

## 12. National postal policies in Europe on the eve of the Third Directive

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### 1. INTRODUCTION

This chapter offers a snapshot of the national postal laws of Europe as they stood in mid-2006. By this time all of the then 25 member states of the European Union (EU) – even the 10 countries from eastern and southern Europe who joined in early 2004 – had had a minimum of several years to implement the Postal Directive of 1997 as amended in 2002.<sup>1</sup> In 2006, the first draft of a third directive on postal services was still over the horizon.<sup>2</sup> A look back at the state of play in mid-2006 offers both an opportunity to evaluate how earlier reforms turned out in fact and a glimpse into what may be expected in the wake of the recent amendment to the Postal Directive to accomplish ‘full market opening’.<sup>3</sup>

In the EU, a ‘directive’ is a framework law adopted at EU level institutions. To give effect to a directive, member states must adopt national laws that implement the directive. National laws may implement a directive in different ways and in some cases may fail to implement a directive fully. A directive, therefore, leaves room for substantial variation in national postal policies.

A survey of postal practices among member states of the EU, prepared for the European Commission by the authors, revealed a persistent diversity of national postal traditions within the framework of reforming and harmonizing demands set down in the Postal Directive. Of course, these national variations were shaped in part by different appetites for the liberalizing course set by the Postal Directive. But national variations also showed the value of multiple solutions to the same basic task, implementation of the Directive. In several cases, member states developed innovative approaches that advanced the art of postal regulation and thus helped to lay the foundation for the most recent directive.

Section 2 provides an overview of postal reform in Europe. Section 3 summarizes how different member states have chosen to implement the specific commands of the Postal Directive. In organization, it follows the sequence of topics in the Directive. Section 4 offers a few final observations.

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## 2. OVERVIEW OF POSTAL REFORM IN THE EU

Spurred by the Postal Directive, as well as by shifting commercial and technological circumstances, national postal laws in the EU member states evolved rapidly and substantially after 1997. In 1997, the average postal law was about 13 years old. By mid-2006, national postal laws averaged less than three years since enactment or major revision. Every member state has amended or replaced its postal law since 1997; some two or three times.

The Postal Directive imposes a range of obligations on member states. To discharge these obligations, governments must act, but they have different ways of doing so. Legislation is the most cumbersome process, reserved for the most politically sensitive issues. Entrusting a decision to the cabinet or a ministry is appropriate for less-sensitive but still fundamentally political issues. Delegation of authority to an independent regulator provides a more economically objective decision. The most economically objective method of decision, however, is the impersonal competitive market. How a member state chooses to allocate authority among these four decision-making procedures indicates the extent to which its postal policy is to be determined by political or economic criteria.

In mid-2006, most member states determined most questions of policy by legislation even though the answers may turn on technical issues better resolved by experts. For example, to decide the appropriate frequency of postal service requires the decision maker to balance the cost of service against the needs of society. In most member states, frequency of service is determined by legislation, although there are exceptions (for example, Germany, France and the Netherlands). Similarly, to determine the economically correct scope of the reserved area – no larger than necessary to ensure maintenance of the universal service (Postal Directive, Article 7(1)) – requires a sophisticated analysis of detailed accounting data, yet in all but two member states, the scope of the reserved area is determined by legislators, not economic experts. On the other hand, some policy issues are typically delegated to government. For example, quality of service standards is more usually committed to the Council, the ministry charged with administration of postal policy, or the national regulatory authority (NRA). Among member states that delegate basic policy questions to government agencies, Italy, Malta, and the Netherlands rely substantially upon a ministry whereas Denmark, Slovakia, and the United Kingdom vest substantial authority in the NRA.

The task of administering postal policy – that is, applying general rules to specific facts – is commonly delegated by parliament to a ministry or to an NRA. Sixteen member states rely exclusively on the NRA or the national competition authority (NCA) for all administrative functions. It is departures from this rule that are noteworthy. In this respect, Austria, Spain, and Italy – and to a lesser extent the Netherlands – stand out for their reliance on a ministry. At the other end of the spectrum, it is interesting to note that Denmark, the Netherlands, and Slovenia vest some administrative functions required by the Directive in the NCA rather than the NRA. Use of the NCA rather than the NRA implies that government is treating the postal sector more like other sectors of the economy and less as a special sector requiring special rules.

Article 4 of the Postal Directive requires member states to designate one or more postal operators as universal service provider (USP). While each member state has designated the ‘public postal operator’ – that is, a postal operator that is owned in whole or in part

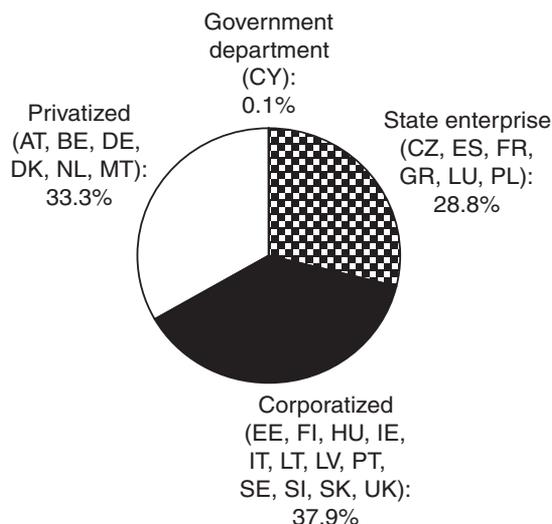


Figure 12.1 EU domestic-letter-post volume by ownership of USP, 2004

by government – as the USP, direct governmental involvement in the operation of USPs is declining. In each member state, the public postal operator was originally organized as a government department administered by a political appointee. In the last quarter of the twentieth century, many public postal operators were converted into state enterprises or at least agencies with a high degree of commercial freedom and flexibility. More recently, many public postal operators have been ‘corporatized’, that is, reorganized as a public limited company operating under the company law applicable to private corporations. In principle, a postal corporation, like a private corporation, is administered by a board of directors that provides independence from owners. Some governments have withdrawn further from operation of the public postal operator by selling a portion of the ownership of the corporatized public postal operator to the public or to strategic partners.

Even in the two years prior to 2006, corporatization and privatization have advanced in the EU postal sector (Figure 12.1). Latvia, Lithuania, and Slovakia have corporatized their public postal operators, and Poland has announced plans for doing so. The German government has become a minority shareholder of Deutsche Post, reducing its holding from 63 to 42 percent. The Dutch government has lowered its stake in TNT from 35 to 10 percent and plans to sell all remaining shares.<sup>4</sup> In June 2005, the Danish government sold 22 percent of its public postal operator to a British investment group, CVC Capital Partners and 3 percent was reserved for employee incentives. In November 2005, CVC and Post Denmark bought 50 percent (less one share) of the Belgian public postal operator. Austria sold 49 percent of Österreichische Post AG in May 2006. Italy and Poland have also announced intentions to privatize their posts in the future.

