

# Postal regulation

- Chapter 1. ART's preparation to undertake postal regulation
- Chapter 2. Postal sector's legal and regulatory framework
- Chapter 3. Transposition of the postal Directive around Europe
- Chapter 4. Transposition of the "postal" Directive in France
- Chapter 5. La Poste's regional development mandate and regional postal equalisation fund



# ART's preparation to undertake postal regulation

- I. Creation of an ad hoc structure within ART
- II. Launch of a study on the sector's players
- III. Towards a deeper understanding of the sector



## I. Creation of an ad hoc structure within ART

ART began preparing for taking over the task of postal regulation back in early 2004, at the time of the first Senate reading of the draft bill concerning regulation of postal activities.

The future postal regulation department – a task for which ART (Telecommunications Regulatory Authority) was appointed, and which thereby becomes ARCEP (Electronic Communications and Postal Regulatory Authority) – is in the process of being structured to ensure fulfilment of its missions<sup>1</sup>. The plan is to have 15 people working on this team which is devoted entirely to postal sector regulation. Two units have been created: one which is in charge of overseeing La Poste's universal service obligations, and its relations with operators which have been awarded a licence. The task of the second unit will be to oversee the universal service provider's accounting and tariff principles.

Other missions (such as dispute settlement, the possible creation of a universal service compensation fund, involvement in European and international workgroups) could be handled jointly by the Postal Regulation department and by the Authority's cross-sectoral departments, namely its Legal department, Economic & Forecasting department and International department.

## II. Launch of a study on the sector's players

During this preparatory stage, ART launched a study on the players involved in France's postal market<sup>2</sup>. This exploratory report sought to paint as exhaustive a portrait as possible of postal activities in France, with a purposely broad field of investigation. Four markets were chosen:

- delivery of items of correspondence (mail addressed to households and businesses),
- delivery of unaddressed advertisements,
- routing<sup>3</sup>,
- courier services (packages) and express delivery.

The market for delivery of items of correspondence, which is opening up to competition, and which is the focus of the majority of the Authority's regulatory missions, was the subject of a special analysis. Regulatory<sup>4</sup> separation needs to be made between the reserved sector, the competitive sector and the sector that involves universal service obligations.

1) For a presentation of postal regulation missions, please refer to the section on the postal sector's legal and regulatory framework.

2) The consultancy Triangle Management Services Ltd was chosen to conduct this study.

3) Routing refers to the process of depositing packaged postal items (placed in envelopes, addressed, wrapped in the case of advertisements), stamped and sorted on behalf of the major senders, at the universal service operator's distribution centre.

4) Please refer to the section on the postal sector's legal and regulatory framework.

Based on public data, the first stage of the study sought to determine the size of the four global markets selected. Operator profiles were created, providing indications of the degree of competition and concentration that exist in the markets being analysed. One of the major challenges during this stage was consolidating the data collected from an array of heterogeneous sources.

During the second phase, the information which had been gathered earlier – through interviews with operators' upper management, using detailed questionnaires – was then streamlined and broken down. A round table with a dozen executives representing the leading senders (bulk mail, large billing companies and print press publishers), made it possible to gain an understanding of the market's overriding trends, and to assess demand.

### III. Towards a deeper understanding of the sector

ART also took part in a variety of international events – such as Rutgers University's annual Conference on Postal and Delivery Economics – which bring together the postal sector's leading players to take stock of the latest industry developments in terms of regulation, market expectations and competition.

These events allowed the Authority to establish relationships, particularly with other postal regulators. This in turn helps foster discussions on the topics that ART is in the process of examining to prepare its future regulatory missions (e.g. universal postal service benchmarks, postal licensing systems, controlling the universal service provider's accounts).

ART has also met with a number of the sector's operators to establish contacts relevant to its future mission, and to pinpoint the initial areas where it will need to intervene. These encounters allowed, and will continue to allow, the Authority to visit the different postal activity sites, to gain an understanding of the various postal "processes," and to assess the challenges and specificities of the postal economy.

# Postal sector's legal and regulatory framework

## I. Postal sector regulation milestones

- 1) Jurisprudence and first steps
- 2) Redefinition of missions and the terms of postal operator intervention
- 3) Green paper on the development of the single market for postal services
- 4) Premices of Community-wide postal regulation

## II. Founding texts

- 1) The Directive of December 1997
- 2) Commission Notice of 1998 on the application of competition rules to the postal sector
- 3) The amended Directive of 2002
- 4) Regulatory segmentation of the universal service operator's activities up to 2009





# I. Postal sector regulation milestones

## 1) Jurisprudence and first steps

Express courier specialists began arriving in Europe in the 1980s: DHL, FedEx, TNT, UPS. Since then, increasing competition has given rise to the need for a legal framework. And so the history of postal sector regulation began with two decisions from the European Commission on express delivery services.

