

Report on the application of the Postal Services Directive

(Directive 97/67/EC as amended by Directive 2002/39/EC and 2008/6/EC)

February 2022

- The Malta Communications Authority (MCA) aims to safeguard the provision of an efficient, affordable and high quality universal postal service, together with the promotion of sustainable competition.
- MCA's regulatory remit to regulate the postal sector comes directly from legislation, in particular from the Postal Services Act (Cap. 254), which transposed the European 'Postal Services Directive' (PSD) into national law.
- The PSD was last revised in 2008, and since then, the postal sector has undergone major changes due to digitalisation and e-commerce.
- On 8 November 2021, the European Commission adopted its report on the application of the PSD, referred to as the 'Application Report'. The Application Report assess whether the PSD still fits its purpose for which it was adopted.
- In this presentation, the MCA is providing a summary of the salient points emerging from the European Commission's Application Report, together with MCA's next steps and its contribution into the process of the review of the European Postal Services Directive.

- The ‘Postal Services Directive’ is the regulatory framework governing postal services since 1997.
- Its aim is ensuring the harmonisation of national universal service obligations and by introducing competition in the postal sector, particularly to letter mail services, that were traditionally reserved for national postal incumbents.
- The PSD was first amended in 2002 to provide for further market opening, and was again amended later in 2008 to complete full market opening (by end of 2010 for 16 MSs and by end of 2012 for the remaining).
- With the exception of these two amendments and the Regulation on cross-border parcel delivery adopted in 2018, the postal services framework at EU level has remained the same since 1997.
- During these 20 years, technological innovation, digitalisation and e-commerce have driven the postal services market to a major shift. Letter mail has increasingly been replaced by ECS and eCommerce has led to a significant increase in parcel delivery services.

Principal objectives of the PSD:

- Guaranteeing the provision of **affordable, high-quality universal postal service** to all users
- Establishing a **well-functioning and competitive internal market** for postal services
- Establishing **harmonizing principles** for the regulation of postal services



The Commission carried out an *ex-post evaluation* to assess whether the PSD has achieved its objectives, is still fit for purpose and matches the present and future needs of postal users and operators

The evaluation identified that a number of issues are not being sufficiently reflected in the current PSD:

The benefits of universal postal services to society have been declining while universal service provision has become increasingly costly

The achievement of an internal market and stimulating effective competition in the letter mail segment has not taken place in the scope envisaged

Standards are insufficiently used; this reduces legal certainty and may lead to interoperability issues

Findings of the Evaluation of the Postal Services Directive

Provision of Affordable, high-quality universal postal service

- ❖ The PSD has been successful in ensuring that everyone benefits from basic postal services.
- ❖ A reassessment on what products, services and related features to be included in USO is required.
- ❖ Even though prices have increased, the PSD has contributed to avoiding even higher prices.
- ❖ Information collected is interpreted differently in each Member State. This reduces clarity, creates legal uncertainty and lack of transparency.

Establishing a well-functioning and competitive internal market for postal services

- ❖ Very little competition in the letter mail segment has taken place.
- ❖ Absence of harmonised rules and absence of procedural access rules may also have contributed to low competition.
- ❖ Evidence shows that some competition has helped stimulate demand/supply, lower prices, better quality and innovation.
- ❖ Where access to the incumbent's network was granted to different operators, postal users (esp. businesses) have benefitted from lower prices.
- ❖ The developments in parcel delivery stand in stark contrast to developments in the letter mail segment.

Harmonising principles for the regulation of postal services

- ❖ The PSD is a minimum harmonisation directive, and so, differences in national implementation and application have occurred.
- ❖ Current definitions do not reflect current developments, and have led to legal uncertainty, and incoherencies with other EU frameworks.
- ❖ Technical standards are not sufficiently used which may negatively impact interoperability.
- ❖ NRAs have received more and better information to perform their tasks and oversight has improved.

How fit is the Postal Services Directive?

Conclusions from the Evaluation on the fitness of the Directive

Effectiveness of the Directive

- ❖ The PSD has in general been effective in ensuring the provision of a Universal Postal Service.
- ❖ Developments in ECS and eCommerce have led to a considerable decrease in letter mail, which has increased the costs of USO. As a result, 11 Member States have relied on derogations and reduced the scope of the USO (derogations were not intended for a generalised application)
- ❖ The interplay between the principles of cost-orientation and affordability requires further consideration (Member States apply and interpret these principles very differently).
- ❖ The PSD has had very little effect in stimulating effective competition in the letter mail market.

Efficiency of the Directive

- ❖ The assessment suggests that the PSD is not fully efficient.
- ❖ Changes in users' needs suggest that the PSD's QoS requirements have been declining in recent years. In parallel, costs have been increasing over the last five to ten years – limited flexibility in the delivery frequency and delivery times to address growing decrease in interest in fast delivery of letter mail.
- ❖ A number of provisions in the PSD appear to generate unnecessary cost and burden for USPs and postal users and therefore reduce the PSD's efficiency (in particular complaint handling and certain aspects related to the financing of the USO).

Coherence of the Directive

- ❖ The PSD is coherent and also coherent with the Regulation for cross-border parcels.
- ❖ The PSD is broadly coherent with other relevant EU-level legislation, horizontal policies and International postal policy.
- ❖ It interlinks with the Green Deal objectives (e.g. through the frequency of delivery).
- ❖ Actions on employment and working conditions may have an impact on the functioning of postal market regulation

Relevance of the Directive

- ❖ Overall, the objectives of the PSD appear to be appropriate and relevant.
- ❖ Certain provisions in the PSD may no longer be required (or not required in the current form). In particular reference to the scope and features of the universal service and the quality parameters of such services, as well as provisions to enable market entry and competition.

Report Conclusions:

- The report concludes that the PSD and its objectives remain important for the EU. But there are shortcomings and certain provisions seem not to fully match current expectations of postal users and operators, and generate unnecessary costs and burden.
- The Commission states that it will continue its efforts to engage with Member States and other stakeholders.
- The Commission also mentions that any amendments must also be coherent with, and support, EU level horizontal actions taken within the context of the EU Green Deal and the EU Digital Agenda.
- Despite its suggestions to further exploration of possible amendments to the regulatory framework, the Commission does not spell out specific changes or a timetable for the next steps.

MCA - Next Steps:

- Contribution to the work of the ERGP to provide views on the Commission's Evaluation Report conclusions.
- Follow developments at an EU level on any positions taken with regard to a new Postal Services Directive.
- Assessing any proposals by the European Commission on a new Postal Services Directive.

Further Information:

- [Report on the application of the Postal Services Directive](#)
- [Staff working document on the evaluation of the Postal Services Directive](#)
- [Staff working document on the evaluation of the Postal Services Directive – Executive Summary](#)
- [Report on the application and implementation of the Regulation on cross-border parcel delivery services](#)

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