In sum, European governments are rapidly withdrawing from direct political control of the postal sector. Governmental decision making is being turned over to less political, more technically oriented bodies. Public postal operators are being reorganized as corporate entities established under the same company law applicable to private companies. The 18 corporatized public postal operators collectively account for approximately

71 percent of the EU letter post. Eight public postal operators are partially privatized, accounting for about one-third of the EU letter post.

### 3. IMPLEMENTING THE SPECIFIC REQUIREMENTS OF THE DIRECTIVE

#### 3.1 Universal Service Obligation

Article 3 of the Postal Directive declares that ‘each Member State shall adopt the measures necessary to ensure that the universal service includes the following minimum facilities’: (i) conveyance of postal items weighing up to 2 kilograms and (ii) conveyance of postal packages weighing up to 10 kilograms (or 20 kilograms at the discretion of the member state). ‘Postal items’ include all types of addressed items, including items of correspondence, books, catalogues, newspapers, periodicals, and postal packages. ‘Postal packages’ is undefined but seems to refer only to addressed boxes of merchandise.

In mid-2006, all member states established a universal service whose scope includes delivery of letters and parcels, although only about half ensure universal service for newspapers and periodicals. Moreover, as member states contemplate further liberalization, they are reconsidering whether universal service should include *all* letters and parcels or only *single-piece* letters and parcels. The leader in this trend is the Netherlands, where universal service includes only letters covered by the reserved area and non-reserved items carried at the single-piece tariff (Netherlands, Ministry of Economic Affairs, 2004). Although the public postal operator in the Netherlands is no longer obliged by law to deliver bulk mail outside the reserved area, it continues to do so, but contracts for delivery are subject to normal commercial negotiation. Similarly, in the United Kingdom, the NRA, Postcomm, has concluded that most bulk mail should be considered outside the universal service with the exception of two ‘entry-level’ bulk-mail services accounting for about one-quarter of total bulk mail (UK, Postcomm, 2005a). Ireland (Ireland, ComReg, 2005) likewise appears to be moving towards exclusion of bulk mail from the universal service.

Article 3 further requires member states to ensure adequate *access* to the public postal network. Access includes street mail boxes and postal outlets such as ‘post offices’ operated by USP employees and ‘postal agencies’ operated by contractors. Postal access arrangements vary widely among member states. In most, the USP is free to convert a post office into a postal agency without regulatory approval, a minimum number of post offices may be required (for example, 5,000 in Germany). Some member states directly subsidize the operation of post offices (for example, Sweden, and the United Kingdom).

Another key element of universal service is *delivery frequency*. Article 3 requires member states to ensure at least one delivery each working day, not less than five days a week, at all points in the national territory save in extraordinary circumstances. In only three member states does the USP fail to deliver letter-post items five days per week to more than 1 percent of the population (Spain, Greece, and Hungary). Universal delivery for parcels is less assured, however. In eight member states, USPs charge the addressee for delivery of parcels; in two, parcel delivery is unavailable. In Scandinavia, for example, it has long been the custom for addressees to collect their parcels at the nearest post office.

### 3.2 Reserved Area

Article 7 of the Postal Directive limits the scope of services which member states may reserve for the USP. As amended in 2002, Article 7(1) declares that, as of January 1, 2006, the reserved area may include carriage of items of domestic and incoming cross-border correspondence only if two conditions are met: (i) each item weighs less than 50 grams, and (ii) the transportation charge for each item is less than two and a half times the USP's public tariff for carriage of an item in the lowest weight step of the fastest standard category of service.<sup>5</sup> An item which weighs more or is transported for a higher fee is outside the reserved area and may be carried by a private company. Moreover, even within these weight and price limits, postal services for domestic and incoming cross-border correspondence may be reserved only 'to the extent necessary to ensure the maintenance of universal service'. As of mid-2006, four member states had no reserved area: Estonia, Finland, Sweden, and the United Kingdom.

Article 7 goes on to provide that the reserved area may be extended in two respects. First, the reserved area may include *direct mail* falling within the same price and weight limits but again, only 'to the extent necessary to ensure the maintenance of universal service'. Second, the reserved area may include *outgoing cross-border mail* falling within the same price and weight limits but only 'to the extent necessary to ensure the maintenance of universal service, for example, when certain sectors of postal activity have already been liberalized or because of the specific characteristics peculiar to the postal services in a member state'. As of mid-2006, 14 member states declared a reservation over direct mail while 11 declared a reservation over outgoing cross-border mail (eight member states reserved both).

In practice, the legal status of direct mail is often muddled. In several member states, the precise definition of 'direct mail' has caused confusion, including in Austria, the Czech Republic, Germany, Spain, Italy, Latvia, the Netherlands, and Slovenia. Modern computers and printing technology have blurred the distinction between printed matter and individualized correspondence. Direct mail has traditionally been thought of as printed advertising matter, that is, identical items produced in large quantities by a mechanical process. Today, however, advertising items can be individualized by inserting, for example, the name of the addressee or a reference to his or her last purchase. The Directive seems to extend the concept of 'direct mail' to include advertising items that are individualized in this manner if 'the nature of the message' is the same in all items, yet this line is plainly difficult to draw. Among member states that have faced this issue, the Netherlands, Germany, and Austria have taken a simple but restrictive approach. In the Netherlands, direct mail includes only wholly printed matter, and in Austria and Germany, items of direct mail can differ only in a few specified elements. NRAs in Spain and Italy, on the other hand, interpret direct mail to include items whose body is 'essentially identical'. Other NRAs are frankly uncertain.

Article 7's repeated declaration that a reservation may be introduced only 'to the extent necessary to ensure the maintenance of universal service' implies a duty to adjust the reserved area to the economic requirements of universal service. This 'principle of proportionality' has been more honored in the breach than in the observance. At least two member states, Sweden and the United Kingdom, have concluded economic analyses showing that no reserved area is needed to maintain universal service, and they have

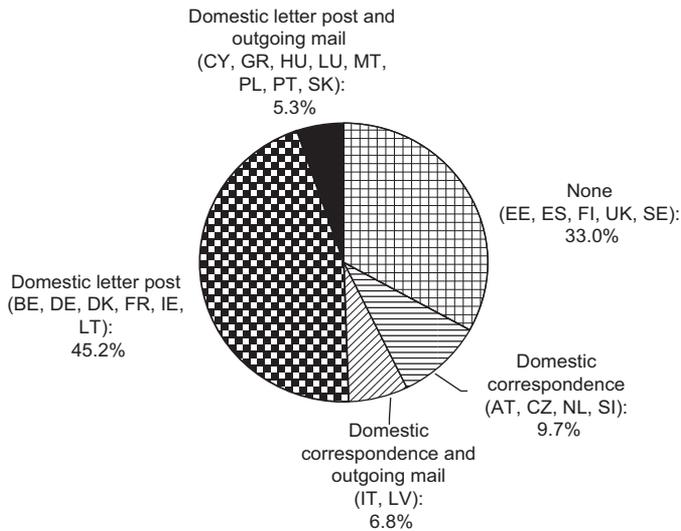


Figure 12.2 EU domestic letter-post volume by level of reservation, 2006

accordingly repealed the reserved area. Three member states – Belgium, Spain, and Portugal – report that they have completed economic analyses showing the extent of the reserved area required to maintain a specific definition of universal service but offered no documentation of these analyses.