### 1.1. Commission Decision of 20/12/89 (express delivery)

The Commission underlined the incompatibility of the Netherlands' new postal law with the Treaty of Rome. The new law planned on assigning the transport and delivery of letters weighing up to 500 g to the Dutch Post Office, and authorised competitors to enter the market under more restrictive conditions than before, thereby reinforcing the incumbent's dominant position. The new legislation planned on applying minimum tariffs for express mail only to private operators, whereas the national operator was able to provide express delivery services at prices below the tariff threshold.

In its conclusions, the Commission stated that two distinct markets existed: the basic postal service and express delivery, with price being one criterion of distinction. Furthermore, it concluded that an overall assessment of the basic service's financial situation needed to be made to see whether competition would prevent the incumbent postal operator from carrying out its public service mission.

### 1.2. Commission Decision of 01/08/90 (international express mail).

The Commission issued a decision on the new legislation that allowed Spain's national post office, which already enjoyed a dominant position in the basic mail service, to also become the dominant undertaking in the subsidiary service of international express letter delivery.

In its decision, the Commission reiterated its earlier conclusions on the express delivery service in the Netherlands, pointing again to the issue of price as a criterion of distinction between the services.

## 2) Redefinition of missions and the terms of postal operator intervention

This, then, was the backdrop for the onset of debates within the Community over the postal sector, during the informal Ministers' Council in Antibes in 1989, with the EC's French chairman presiding. The goal was to define a stable European framework that would maintain the public service missions<sup>5</sup> ensured by national postal services, while preventing European postal law from being shaped haphazardly, based solely on dispute settlements.

5) The term "universal service" was not yet being used.

A process of redefining the missions and the conditions for incumbent postal operators' intervention was taking place both in Member States and at the European level.

First, there was a proposal of reduced State involvement at the national level, with discussions focusing on the legitimacy of public monopolies (in terms of efficiency, poor management, cost...). Institutional reform of public operators has taken place in the different countries – the inevitable consequence of postal operators' changing economic and legal environment. The first transformations took place in the early 1980s, in the UK, then in Ireland.

The process was stepped up, starting in 1990, with widespread changes being made to postal statutes, in some cases by the creation of a body governed by public law, such as in the UK, France, Belgium, Italy and Denmark; in other cases by the creation of a body governed by private law, but state-owned, like in Ireland, Portugal, Sweden, Finland and Germany or even through the creation of a partially privatised company, like in the Netherlands. In addition, a number of post offices were organised into more or less autonomous sectors of activity, in a bid to improve their capacity to react to the market's challenges. Such was the case in the UK, Sweden, Germany and the Netherlands.

Changes occurred next at the European level, with monopolies or the exclusive rights enjoyed by networked services constituting an exception under the founding principle of the Treaty of Rome, namely free and open competition. This situation undermined the longstanding status quo of postal activities by reversing the analysis. The consequence of allowing an SMP player to exist in this market in fact reverses the burden of proof: it is now the States which are required to prove that there is no need for open competition to ensure the provision of universal service obligations. Incumbent operators benefiting from a reserved sector may be accused of anti-trust behaviour when operating in sectors which are open to competition. In this case, all operators must be subject to the same terms of competition, in accordance with the primary objective of competition policy, namely to ensure that all economic operators are given equal opportunity, referred to by the Commission as the principle of economic equity.

### **3) Green paper on the development of the single market for postal services**

#### **3.1. The Green Paper**

So it was that, in June 1991, the European Commission published a Green Paper on the development of the single market for postal services. This text marked the launch of a Community-wide postal policy. Containing orientations and proposals, this document was the topic of widespread public consultations in all 12 EU Member States at the time.

The primary objectives laid out in the Green Paper were the continuity and

improvement of the universal service, expanding the scope of competition, and improving the conditions for cross-border mail delivery, which were deemed unsatisfactory. This text thus provides for the award of certain exclusive rights to ensure the universal service's long-term continuity.

### 3.2. The Corbeau ruling

One of the first concrete illustrations of this principle came with the Corbeau ruling, handed down by the CJEC in 1993, justifying the use of exclusive rights in the postal sector.

Mr. Corbeau found himself in conflict with Belgian postal system. He had been collecting mail from senders' homes in Liège and the surrounding area, and delivering it before noon to recipients within a certain sector, in addition to collecting mail from senders' homes then posting it, if the recipients lived outside this sector.

The Belgian Post Office – which had legalised the already common practice of express delivery by private operators– felt that Mr. Corbeau should not benefit from this status, and took him before the Liège correctional court.

This local court then turned to the Court of Luxembourg for answers to several questions it had on the interpretation of Articles 86 and 90 of the Treaty of Rome, seeking to assess the compatibility of Belgian regulation on the postal monopoly with the Treaty.

