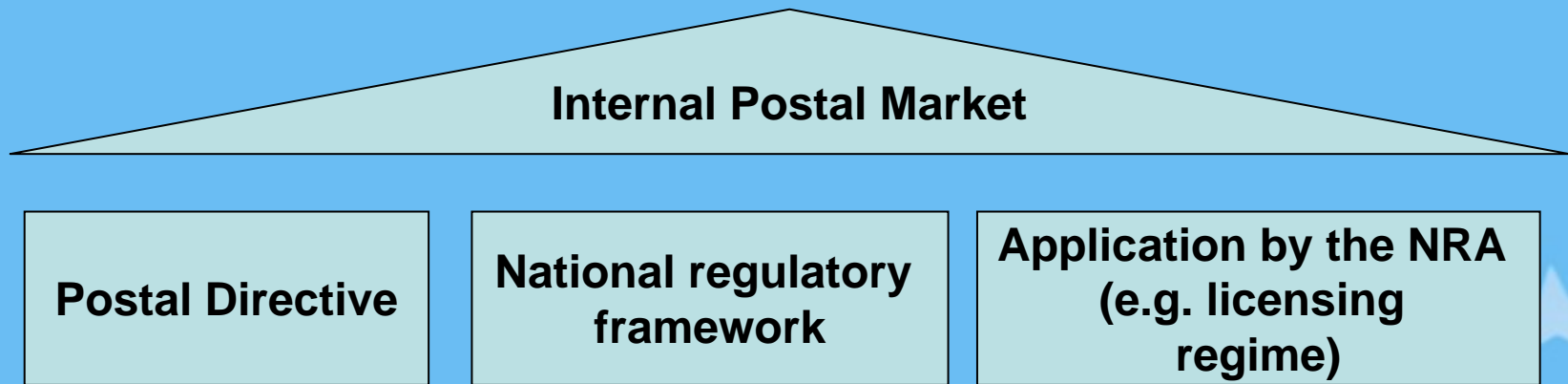
Market Opening Agenda

- 20/02/2008: Adoption of the 3rd Postal Directive
- 14/03/2008: Letter of Commissioner McCreevy to all Member States
- 24/06/2008: High Level Commission Conference on “**The EU Internal Postal Market – Creating it Together**”
- April 2008: Postal Directive Committee establishes Working Groups
- 2008: Study on main developments in the Postal Sector 2006-2008 (ECORYS)
- 2008: 2 meetings of the PDC Working Group
- 23/12/2008: Adoption of the 4th Application Report
- 2008/2009: Assistance in the phase of implementing: Bilateral Meetings with Member States and Stakeholders;
- 2009: Postal Directive Committee Working Groups and Plenaries
- 2009: Sector studies: The role of NRAs in a fully liberalized market, The evolution of the postal markets since 1997
- 24/09/2009: High Level Commission Mid-term Review Conference on “**Creating it together – Progress & further steps to make it a reality**”
- 2008/2009: Infringement proceedings where necessary

Market opening Agenda



The Future Challenge – application of the regulatory framework



- remaining and/ or emerging barriers to entry
- protectionist measures

The Future Challenge: Regulatory barriers to entry

- reserved area – **necessary?** (**Article 7 and *International Mail Spain***)
- the provision of universal postal service – **market forces, designation and/or public tendering?**
- application of licensing requirements – **necessary, objectively justified and proportionate?**
- application of VAT exemption – **non-discriminatory and proportionate?**

The Future Challenge: VAT exemption

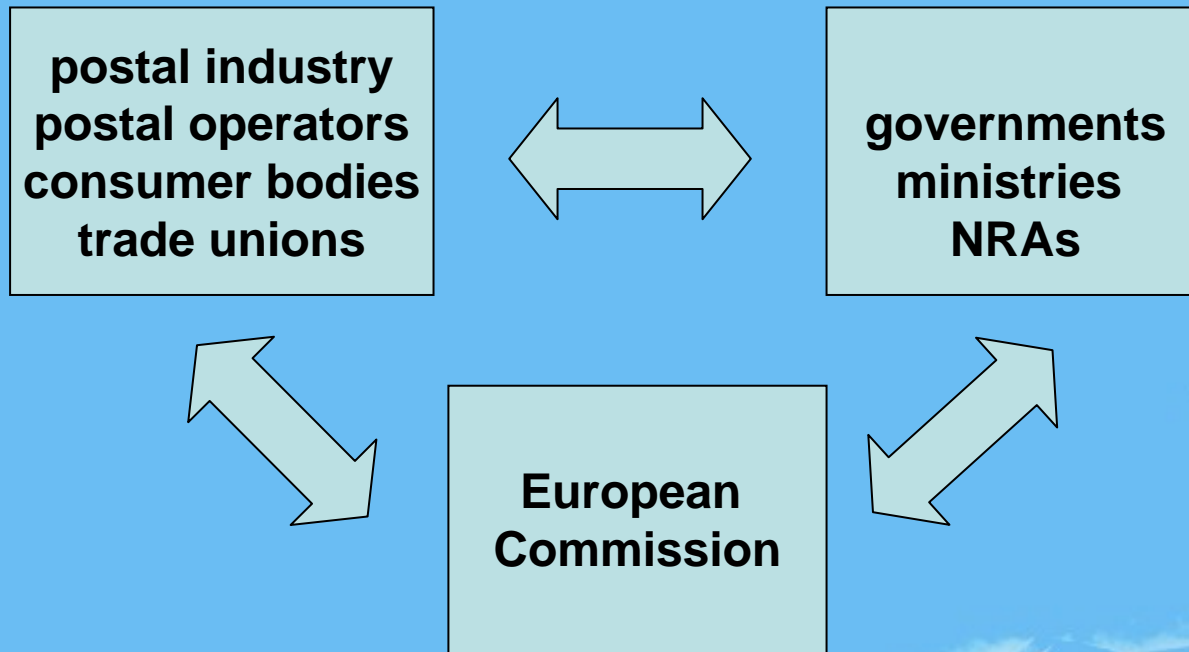
- laid down in the 6th VAT Directive
- applied only to the **public postal service** (opinion of AG Kokott in Case C-357/07) \implies **restrictive interpretation of an exemption**
- **need for a non-discriminatory and the least market distortion approach**

The Future Challenge: Greece

- **reserved area**
- **quality of universal postal service**
- **potential excessive or unjustified licence requirements**
 - maximum weight limits for parcels – in defining postal/courier services
- **ensuring the level playing field**
 - public procurement – possibility for all market players to win public contracts
 - VAT exemption – to prevent distortive effects of unequal application of the exemption

Establishment of an Internal Postal Market – Joint Responsibility

Fully function and economic prosper Internal Postal
Market – responsibility of all stakeholders



Conclusions

- only market forces can lead to **prosperity of the postal sector** and safeguard its essential role
- it is important that Greece **continues with postal reform** and **modernization of the postal sector**
- regulatory framework in Greece **should not** introduce **excessive administrative requirements** and **barriers to entry**
- leading principles of any regulatory reform **should be**: (i) **customer orientation** and (ii) **services orientation**
- it is essential that **independence of EETT is safeguarded** and its **resources developed further** – role of NRAs in liberalized postal market is vital for the prosperity of the sector