Overall, the level of reservation of letter-post mail in 2006 may be summarized as follows (see Figure 12.2).<sup>6</sup> Five member states are substantially liberalized. This total includes Spain where the postal reservation has never included intra-city postal service, the largest part of a modern postal system, and private operators have captured a higher percentage of the letter-post market than in any other member state. Collectively, these five countries comprise about 33 percent of the EU letter post. Three other member states have indicated a firm intention to eliminate the reserved area in the near future: Germany, Netherlands, and Slovenia.<sup>7</sup> They represent roughly another third of the EU letter-post market. As a practical matter, then, the major part of the Community, measured by the volume of letter post affected, has swung in favor of liberalization, rather than reservation, as the best strategy for ensuring an efficient universal service.

### 3.3 Special Legal Treatment of USPs

#### Value-added tax

In most member states, the USP legal protections are not confined to the reserved area. Of these, exemption from value-added tax (VAT) is probably the most important. Application of VAT to the services of the USP varies among member states. Three states (Finland, Sweden, and Slovenia) do not exempt any postal services from VAT; two (Spain and Latvia) exempt only reserved services from VAT. The majority rule is to exempt from VAT either all universal services or all postal services provided by the USP. As a result, only five member states apply VAT equally to all postal operators either because there is

no VAT or because VAT is limited to the reserved area. The result is to distort competition. In 2003, the Commission proposed modernization of the VAT exemption for postal services (European Commission, 2003), but this proposal remains blocked by politics. More recently, the Commission sent the United Kingdom, Germany, and Sweden formal requests for information on the application of VAT to postal services (European Commission, 2006). This investigation is ongoing.

### **Customs laws**

Customs laws are a visible source of special legal treatment. Equal application of customs procedures to all postal operators is a necessary precondition for an undistorted postal services market. Yet documents and parcels transported by public postal operators have traditionally been afforded different customs treatment from those transported by private operators. The Universal Postal Convention (2004) provides simplified customs documentation for use by public postal operators and limitations on their liability under customs laws. The Convention does not, however, expressly limit these privileges to public postal operators, nor does it make clear to what extent such customs privileges must be accorded to the commercial shipments of public postal operators.<sup>8</sup> Meanwhile, when it comes to private express operators, most national customs authorities provide special expedited customs treatment, although these services come at a price. Private carriers must invest heavily in preparing reliable customs documentation for customs officials in an appropriate electronic format and may bear additional costs for dedicated customs facilities. Despite differences in customs treatment, few NRAs could explain their government's policies; many were unaware of basic facts. In general, it appears fair to say that special customs rules for public postal operators have so far received little attention from regulatory authorities.

### **Access to resources of the public postal network**

In contrast, differential access to USP's public postal network has received substantial attention from NRAs. The Postal Directive defines the 'public postal network' as

[T]he system of organization and resources of all kinds used by the universal service provider(s) for the purposes in particular of the clearance of postal items covered by a universal service obligation from access points throughout the territory; the routing and handling of those items from the postal network access point to the distribution centre; [and the] distribution to the addresses shown on items.

The public postal network is thus a vast network of physical and informational resources built at public expense. As postal service markets become more competitive, some private operators and their customers have sought access to portions of the public postal network without paying for use of the entire system. Member states have adopted different policies in respect to different sorts of access.

An especially important and controversial issue is downstream access. Suppose a competitive postal operator or a large mailer would like to purchase only downstream services without collection and transportation. Can the NRA require the USP to provide unbundled downstream services at a price geared to cost? Seven member states have granted the NRA authority to require downstream access to the public postal network under

appropriate circumstances. Several NRAs have used this authority to encourage or compel downstream access, at least where the USP has granted access to someone.

Another type of downstream issue is access to post office boxes, that is, boxes located in an office of the public postal operators. In five member states, the NRA may require the public postal operator to give access to post office boxes to private operators, and at least two regulators (in Germany and Sweden) used this authority.

The address database – that is, lists of valid physical addresses and address changes – comprises a less intangible, but very significant element of the public postal network. Incorrect addressing is a basic problem for all postal operators. In each member state, the USP has the most extensive and up-to-date address database because of its position as the official, and historically the exclusive, provider of universal services. Competition in the postal services market will be inhibited if the USP is able to retain exclusive use of this element of the public postal network. Moreover, from a social standpoint, it may be considered wasteful to increase the number of unsuccessful delivery attempts by denying other postal operators access to a database of valid addresses. For such reasons, five member states (including Germany, France, and the United Kingdom) have authorized the NRA to require the USP to give access to the address database. In Sweden, Sweden Post and the second largest postal operator, CityMail, have established a jointly owned corporation to maintain a national address database.

Services for misaddressed and misdelivered mail constitute another feature of the public postal network which a private operator might need to make use of. Like the USP, private operators deliver mail that is incorrectly addressed by the sender or simply delivered to the wrong address by the operator. Recipients of misaddressed mail often give it to the USP, but the USP may be unwilling to take care of misaddressed and misdelivered mail for its competitor, even for a reasonable fee. In eight member states, the NRA is empowered to define common operational procedures to deal with such mail. In three, USPs and private operators have voluntarily developed contractual arrangements to ensure return of misaddressed mail. In the United Kingdom, in particular, Postcomm has pioneered development of a broad new regulatory framework intended to provide for a level playing field and cooperation among postal operators in a liberalized environment. Two codes of practice which must be agreed by all postal operators are designed to protect the integrity of mail and promote common operational procedures. The operational code addresses matters such as marking of postal items so the addressee can identify the carrier or carriers, return of misdirected mail, and customer inquiries (UK, Postcomm, 2005b, 2005c, 2005d).

### **3.4 Authorization of Postal Operators**

Article 9 of the Postal Directive establishes rules for the authorization of postal operators. For non-reserved services within the scope of the universal service, member states may introduce ‘authorization procedures, including individual licences, to the extent necessary in order to guarantee compliance with the essential requirements and to safeguard the universal service’. There are for two types of authorization: a general authorization and an individual license. The essential difference is that an individual license requires the operator to obtain specific approval from regulatory authorities before starting operations whereas a general authorization does not. The Directive thus offers several options

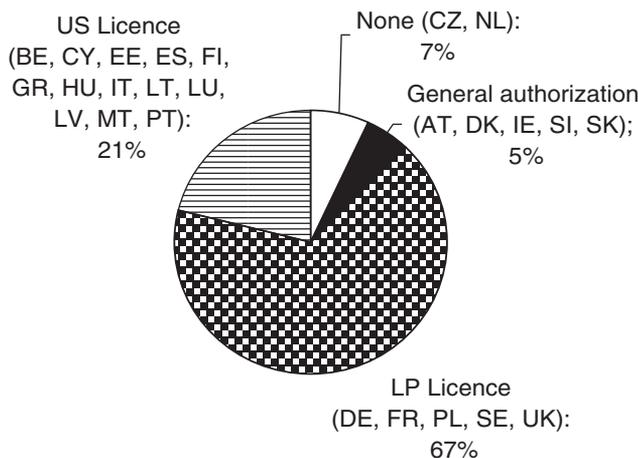


Figure 12.3 EU domestic letter-post volume by type of authorization, 2004

for authorization of postal operators within the universal service area as one or both types of authorizations are introduced for some or all universal services.