In its ruling, the Court recognised that exclusive rights were justified since they made it possible to enable compensation between profitable and unprofitable sectors. It nevertheless ruled that excluding competition was not justified if the competitor does not threaten the universal service offer, and if it provides a specific service which can be dissociated from general interest services, and which fulfils the special needs of economic operators demanding additional services that the conventional postal service does not provide (home pick-up, faster and more reliable delivery, etc.).

The courts thus legitimised the monopoly by underscoring the need to ensure an overall financial balance that guarantees the universal service's viability.

## 4) Premises of Community-wide postal regulation

In 1994, a Council of Ministers' resolution laid down the objectives that must govern the creation of Community postal regulation:

- Guaranteeing the provision throughout the Community of a universal service, at reasonable prices, accessible to all;
- Ensuring the economic and financial viability of the provision of the universal service by defining a sector of appropriate dimensions which may be reserved for universal service providers according to the principle of proportionality;

6) In November 1995, the Commission submitted a draft directive to the European Parliament and Council. The European Parliament then rendered two opinions, following which the Commission tabled modified proposals, entitled, "common position." In November 1997, the Parliament ratified the common position and, on 1 December 1997, the Council of Ministers adopted the definitive version of this Directive, which was scheduled to come into force within a year.

7) Official Journal of European Communities, European Commission Directive 97/67/EC, dated 15 December 1997, concerning the common rules for the development of an interior Community postal services market, and the improvement of the quality of service, OJEC of 21/01/98.

- Reconciling the gradual, controlled liberalisation of the postal market and that of a durable guarantee of the provision of the universal service.

The Council also invited the Commission to draft a directive<sup>6</sup> defining the universal service and providing a list of services which are likely to be reserved. It would be close to three years, and a Franco-German compromise in late 1996, before adoption of this Community directive became possible. The European process had been progressing in fits and starts since the publication of the Green Paper. Torn between the universal service objective of quality at a reasonable price and contingent on economic viability, on the one hand and, on the other, the implementation of a process of gradual liberalisation, the European Council, Commission and Parliament had been unable to reach a consensus.

## II. Founding texts

### 1) The Directive of December 1997

Directive 97/67/EC<sup>7</sup>, known as the "postal framework" Directive, is aimed at harmonisation. It lays down the principle of a universal postal service defined according to common rules: guaranteeing a minimum set of services, restricting the universal service provider's organisational methods and setting quality of service objectives.

#### 1.1. Universal service

The minimum properties of the universal service to be guaranteed by all Member States in their territory, are specified in Article 3:

*Member States shall ensure that users enjoy the right to a universal service involving the permanent provision of a postal service of specified quality at all points in their territory at affordable prices for all users.*

*To this end, Member States shall take steps to ensure that the density of the points of contact and of the access points takes account of the needs of users. They shall take steps to ensure that the universal service provider(s) guarantee(s) every working day and not less than five days a week, save in circumstances or geographical conditions deemed exceptional by the national regulatory authorities, as a minimum:*

- one clearance,
- one delivery to the home or premises of every natural or legal person or, by way of derogation, under conditions at the discretion of the national regulatory authority, one delivery to appropriate installations.

*Any exception or derogation granted by a national regulatory authority in*

*accordance with this paragraph must be communicated to the Commission and to all national regulatory authorities.*

*Each Member State shall adopt the measures necessary to ensure that the universal service includes the following minimum facilities:*

- *the clearance, sorting, transport and distribution of postal items up to two kilograms,*
- *the clearance, sorting, transport and distribution of postal packages up to 10 kilograms (20 kilograms for incoming international packages);*
- *services for registered items and insured items. [...]*

*The universal service [...] shall cover both national and cross-border services.*

### 1.1.1. Content of the universal service

Considerable latitude is given under this framework, particularly with respect to the exact content of the universal service:

- the services included;
- the number of services chosen for each category;
- the services' level of quality and features.

This is why we now see considerable disparities in the way these principles have been applied. The latest debate focuses on whether or not to include bulk mail in the universal service. There is a tendency to limit universal service to individual postal items, and to exclude industrial mail from the scope of universal service. A case in point is Sweden, where this applies to all postal deliveries, and the Netherlands where mass mailings are not part of the universal service.

### 1.1.2. The reserved sector

This “framework” Directive also marked the onset of competition, since it defined a sector reserved to the universal service operator, based on a weight-price limit on items of correspondence, in other words addressed mail (magazines, periodicals and catalogues are not considered to be items of correspondence). So the monopoly remained over items of correspondence weighing up to 350 g, and over international mail, with a review planned for 2003.