As illustrated in Figure 12.3, two main approaches to authorization have emerged: either (i) subject all universal services (US) to authorization or (ii) use authorization procedures to replace (some or all) of the formerly reserved letter-post (LP) services. A majority of member states have opted for the former, that is, regulate entry into all universal services. In most cases, this would seem to represent an increase in the scope of regulation since unreserved universal services were generally not subject to authorization procedures prior to the Postal Directive. The second approach has been adopted by a substantial minority of member states. Five states require licenses for some or all letter-post services within the universal service area, including France, Germany, and the United Kingdom. In Germany, a license is required for carriage of letter-post items weighing not more than 1,000 grams. In the United Kingdom, a license is required for carriage of letters weighing less than 350 grams and charged a fee less than £1.00 (€1.45). In France, the new postal legislation limits authorizations to services for the carriage of items of correspondence (including addressed direct mail). In five member states, only the unrestrictive general authorization has been introduced, and in two others (including the Netherlands) there are no authorization procedures. Altogether, these three relatively more liberal alternatives to the licensing of all universal services account for more than three-quarters of the EU letter post.

Another significant difference among member states is the degree to which conditions are attached to authorizations. According to the Directive, authorization procedures should be employed only 'to the extent necessary in order to guarantee compliance with the essential requirements and to safeguard the universal service'. 'Essential requirements' refers to public interest objectives of a non-economic nature such as controlling transport of dangerous goods or protection of data (Postal Directive Articles 2, 9(2)). Conditions to safeguard the universal service may include one or more of four types of obligations: universal service obligations 'where appropriate'; requirements concerning quality, availability and performance 'if necessary'; respect for the reserved area; and

liability for contributions to a universal service fund. Other conditions appear inconsistent with the Directive, yet they are not uncommon. Examples include obligations to meet minimal capital requirements, give financial guarantees, or demonstrate technical or operational competence. Eleven member states, accounting for almost three-quarters of the Community market, have introduced conditions which arguably exceed the scope of what is envisioned by the Directive.

A more fundamental question is whether authorization procedures inhibit competition. The best objective test of whether an authorization regime acts as a barrier to entry into the universal service area appears to be the number of authorizations granted, although such numbers must be interpreted with caution. Where a member state requires an individual license to provide universal service but has authorized no postal operator or only one postal operator in addition to the USP, it seems reasonable to surmise that the procedures and conditions associated with such licenses may in fact constitute a significant barrier to entry. By these standards, authorization procedures appear to constitute a barrier to entry in at least six member states.

A final requirement of the Directive is that authorization procedures must be 'transparent, nondiscriminatory, proportionate and based on objective criteria' (Postal Directive Article 9(3)). In fact, however, in many member states the authorization system does not apply equally to the USP and other postal operators, often because the USP is authorized by statute whereas other postal operators are not.

To summarize, what emerges is a mixed picture with respect to authorization. In about 12 percent of the EU (measured by letter-post volume), no or minimal authorization procedures have been introduced. In 67 percent of the Community, authorization procedures have been introduced for the carriage of letter-post items, essentially replacing the reserved area with a more light-handed but still significant control. In 13 member states, comprising 21 percent of the Community letter post, authorization procedures have been introduced for the entire universal service area. Introduction of universal service licenses may have the effect of inhibiting competition especially in several member states, perhaps 5 percent of the sector, where no authorizations for competing postal operators have been granted in fact. Where authorization procedures have been introduced, it appears that in the majority of member states the authorizations include obligations that exceed what is envisioned by the Directive. In about half the member states, authorization procedures have been applied in a less than wholly non-discriminatory manner in respect to the USP and other postal operators.

For postal services *outside* the universal service area, the Postal Directive permits only general authorizations, not individual licenses. Nine member states representing almost 80 percent of the Community do not require any authorization for services outside the universal service area. Thirteen member states, however, require a general authorization, and three small member states appear to require individual licenses, the Directive notwithstanding. Several member states condition authorization on respect for the reserved area, a condition seemingly in excess of what the Directive permits. Overall, however, the reality seems to be that there is little practical control on services outside the universal service area.

Under Article 9, a theoretically important function of authorization procedures is to allow creation of a 'compensation fund' or universal service fund. Postal operators within the universal service area can be required by their licenses to contribute to such a fund if

the universal service obligation constitutes ‘an unfair financial burden’ for the USP (Postal Directive Article 9(4)). Money from the fund may be used to support the USP despite the fact that the USP is presumably already sufficiently compensated by the reserved area. Despite Article 9’s exceedingly unclear instructions, nine member states have provided for a universal service fund in their laws. Only Italy, however, has actually created a compensation fund, and the sums collected make no significant contribution to sustaining universal service. (However, it should be noted the USP does not contribute to this fund and the Italian fund was never intended to be the primary means of funding universal service).

### 3.5 Regulation of Postage Rates

Article 12 of the Postal Directive establishes the guidelines for regulating the prices of universal postal services. It provides that ‘for each of the services forming part of the provision of the universal service’ prices must be ‘geared to costs’, ‘transparent and non-discriminatory’, and ‘affordable’. These few words imply a broad range of price controls.

In the first place, the Directive requires regulation of *each* service forming part of the universal service. While most member states subscribe to this standard in principle, five explicitly limit rate regulation to reserved services or to market-dominant services (notably, Germany). Moreover, as discussed below, the actual extent of regulatory control over individual agreements and special tariffs is open to question in many member states.

To regulate prices, NRAs must adopt a standard to determine which prices are too high or too low. Most NRAs regulate prices by looking to past or projected costs of the USP. Four NRAs (including Germany) purportedly refer to the costs of an efficient postal operator, in principle a far tougher standard. Alternatively, three NRAs appear to rely upon price or cost indexes (including the Netherlands) rather than the actual costs of the USP.

To ensure that the price of ‘each of the services prices’ is geared to costs, it appears necessary for the NRA to determine the cost to be incurred and the revenue to be earned from each class of service. These calculations depend in turn on the expected volume of mail in each class of service. In addition, a vigilant regulator might require the USP to reduce its unit costs over time, that is, improve its productivity. The ability of EU regulation to deal with such issues is open to question, however. Only two NRAs (Portugal, and the United Kingdom) appear to address all three topics in the course of rate regulation. Only a handful can determine both the costs and revenues of each postal product. Yet, without such knowledge, it is unclear how the NRA can ensure that prices of each of the services forming part of the universal service are ‘geared to costs’.