The reserved sector therefore constitutes a subset of the services offered as part of universal service:

*To the extent necessary to ensure the maintenance of universal service, the services which may be reserved by each Member State for the universal service provider(s) shall be the clearance, sorting, transport and delivery of items of domestic correspondence, whether by accelerated delivery or not, the price of which is less than five times the public tariff for an item of correspondence in the first weight step of the fastest standard category where such category exists, provided that they weigh less than 350 grams [...]*

*To the extent necessary to ensure the maintenance of universal service, cross-border mail and direct mail may continue to be reserved within the price and weight limits laid down in paragraph 1... (Directive, Chapter 3, Article 7, Paragraphs 1 and 2.)*

### 1.1.3. General principles

Based on this central tenet (maintaining universal service in a context of gradual liberalisation), the "postal" Directive set the general principles:

- which apply to the universal service provider: definition of tariff principles applicable to the universal service ("cost-oriented"), transparency and separate accounting, implementation of quality of service standards, customer complaints processing;
- and to the sector's organisation: harmonisation of technical standards, designation of an independent regulatory authority, possibility of creating a universal service compensation fund, developing a system of authorisations and licences for non-reserved services.

## 2) Commission Notice of 1998 on the application of competition rules to the postal sector

In its Notice, the Commission stipulated the notion of right of access to the postal network, by requiring that operators, *"provide the universal postal service by affording non-discriminatory access to customers or intermediaries at appropriate public points of access, in accordance with the needs of those users."*<sup>8</sup>

The Commission defines an intermediary as *"any economical operator who acts between the sender and the universal service provider, by clearing, routing and/or pre-sorting postal items, before channelling them into the public postal network of the same or of another country"*<sup>9</sup>.

So back in 1998, the Commission was planning on an alternative to the competition for items of correspondence which was created by reducing the weight-price limit on items controlled by the reserved sector. This would be competition that takes place in areas that involve processing the mail before it is forwarded to the universal service operator for delivery to customers. In France, transport is one of the areas of "upstream competition."

## 3) The amended Directive of 2002

In its Directive 2002/39/EC, the Commission specified the stages involved in opening the postal sector up to competition. Since 1 January 2003, the reserved sector has been confined to domestic and incoming cross-border delivery of postal

8) Point 8 b) vii), in the first paragraph of the Notice on the postal sector.

9) Point 1 of the Notice on the postal sector, regarding definitions.

items weighing up to 100 g. In 2006, the threshold will be lowered to 50 g. By the end of 2006, the Commission is expected to have confirmed 2009 as the date for full accomplishment of the postal internal market, based on a series of impact studies.

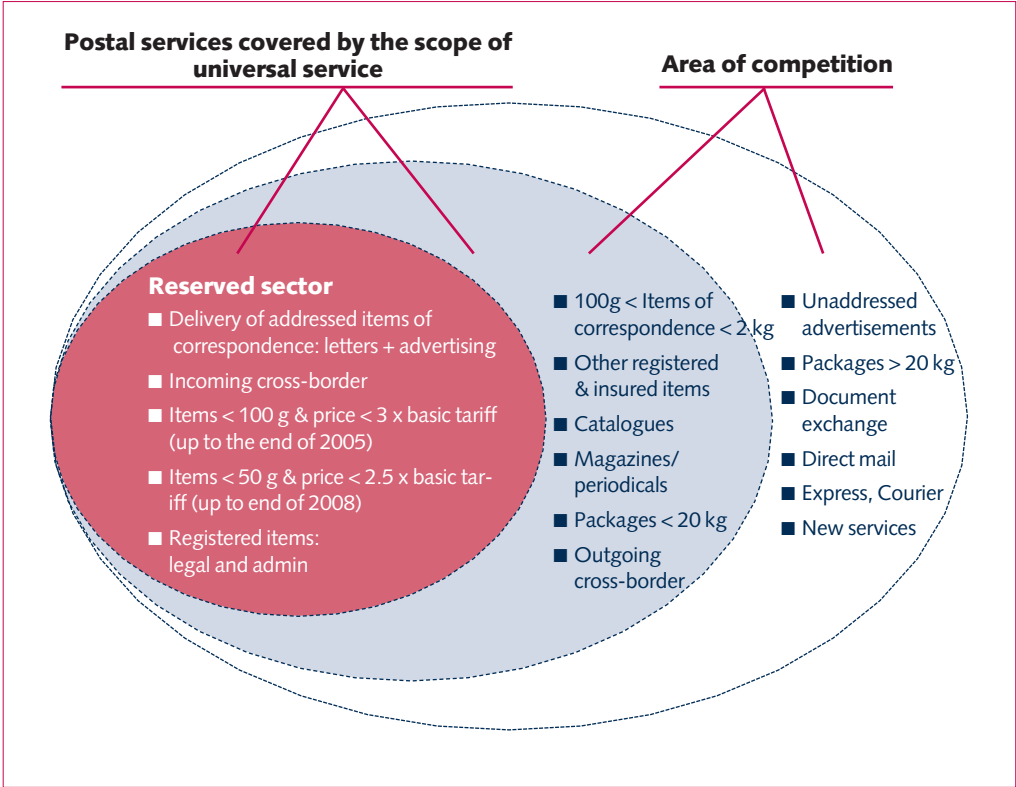
This Directive also provides for the possibility of having universal service providers offer so-called "special" tariffs to business users, to mass and bulk mailers, and to intermediaries in charge of grouping several senders' mail items. In this case, *"The tariffs shall take account of the avoided costs<sup>10</sup> as compared to the standard service covering the complete range of features offered for the clearance, transport, sorting and delivery of individual postal items"* (Article 12).

The Directive forbids cross-subsidisation between the reserved sector and the competitive sector, unless such a subsidy proves absolutely indispensable to fulfilling one of the specific universal service obligations imposed on the competitive sector. The "framework" Directive is therefore much less explicit, with only one item of the preamble stipulating, *"Whereas separate accounts for the different reserved services and non-reserved services are necessary in order to introduce transparency into the actual costs of the various services and in order to ensure that cross-subsidies from the reserved sector to the non-reserved sector do not adversely affect the competitive conditions in the latter."* (Preamble item 28)

<sup>10</sup> Interpretation of this article is still the subject of a debate in the UK between Royal Mail and Postcomm, on the theoretical basis of the price of accessing Royal Mail's distribution network being charged to UK Mail, a consolidator (an intermediary which groups the mail coming from different senders).

#### 4) Regulatory segmentation of the universal service operator's activities up to 2009

The following diagram illustrates the regulatory segmentation (universal service (US)/non-universal service (NUS) and reserved sector/competitive sector) resulting from the maintenance of a reserved sector for the universal service operator, as defined in the two European postal directives. This dual partition will become null and void once the full accomplishment of the postal internal market is confirmed for 2009.



*The area at the intersection of the universal service field and the competitive field includes services for which the universal service operator must fulfil universal service obligations (reasonable price, clearance and delivery every working day, etc.), while also having to compete with other operators.*



# Transposition of the postal Directive around Europe

## I. The WIK report

- 1) Transposition of the Directive of 2002
- 2) Universal service
- 3) Scope of the reserved sector
- 4) Authorisations
- 5) Tariffs and transparent accounting

## II. Institutional organisation of regulation in Europe



# I. The wik report

The European Commission ordered several studies as part of the ongoing oversight of the achievement of an internal market of postal services. The one conducted by WIK<sup>11</sup> in July 2004, on the progress made thus far in Europe's postal sector, places particular focus on the principal developments in the area of postal regulation which have taken place in the different countries. The central conclusions of this report are summarised below.

11) WIK Consult, Main developments in the European Postal Sector, July 2004. Available at [http://europa.eu.int/comm/internal\\_market/post/studies\\_en.htm#sector2004](http://europa.eu.int/comm/internal_market/post/studies_en.htm#sector2004).

## 1) Transposition of the Directive of 2002

Considerable progress has been made since 1997 in terms of updating legal provisions. Five of the EU-25's countries report that they had not transposed the 2002 Directive as of mid-2004: France, the Czech Republic, Estonia, Cyprus and Malta.

## 2) Universal service

In a good many countries (Belgium, Spain, the Netherlands, Poland, Slovakia, etc.), universal service was limited to items weighing under 10 kg. Certain countries, such as the Netherlands, have adopted a more innovative approach, with bulk mail, which is excluded from the scope of reserved mail, also excluded from universal service. Another example is the UK, where the scope of universal service was defined based on the demands expressed by consumers.

Virtually all Member States have achieved the minimum delivery frequencies, and laid the groundwork for having a sufficient density of access points and points of contact, as stipulated in the Directive.

Some countries have defined very specific requirements on the number and location of the points of contact, and on the number of letterboxes used for collection. In the vast majority of countries (20 of 24), no text has been written that prevents a universal service provider from replacing a post office with a postal agency. The WIK report indicates that, in all of the countries examined, post offices were closing at an average rate of roughly 2.4% a year, between 1998 and 2002. The number of postal agencies (whose staff is not employed by the operators) has increased, but not enough to compensate for the decline in the number of post offices. Nevertheless, universal service operators have developed closer ties with retailers, such as supermarkets, which can provide consumers with access to postal equipment outside of regular office hours.

Quality of service objectives have been defined in all of the Member States, but the range of universal services covered by the QoS objectives vary a great deal from country to country.

12) La Poste explained that these poor quality of service results were due to the ongoing reorganisation of their production chain, and to labour issues.

13) According to the report, 75% of mail items weigh less than 50 grams. Only 7% of these items fall under the 50-100 grams weight category, which the postal Directive places outside the scope of the reserved sector, starting in 2006.

14) This does not necessarily mean that the markets are competitive.

A stable, high level of quality (which is measured by an indicator of the percentage of first class letters distributed on D+1) has been achieved. In more than half of all Member States, in fact, more than 90% of all first class mail is delivered the day after it is posted. Indicators for certain operators (Hungary and France<sup>12</sup>) are much lower, however.