As a limited exception to the principle of cost-based pricing, Article 12 allows a member state to require ‘uniform tariffs’, that is, postage rates that apply uniformly throughout the national territory. About half of the member states require uniform pricing for all universal services, but they represent only about 17 percent of the EU letter-post market. The largest and most progressive member states are moving towards limiting the uniform tariff requirement. Sweden applies the uniform tariff rule to single items of addressed mail. The Netherlands limits the uniform tariff rule by limiting the concept of universal service to postal items tendered at retail postal offices and reserved services. Similarly, the NRA in the United Kingdom has recently concluded that three-quarters of

bulk-mail products should be considered non-universal services and therefore are outside the scope of the uniform tariff requirement (UK, Postcomm, 2005a). Finland and Germany limit the uniform tariff rule to non-bulk correspondence. Two member states (including France) apply the uniform tariff rule only to reserved services, and three have no legal requirement to maintain uniform tariffs (including Ireland and Italy).

The costs and benefits of uniform tariffs appear to be largely beyond the capacity of NRAs to quantify. The economic effect of the uniform tariff is to promote a geographic averaging of prices. Mail destined for areas where the cost of delivery is high is charged somewhat more than cost, while mail destined for areas where the cost of delivery is low is charged somewhat less than cost. The need to sustain uniform tariffs is often said to be the primary justification for the reserved area. Without the reserved area, the argument goes, cream-skimmers would serve the inexpensive delivery areas, and the USP would either have to de-average rates or confine itself to the money-losing routes. The force of this argument depends on a number of factors including the magnitude of the unit cost differential between high- and low-cost delivery areas and the distribution of these cost differentials. Therefore, in order to evaluate the costs and benefits of the uniform tariff, it is necessary for NRAs to have reliable data on the variation in delivery costs among different parts of the country. No NRA, however, has conducted an analysis of the variation in delivery costs. None could estimate the cost of delivery in high- and low-cost areas compared to the norm.

Article 12 also provides that 'for each of the services forming part of the provision of the universal service', prices must be 'transparent and non-discriminatory'. To ensure non-discrimination, it appears necessary for the NRA to determine that differences in prices charged to different mailers are justified by differences in costs or other appropriate considerations. Prevention of price discrimination requires much the same analysis as assurance that prices are geared to costs. Transparency implies that the prices of each universal service should be available to the public. Most but not all member states seek to ensure that rates for each universal service are transparent and non-discriminatory. Some (for example, Germany) extend price controls only to market-dominant services; others limit price regulation to reserved services (Spain) or single-piece services (France).

Article 12 further provides that prices must be 'affordable' for each of the services forming part of the provision of the universal service. There seems to be no clear idea among NRAs as to how to implement this requirement. Only a few NRAs can estimate how much the average non-business mailer spends on postage annually. Estimates range from €84 per year (Czech Republic) to €2.40 (Portugal). Judging from the estimates of several large member states, the average for the EU appears to be about 25 to 30 euros.

Article 12 leaves to member states the procedures for price regulation, that is, whether by explicit approval of proposed rates, by establishment of price caps (that is, limits below which prices can be revised at the discretion of the operator), or by review of rates by the NRA after they have been implemented. Explicit approval of proposed rates is relied upon exclusively by 11 member states. Three states combine explicit approval of proposed rates for reserved services with price-cap regulation of other universal services (including France and Spain). Four combine explicit approval of proposed rates for some services with post-implementation regulation of rates for other services. In Ireland, Luxembourg, and Portugal, explicit approval of proposed rates is required for changes in the prices of reserved services, and review of rates for other universal services is available after the rates

have been implemented. Four member states appear to rely exclusively on price caps (including the Netherlands). Two provide price-cap regulation and review of rates after they have been implemented. In the United Kingdom, the market-dominant rates of Royal Mail are subject to price caps, while competitive rates are subject to review after implementation. Within the market-dominant category, the UK regulator has defined two baskets of products so that, overall, captive single-piece mail is regulated more strictly than 'non-captive' bulk business mail (UK, Postcomm, 2005e, 2006). In Sweden, price caps are employed only for single items delivered overnight; other universal service rates may be challenged only after they are in effect. Where a price cap is used, all member states make use of a general price or consumer price index except the Netherlands, which uses a cost index based on wages. Three NRAs use an 'X' factor to adjust the price index: the United Kingdom uses  $-1$  percent; Belgium,  $+2.5$  percent; and Germany,  $-1.8$  percent.

What appears most remarkable about this picture is the widespread use of combinations of regulatory methods. Fifty percent of the Community universal service is subject to dual price control regimes with the stricter regulation being employed for services which are most politically sensitive (for example, non-bulk correspondence) or most amenable to abuse (for example, reserved services). For the most part, dual control regimes have been pioneered by the larger member states and by Ireland and Portugal.

Article 12 provides that 'the application of a uniform tariff does not exclude the right of the universal service provider(s) to conclude *individual agreements* on prices with customers' (emphasis added). At least half of EU USPs, about two-thirds of the EU letter-post market, employ individual agreements or are planning to do so. Although individual agreements appear to be subject to the general requirements of universal service tariffs – cost based, transparent, and non-discriminatory – few NRAs seem able to verify compliance or several concede non-compliance. Few NRAs can even estimate the percentage of mail affected by individual agreements. Estimates from three NRAs range from a remarkable 40 to 80 percent, although it is unclear whether NRAs are drawing a clear distinction between individual agreements and 'special tariffs'.

According to Article 12, 'special or individualized tariffs' – meaning discounts for large mailers or consolidators – are permitted but must generally conform to the same principles as other universal service tariffs. Special tariffs appear to be an important factor in the Community's universal service. Although data are incomplete, special tariffs appear to account for 40 to 90 percent of all correspondence in the large member states, but discounts seem to be 10 percent or less in most cases. Special tariffs are applied to nearly 100 percent of direct mail and to 50 to 80 percent of parcels. NRAs declare that in most cases special tariffs are transparent and open to consolidators and private operators.

NRAs appear to find it difficult to apply Article 12's standards to special tariffs. Article 12 specifically provides that special tariffs should 'take account of the avoided costs, as compared to the standard service' and 'shall apply equally both as between different third parties and as between third parties and universal service providers supplying equivalent services'. Moreover, special tariffs must be made available to 'private customers who post under similar conditions'. Only 11 NRAs seem to have complete data on special tariffs, and of these, only four (including Germany, Portugal, and the United Kingdom) have adequate information to calculate the 'avoided costs' which must be taken into account in the regulation of special tariffs. Even these few NRAs diverge on the proper interpretation of the term 'avoided costs'. Some NRAs (including Germany) consider it refers to the full

retail price minus the direct costs saved by virtue of the downstream access. On the other hand, the UK's Postcomm has interpreted 'avoided costs' to refer to the end-to-end cost minus the direct costs saved (UK, Postcomm, 2004, para. 2.30), and the Irish regulator appears to agree in principle.

Another indicator of the uncertain vigor of price regulation is the low number of formal rate investigations. It appears that only 14 NRAs have ever conducted a rate investigation up to 2005, and a few of these seem to be a formality. Although there does not exist a standard concept of 'rate case' among EU NRAs, it appears that relatively few NRAs have conducted substantial and objective economic analyses of the rates charged for universal services.

Article 13 of the Postal Directive deals with a special type of rates, 'terminal dues', that is, the rates a public postal operator charges for delivery of inbound cross-border mail. Article 13 requires member states to 'encourage' USPs to adopt terminal dues agreements that respect principles similar to those in effect for domestic mail. Specifically, terminal dues 'shall be fixed in relation to the costs' of handling and delivery and shall be transparent and non-discriminatory. Article 13 also adds that for cross-border mail 'remuneration shall be related to the quality of service achieved'. In practice, it appears that only three NRAs (including Ireland and Portugal) have reviewed terminal dues practices by their USPs.

### 3.6 Regulating the Accounts of USPs

Article 14 establishes standards for regulating the accounts of universal service providers. The first step is separation of accounts. Article 14 requires three levels of separation. The first is between the accounts for all universal services, on the one hand, and the accounts for all non-universal services, on the other. All USPs reportedly provide this top-level separation. The second level of separation is between all reserved universal services, on the one hand, and all non-reserved universal services, on the other. The third level of separation requires separate accounts for *each* of the reserved services. With two prominent exceptions, all member states with a reserved area require these further separations as well. The exceptions are France and the Netherlands, which require separate accounts for reserved and non-reserved collectively, but do not require separate accounts for each reserved service.

For the NRA to ensure compliance with Article 14, it seems necessary for the USP to report appropriate data on a regular basis. Almost all member states require the USP to submit periodic accounts to the NRA. In Austria and Germany, however, the USP provides such information to the NRA only when it is time to adjust rates or rate caps, that is, every few years. In Finland, the NRA merely reserves the right to request such information. In Latvia, the USP is required to give the NRA volume data but not to provide cost and revenue accounts. In some new member states, the first reports were only submitted in 2006 or 2007.

The number of distinct reserved services reflected in the accounts may offer insight into the level of accounting sophistication, although allowance must be made for the size of the reserved area and the complexity of the postal system. In some member states, the USP's accounts reflect a large number of separate products and hence very fine accounting distinctions. These states include Belgium (115 reserved products), Spain (14), Greece (14), Luxembourg (31), Portugal (16), Slovakia (12), and the United Kingdom (32). In

other member states, the division of accounts is less elaborate. Ireland, Malta, Poland, and Slovenia report between five and seven reserved products. The Czech Republic, Denmark, France, Hungary report two reserved products. NRAs in some large member states (including Germany, Italy, and the Netherlands) appear unable, or unwilling, to specify the number of reserved products.<sup>9</sup>

The obligations of Article 12 serve by implication to extend the accounting separation required by Article 14. To ensure that each universal service is geared to cost, non-discriminatory, and free of cross-subsidy, it appears logically necessary for the NRA to review cost and revenue data for each non-reserved universal service, not merely for all non-reserved universal services collectively. Despite the implications of Article 12, however, seven member states (including Germany, France, and the Netherlands), representing 54 percent of the EU letter post, do not require the USP to maintain separate accounts for each non-reserved universal service. On the other hand, 16 member states do oblige the USP to maintain such accounts and to submit them to the NRA.<sup>10</sup>

An obligation to maintain separate accounts presents particular questions when it comes to accounting for individual agreements and special tariffs. As described above, individual agreements and special tariffs account for 40 to 80 percent or more of the letter post in some member states. According to Article 12, the NRA is required to ensure the cost-based, non-discriminatory, and unsubsidized quality of these tariffs no less than for other universal services. Only the Irish NRA, however, requires the USP to maintain separate accounts for each individual agreement. And only five NRAs (excluding the largest states but including Ireland and Portugal) require the USP to maintain separate accounts for the upstream and downstream portions of services that are subject to special tariffs. Without such detailed accounts, it is unclear how the NRA can ensure that individual agreements and special tariffs meet the pricing standards set by Article 12. For example, how can the NRA be confident that special tariffs 'take account of the avoided costs, as compared to the standard service' if the NRA does not know what upstream costs are avoided and what downstream costs remain?

The overall status of accounting separation may be summarized as follows. The great majority of member states require separate product accounts for all universal services. These states, however, account for only about 50 percent of the Community letter post. A significant number of states, including some of the largest and most progressive, require separate product accounts only for reserved services only (including Germany) or, indeed, for no universal services (France and the Netherlands).

Separation of accounts is meaningless unless costs are allocated correctly to each account. Article 14(3) sets out principles for the allocation of costs as follows:

- (a) costs which can be directly assigned to a particular service shall be so assigned;
- (b) common costs, that is costs which cannot be directly assigned to a particular service, shall be allocated as follows:
  - (i) whenever possible, common costs shall be allocated on the basis of direct analysis of the origin of the costs themselves;
  - (ii) when direct analysis is not possible, common cost categories shall be allocated on the basis of an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible; the indirect linkage shall be based on comparable cost structures;

- (iii) when neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to each of the reserved services and, on the other hand, to the other services.

In brief, paragraphs (a), (b)(i), and (b)(ii) require the assignment of costs to each particular service so far as it is possible to do so by direct or indirect means. Paragraph (b)(iii) requires the allocation of the unassignable common or 'overhead' costs to each particular service based on the proportion of assigned costs.

How strictly do EU NRAs oversee cost allocation? In 2006, a bare majority of NRAs (including Germany, France, and Spain) affirmed that they have approved the costing system of the USP; they accounted for 56 percent of the EU letter post. Looking more closely, however, it is apparent that paragraph (b)(iii) poses a critical test for the NRA's command of cost allocation, namely, can the NRA determine what percentage of costs of the USP are unassignable and therefore allocated pursuant to paragraph (b)(iii)? The answer would seem to be an automatic result of any well-developed cost allocation system, yet only seven NRAs declared that they can determine the level of unassignable costs (including Belgium, Germany, France, and Portugal). And among these seven NRAs, three declined to report the actual level of unassignable costs in the 2006 survey and the others quoted figures of 5 to 7 percent of total costs. Such low levels of unallocatable costs may be contrasted with regulatory experience in the United States where, after three decades of intensive litigation and sophisticated accounting practices, the NRA has been forced to accept that about 46 percent of all costs cannot be reliably and causally assigned to a particular postal product. Not only does the American experience raise questions about the reliability of the cost allocation in the EU, some of the most active EU NRAs – including those of Ireland, Sweden, and the United Kingdom – have expressed concerns and are investigating the validity of the cost allocation systems used by their USPs.