Cross-border mail between the 15 original Member States has reached a high and stable quality level, albeit with a few exceptions.

As of July 2004, the customer complaint and reimbursement processes required by the Directive had not yet been put into place. A wide variety of complaints have arisen in the different countries; close to 15 countries regularly publish figures on the number of complaints received. Only the UK has created a consumer protection agency. The implementation of the European standard on complaints procedures (EN 14012) is expected to improve the situation considerably.

### 3) Scope of the reserved sector<sup>13</sup>

According to the WIK report, in July 2004 half of all Member States (which also represents half of the population), had a virtually non-existent reserved sector<sup>14</sup> (Spain, Sweden, Finland, the UK, Estonia) or a very limited one (the Netherlands, Denmark, Austria, Czech Republic). Germany and the Netherlands have planned to do away with their reserved sector by the end of 2007, and the UK recently announced that it would be fully liberalising its postal sector on 1 January 2006.

### 4) Authorisations

The choice of whether to use a system of general authorisations or of individual licences (which require prior approval from the regulator) for undertakings competing with universal service operators, varies from country to country. The differences lie not so much in the objectives pursued (fulfilling essential demands, market knowledge and monitoring, transparency of the service rendered, access rights to postal facilities and information), but rather in the fields where the authorisations are applied (US, NUS, for certain postal services or for the entire postal sector, including express mail or not, clearance and delivery, etc.), and on the concrete methods of implementation (prior control, ex-post control, penalties). The report reveals that, in certain cases, the way that the Directive has been interpreted with respect to an authorisation system, in fact runs counter to the spirit of the European text, with certain licences that fall under the scope of universal service being very hard to obtain, in practice.

Only Italy has created a compensation fund to which licensed operators contribute.

## 5) Tariffs and transparent accounting

In its report, WIK concludes that Member States still have a way to go in guaranteeing “affordable, transparent and cost-oriented tariffs.”

All of the Member States, with the exception of Poland, have adopted clearly identified procedures for controlling universal service tariffs, generally through an *ex-ante* process (in the form of a price cap).

On the whole, WIK estimates that national regulators are not yet terribly concerned by the special principles set by the Directive concerning special tariffs<sup>15</sup>, cross-subsidisation and terminal dues<sup>16</sup>. Only half of the countries are able to confirm that the Directive's stipulations have been put into practice.

Only 9 countries (including France) report that independent audits have been performed on the principles and rules of separate accounting for universal service operators.

15) For large senders and intermediaries who sort and/or group mail.

16) International postal traffic is characterised by a situation of financial imbalance between the sending post office, which collects the postage revenues for the mail items, and the post office in the recipient country, which shoulders the cost of sorting, and particularly of delivering the mail. Terminal dues correspond to a system of compensation created to make up for this imbalance.

## II. Institutional organisation of regulation in Europe

As concerns the appointment of an independent regulator for the universal service operator (central provision of the standardisation framework planned for by the Directive), the WIK study notes that considerable progress has been made, given the virtual non-existence of postal regulators before the Directive's ratification. WIK states that, by July 2004, a regulator had been appointed in all Member States, with the exception of France where the Directive's transposition into national law was still underway.

The study also reveals that the resources allocated to regulators varied a great deal from one country to the next, and expresses the opinion that, in seven of the countries, the regulator's independence was insufficient. It was WIK's view that at least four regulators would benefit from being given greater power.

## European postal regulators

	National regulatory authorities	Non-postal Sectors	Begin postal regulation	Employees (professional) 2003	Budget euro 2003
AT	Ministry of Transport, Innovation and Technology Dept for Postal Affairs	A	1999	NA	NA
BE	Belgian Institute for postal services and Telecommunications	B	1991	11 (7)	1,250
CY	Commissioner for Telecommunication and Postal Regulation	B	2002	5 (3)	256
CZ	Ministry of Informatics - Postal Services Department	A	2000	12 (11)	NA
DE	RegTP (Regulatory Authority for Telecommunications and Post)	B	1998	25 (25)	NA
DK	Street Safety and Transport Agency, Postal Supervisory Department	G	1995	6 (3)	NA
EE	Estonian National Communications Board (ENCB)	B	2002	7 (6)	64
ES	Ministerio Fomento, Subd. Regulación Serv. Postales	A	1998	52 (52)	NA
FI	Finnish Communications Regulatory Authority	B	1994	9 (2)	
FR	Ministry of Industry				
GB	Postcomm	A	2000	37	12,998
GR	National Telecommunications and Post Commission	BG	1998	7 (5)	642
HU	National Communication Authority	BG	1990	14 (13)	747
IE	Commission for Communications Regulation	BG	2002	5 (5)	614
IT	Ministry of Communications	A	1999	20 (6)	847
LT	Communications Regulatory Authority	B	2002	5 (5)	NA
LU	Institut National de Régulation (ILR)	BCE	2000	3 (1)	475
LV	Public Utilities Commission	BCEF	2001	8 (6)	1,876
MT	Malta Communications Authority	BG	2003	1 (1)	NA
NL	OPTA (Onafhankelijke Post en Telecom Autoriteit)	B	1997	2 (4)	895
PL	URTIP (Office for Telecommunications and Post Regulation)	BG	2002	26 (26)	NA
PT	ANACOM	B	1981	7 (7)	1,780
SE	National Post & Telecom Agency	B	1994	6 (6)	898
SI	Agencija za telekomunikacije, radiodifuzijo in postu Republike Slovenije	BG	2002	2 (2)	NA
SK	Postovy urad	A	2002	19 (14)	241