A final issue presented by cost allocation is the quality of the data to be allocated. Data quality depends on complex statistical issues such as the size and reliability of sampling techniques. Only nine NRAs have so far investigated the quality of data used in the costing systems of the USPs, and only six of these have reviewed and approved both the costing system of the USP and the data quality (the largest country being Belgium).

Article 14(5) goes on to require independent verification and public certification of the correctness of regulatory accounts: 'National regulatory authorities shall ensure that compliance with one of the cost accounting systems described in paragraphs 3 or 4 is verified by a competent body which is independent of the universal service provider. Member States shall ensure that a statement concerning compliance is published periodically'. While almost all member states require review of the accounts of the USP by an independent auditor, in many (including France and the United Kingdom) the auditor is retained by the USP so its independence may be reasonably questioned. Since these states collectively represent 45 percent of the Community letter post, the possible lack of independence of the auditing body is not an insignificant issue. Moreover, 13 NRAs, representing almost two-thirds of the EU letter post, report that they have never published the statement of compliance required by the Postal Directive.

The Directive does not require publication of a summary of the regulatory accounts of the USP. Nonetheless, such information could enable interested parties to evaluate better

the efficiency of different services (both relative to one another and to the services of other USPs) and the potential for unfair discrimination. For example, by comparing such information year to year, interested parties could assess improvements and changes in the universal service over time. Despite lack of direction from the Directive, six NRAs declared that they do publish a summary of regulatory accounts.

Article 15 of the Postal Directive supplements Article 14 by requiring publication of periodic financial reports by the USP. The USP's financial accounts must be reviewed by an independent auditor, and they must be published in accordance with the Community and national legislation applicable to commercial undertakings. Virtually all member states comply with this provision.

### 3.7 Monitoring the Quality of Universal Service

Article 16 of the Postal Directive requires member states to 'ensure that quality-of-service standards are set and published in relation to universal service in order to guarantee a postal service of good quality. Quality standards shall focus, in particular, on routing times and on the regularity and reliability of services'. The Directive, it may be noted, does not require a member state to set a quality of service standard for *each* universal service. The Directive itself establishes quality of service standards for cross-border postal services but addresses only the routing time for 'postal items of the fastest standard category'.

As of mid-2006, routing time targets have been established in all member states, but their scope varies widely. Single-piece postal items of the fastest standard category are subject to quality of service standards in all cases, but bulk mailings are excluded in Belgium, the Netherlands (outside the reserved area), Spain, and Slovakia. Perhaps the most elaborate set of quality of service standards is found in the United Kingdom: routing time requirements are set for 15 services including non-bulk parcels. With the end of the reserved area on January 1, 2006, the British NRA, Postcomm, has reduced the number of (domestic) transit time targets to seven (UK, Postcomm, 2006). Quality of service standards are not established for non-priority postal services in three of the 12 member states where they are offered. Quality of service targets are not set for newspapers and magazines in the majority of member states which include periodicals in the universal service. Similarly, fewer than half of the states have established quality of service standards for parcel services.

Where standards are established, the target is usually high. More than half of the member states require that 90 percent of postal items in the 'fastest standard category' of service must be delivered by the day after posting. The lowest target is 80 percent, used in Germany and Latvia. Spain is the only member state that declines to set a delivery completion target for the day after posting; instead, it refers to the percentage of deliveries that must be completed by the third day after posting. Between 2003 and 2005, most member states either kept routing time standards unchanged or tightened them slightly. However, it appears significant that Denmark and Finland have recently reduced quality of service targets. Denmark has backed off from its very high standard for next-day delivery, from 97 to 93 percent of items. In Finland, there was a steeper reduction, from 95 to 85 percent. The reason is that in rural areas the Finnish USP has begun to deliver newspapers and letters together in the early morning, and due to early delivery, mail processing is incomplete for a significant percentage of letters collected the previous day.

In almost all member states, the routing time to which quality of service standards refer begins with the time of collection by the USP, not the time of posting. This is the measure codified by the European Committee for Standardization (CEN). Only Germany has adopted a different standard. German postal legislation requires transit time measurement from the viewpoint of the mailer, that is, by starting the clock with the posting of the letter at the street letterbox or postal outlet. As a result, in Germany, service performance as measured by the NRA is about 8 to 9 percent lower than the CEN-based results reported by Deutsche Post.

With minor exceptions, service performance actually achieved by the USP is published annually by the NRA or the USP. Recently, there has been some tendency to extend transparency to other postal operators. Belgium requires licensees other than the USP to implement a quality measurement. In Portugal and the United Kingdom, licensees must report to the regulator on the routing time performance of their postal services.

### **3.8 Users' Complaints and Redress Procedures**

Article 19 of the Postal Directive requires member states to ensure that 'transparent, simple and inexpensive procedures are drawn up for dealing with users' complaints, particularly in cases of theft, damage or non-compliance with service quality requirements'. All member states impose such user-protection procedures on their USPs. Fifteen states apply the same requirements to other postal operators, but most of the large ones (including Italy, France, the Netherlands, Spain, and the United Kingdom) have not done so. Article 19 goes on to say that member states should define 'procedures for determining where responsibility lies in cases where more than one operator is involved'. Only Germany and Greece, however, explicitly addressed such multi-operator situations in their user-protection legislation. In the United Kingdom, the NRA, Postcomm, has recently established a common operational procedures code to manage inter-operator issues expected to occur in a multi-operator market. The code addresses such subjects as mail identification, reposted, misposted, and misdirected mail as well as misdirected customer service enquiries.

Article 19 further requires member states to provide a procedure for appeal to a 'competent national authority . . . where users' complaints to the universal service provider have not been satisfactorily resolved'. Most states have designated the NRA as the appropriate appellate authority for users' complaints, but some have nominated an ombudsman (for example, France), consumer protection agency (for example, Sweden), or specialized postal users' group (the United Kingdom). In almost all cases, the same agency is also authorized to review users' complaints against other postal operators. Six member states (including Denmark, Italy, and the Netherlands) have so far not designated an appellate body for users' complaints.

Finally, Article 19 requires member states to ensure that USPs publish the number of complaints and the manner in which they have been dealt with. In about one-third of member states, however, governments have failed to take the necessary steps.

### **3.9 National Regulatory Authorities**

Article 22 of the Postal Directive requires member states to 'designate one or more national regulatory authorities for the postal sector that are legally separate from and

operationally independent of the postal operators'. Article 22 goes on to declare that NRAs 'shall have as a particular task ensuring compliance with the obligations arising from this Directive and shall, where appropriate, establish controls and specific procedures to ensure that the reserved services are respected'.

All member states have designated NRAs, and in almost all cases the NRA is a multi-sector regulator. The only purely postal NRAs are those of Austria, Slovakia, Spain, and the United Kingdom. The remaining NRAs regulate electronic communications services as well as postal services with the exception of the Danish regulator, whose focus is road transport. Three postal NRAs (including Germany) have jurisdiction over the energy and gas sectors as well.