Source : WIK 2004

Key to jurisdiction: A = None; B = Telecomm; C = Energy; D = Water; E = Gas; F = Railway; G = Other  
IE, PT: Budget figure for 2002

DE: The German NRA will begin regulating energy and gas markets in the next months.

# Transposition of the “postal” Directive in France

## **I. Incomplete transposition of the Directive of 1997**

- 1) Sustainable Regional Development Act
- 2) Decrees of application
- 3) Insufficiency of minimum transposition

## **II. Implementation of postal regulation (may 2005)**

- 1) Regulatory mission
- 2) Creating a postal market framework
- 3) Regulatory methods
- 4) Other important points of law





# I. Incomplete transposition of the directive of 1997

## 1) Sustainable Regional Development Act

The principal obligations contained in the Directive of 15/12/1997 were transposed into French law under Article 19 of the Sustainable Regional Development Act, dated 25 June 1999. This text amends Articles L.1 and L.2 of the Post and Telecommunications Code by defining the universal service, with its principles and guarantees to users on the one hand and, on the other, a sector reserved to the universal service provider to compensate for the cost of providing universal service, and to guarantee its safeguard to the maximum extent provided for by the Directive of 1997. Article 25 of this Act designates La Poste as the universal service provider in France.

## 2) Decrees of application

These provisions were the subject of two decrees of application:

- Decree n° 2001-122, dated 8 February 2001, amending, first, La Poste's terms and conditions specifying the general terms of providing the universal postal service and, second, the obligations to which La Poste is subject, due to its position of universal service operator, namely: implementation of analytical accounting, with a breakdown of costs between reserved and non-reserved services, methods for setting universal service and reserved sector tariffs;
- Decree n° 2001-1335, dated 28 December 2001, appointing a universal postal service mediator, and organising a procedure for processing complaints received by the universal postal service's users.

## 3) Insufficiency of minimum transposition

This minimum transposition proved insufficient for two reasons:

- opening the sector up to competition based on the decrease of the monopoly's weight-price limit in 2003 and 2006, set by the amended Directive in 2002 (monopoly up to 350g under the current Post and Electronic Communications Code);
- incompatibility between French regulation and the obligations defined by the "postal" Directive of 1997, and particularly Article 22 concerning the operational separation of the national regulatory authority and the postal operator.

Under the current system, the Minister responsible for the post has been designated as the national regulatory authority in charge of accomplishing the tasks resulting from the “postal” Directive. But this same Minister is also in charge of governing La Poste, which means that his responsibilities include the undertaking’s economic performance, defining its strategic orientation and appointing its principal administrators.

This system therefore appeared to be out of step with the changes made to the legal framework governing Europe’s postal market.

Furthermore, France was still one of the few Community members which had not yet appointed an independent regulator. So the choice was made to update the legal framework governing postal activities, as part of a draft bill specific to the sector, which includes the elements needed to transpose the reserved sector’s new limitations, as set by the aforementioned Directive, of 10 June 2002.

## II. Implementation of postal regulation (may 2005)

Act n°2005-516, dated 20 May 2005, concerning regulation of postal activities was published in the Official Journal of 21 May 2005.

### 1) Regulatory missions

Regulating postal markets involves reconciling the universal service’s existence and viability with the gradual liberalisation of the market for mail items delivery. The central regulatory missions are carried out as follows:

#### 1.1. Attributions

##### 1.1.1. The Minister

The Minister responsible for the post prepares and implements postal services regulations, and so defines universal service obligations.

##### 1.1.2. ARCEP

The Telecommunications Regulatory Authorities’ responsibilities have been expanded to the postal sector; it thus becomes ARCEP (ART’s new name, signifying Postal and Electronic Communications Regulatory Authority).

ARCEP’s powers in the area of postal regulation cover primarily:

- Awarding licences and implementing the rights and obligations attached to them,
- Overseeing La Poste’s universal service mission, and particularly its quality of service performance levels,

- Controlling the universal service provider's tariffs and accounting,
- Settling disputes.

ARCEP is also consulted on draft bills and postal sector regulations, as well as being involved in the preparation of France's position in European and international negotiations and working groups.

### 1.1.3. Operators

Operators competing with La Poste over the delivery of postal items during regular tours are subject to a licensing system.