Overall, in 2005 member states spent more than €37 million and employed more than 300 persons in the regulation of postal services, roughly five or six times the operating budget of the Postal Rate Commission in the United States, a far larger postal market. The resources of postal NRAs vary enormously not only between large and small member states but also between national postal systems of relatively similar size. Some NRAs appear to lack the resources needed to implement the objectives of the Postal Directive. More generally, since the Postal Directive assigns the same regulatory tasks to small member states as well as large, the amount of resources needed in small states does not decline in the same proportion as the volume of letter post. As a result, small and very small member states employ about 28 percent of EU regulatory personnel to regulate about 4 percent of the Community market. It appears that regulatory resources could be employed more efficiently.

Article 22 requires that NRAs be 'legally separate from and operationally independent of the postal operators'. In one competition law case involving France's failure to oversee competition in the upstream market, the Commission held that Article 22 requires member states to ensure 'thanks to a proper separation of duties, that the tasks of economic and financial monitoring, on the one hand, and of supervision of [the USP], on the other, are carried out completely independently one of the other'.<sup>11</sup> Independence of the NRA from the postal operator depends on many factors. Ideally, the head of an independent NRA should not be appointed by a minister who is also directly responsible for the success of the USP. Indeed, if the state has an ownership interest in the USP, then a regulator with quasi-judicial independence from the government is to be preferred over a regulator located within a ministry since different ministries necessarily influence each other. Nor should the minister responsible for the USP hold the purse strings of the NRA or exercise appeal authority over decisions of the NRA. The head of an independent NRA, or the members of the committee that serves as the head, should hold office for a fixed term of several years and enjoy legal protection against dismissal. All things being equal, it seems likely that an NRA headed by a multi-member committee will, like a court composed of several judges, be more stable and independent than a single chief regulator.

By these standards, it appears that there are some causes for concern in the practices of the member states. In at least three (Austria, Spain, and Italy), the NRA appears to be simply an office within a ministry rather than an agency with genuine institutional independence. In two, the heads of the NRA and the USP are appointed by the postal minister (Ireland and the United Kingdom). In eight, there is only a single postal regulator rather than a multi-member board. In four, the head of the NRA has no fixed term of office, and in several others the term of office is fairly short (three years or less). In

five (including Germany, Italy, and the Netherlands), the heads of the NRA appear to have no statutory protection against dismissal. In several states, the NRA is admittedly subject to policy guidance by the government. In eight, the budget of the NRA must be approved by a ministry. In Spain, the only appeal from the decision of the NRA is to the postal minister. Perhaps none of these features is sufficient standing alone to cast doubt on the independence of the NRA, and it is also true that the negative (or positive) effects of organizational arrangements may be outweighed by still more intangible political traditions. Nonetheless, there remain several features of the institutional arrangements for NRAs that could raise doubts about independence in the mind of a reasonable observer.

#### 4. FINAL OBSERVATIONS

This chapter has necessarily focused on differences in the manner in which member states of the EU have implemented, or in some cases partially failed to implement, the reform principles of the Postal Directive. These variations reflect the continuing diversity in postal, and governmental, traditions among the member states. They should not, however, obscure the tremendous collective progress made by the EU as a whole in the few short years between February 1999, when the Postal Directive of 1997 became effective, and mid-2006, the period to which this chapter refers. In each member state, the national post office has been an important public institution for more than two centuries. By mid-2006, the EU had laid a solid foundation for adapting these centuries-old public institutions into commercial entities and governmental agencies suited to the quite different needs of the twenty-first century.

#### NOTES

1. Directive 1997/67/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, OJ L 15, 21 Feb. 1998, p. 14; as amended by Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to further opening to competition of Community postal services, OJ L 176, 5 Jul. 2002, p. 21.
2. The first draft of the Third Postal Directive, a second amendment to the Postal Directive of 1997, was proposed by the European Commission in October 2006 and ultimately agreed in February 2008. Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services, OJ L 52, 27 Feb. 2008, p. 3.
3. This chapter summarizes, and in some cases updates, regulatory portions of a report prepared for the European Commission by the same authors in 2006 (WIK-Consult, 2006). In mid-2006, the European Union consisted of 25 member states. Fifteen had been members since 1995 or earlier: Austria (AT), Belgium (BE), Denmark (DK), Finland (FI), France (FR), Germany (DE), Greece (GR), Ireland (IE), Italy (IT), Luxembourg (LU), the Netherlands (NL), Portugal (PT), Spain (ES), Sweden (SE), and the United Kingdom (UK). Ten countries joined on May 1, 2004: Cyprus (CY), the Czech Republic (CZ), Estonia (EE), Hungary (HU), Latvia (LV), Lithuania (LT), Malta (MT), Poland (PO), Slovakia (SK), and Slovenia (SI). These states had had several years to prepare their postal laws during the lengthy entry process into the EU. In this chapter, the phrase 'all EU member states' refers to these 25 states. After this report was completed, on January 1, 2007, Bulgaria (BG) and Romania (RO) joined the EU.
4. As of February 2008, the German government's ownership of Deutsche Post had fallen to 31 percent. The Dutch government sold its last TNT shares in November 2006.

5. Whether or not the Directive's rule limiting the reserved area to postal services priced less than 2.5 times the basic stamp rate refers to the postage charge before or after application of VAT, if any, is a matter of uncertainty among member states.
6. Figure 12.2 states the share of EU letter post volume in member states with different levels of reservation. These 'levels of reservation' (for example, 'none' or 'domestic correspondence') relate to the legal situation of 2006. Volume information used to weigh the relative importance of member states relates to 2004.
7. In late 2007, the Netherlands postponed its planned repeal of its reserved area as of January 1, 2008, due to German adoption of a labor law that imposes minimum wage rules on private operators, thus undercutting the ability of TNT to compete against Deutsche Post in Germany. As of February 2008, this German law is a continuing matter of dispute. Slovenia has not moved to repeal its reserved area.
8. See Universal Postal Convention (2004), Article 18, and Regulation RL 152.
9. These regulators are unable to provide details about the USP's account because they lack clear legal competence to review the regulatory accounts and/or determine rules for these accounts.
10. In Spring 2007 the French NRA, ARCEP, decided on the format of regulatory accounts to be provided by La Poste (France, ARCEP, 2007). In contrast to past practice (before establishing an independent NRA) ARCEP now requires very detailed operational and financial information on product classes (that is, first and second class broken down to reserved and non-reserved services and to the elements of the postal pipeline).
11. Commission Decision 2002/344/EC of 23 October 2001 on the lack of exhaustive and independent scrutiny of the scales of charges and technical conditions applied by La Poste to mail preparation firms for access to its reserved services, OJ L 120, 7 May 2002, p. 19, paragraph 29.

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# Handbook of Worldwide Postal Reform

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**Edward Elgar**

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