## 1.2. Main axes of the law

Under this system, the law is organised around three main axes, each one pursuant to a different Article:

- Organisation of the postal market's activities, essentially the subject of Article 1;
- Implementation of this market's regulation, the subject of Article 2;
- Amendment of the legal framework governing La Poste's financial services, the subject of Article 8.

Although the law's central objective is to achieve a regulated postal market, it also covers the creation of a La Poste subsidiary with the status of credit organisation, in view of establishing conditions for the new activity of granting housing loans without a prior registered savings plan, which comply with common banking laws.

## 2) Creating a postal market framework

### 2.1. Definition of universal service

The law provides for a decree – issued after having received the opinion of ARCEP and the CSSPCE (High Committee for the Post and Electronic Communications Public Service), and consulted with La Poste – which specifies the features of the universal service that La Poste is obligated to provide.

It is therefore the Minister responsible for the post's duty to define the universal service obligations (terms and conditions). And it is ARCEP's duty to ensure compliance, notably in the area of quality of service.

The exact content of the services offered under the heading of universal service is thus a matter of government policy, with a margin of manoeuvrability with respect to the services and their properties:

- The number of services chosen for each category;
- QoS levels and the breadth of features included in the service, particularly for generic consumer offers;

17 density of the points of contact and of the access points takes account of the needs of users." This condition on the accessibility of the universal postal service aims to guarantee minimum national coverage for letter boxes used for collection, and points of contact to meet the needs of the universal postal service's users (e.g. for depositing and retrieving of postal items, such as registered letters and packages).

So the notion of point of access refers only to "physical facilities, including letter boxes provided for the public either on the public highway or at the premises of the universal service provider, where postal items may be deposited with the public postal network by customers."

The portion of the regional development mission which goes beyond the necessary universal service coverage falls under the heading of La Poste's public service activities, governed by the Act of 2 July 1990.

18 Italy reports that it has created a compensation fund, but no information on the subject has been made public.

19 The second reading in the National Assembly introduced a more specific definition of postal services, namely "the clearance, sorting, transport and delivery of postal items, as part of regular delivery rounds." The addition of the phrase "as part of regular delivery rounds" now explicitly excludes express delivery operators and city couriers from the scope of the licensing system's application.

- Accessibility: the density of the post office network<sup>17</sup>, coverage of letter boxes used for collection, deposit and delivery deadlines, and the terms of Saturday delivery (optional under the Directive), are among the areas where the public authority has the power to impose regulation;
- Quality of service: universal services are "of a specified quality," which also defines the possible scope of intervention of the Authority in charge of defining the content of the universal service.

As it stands, specific definition of the services falls to La Poste, with the Minister merely being informed of its decisions.

## 2.2. Maintaining a reserved sector

The law creates a new definition of the sector reserved to the universal postal service provider, in accordance with the stages of market liberalisation stipulated by the Directive of June 2002. The definition includes postal services for the delivery of national and incoming cross-border mail items of under 100 g, and at a price less than three times the basic tariff (a maximum 50 g, and less than 2.5 times the basic tariff, starting on 1 January 2006).

The "framework" Directive stipulates that delivery of registered mail which is sent as part of legal or government procedures can be organised in accordance with national legislation.

The Parliament ultimately decided that this type of registered mail offer could be assigned to the universal service operator and to licensed operators. The Conseil d'État is expected to issue a decree specifying the terms of application for this measure.

## 2.3. Universal service funding and maintenance

ARCEP has the power of recommendation should it emerge that financing the universal service becomes an unfair burden on the universal service provider. The law also provides for the possibility of instituting a universal service compensation fund (cf. section 3.9).

The option of creating a compensation fund to ensure the safeguard of universal service – should it come to pass that a restricted or non-existent monopoly is no longer capable of financing it – is provided for in the Directive of 1997. Most foreign regulations include plans to institute a compensation fund but, as yet, there are no examples of its concrete implementation<sup>18</sup>.

## 2.4. Licences for La Poste's competitors

The law installs a licensing system for the domestic postal market, including delivery as part of regular tours<sup>19</sup> and cross-border deliveries.

This system creates a framework of rights and obligations for operators intervening

in these markets. A future decree will specify the methods of application for this licensing system. Without prejudice to the content of the decree, and based on the guidelines laid down by the Directive of 1997, the licences are likely to contain the following key elements:

- mail transport must ensure the confidentiality of the items;
- more generally, operators authorised to handle the mail will undoubtedly need to offer certain guarantees: existence of a procedure for managing complaints, a means for measuring quality of service;
- operators must respect the postal monopoly;
- the regulator and the political authority must be capable of assessing the state of the market and its trends, in order to adjust the regulatory framework and enforcement of regulations; to this end, operators may be required to supply data on their activities;
- operators must be able to obtain access to certain resources which are owned or controlled by the universal service operator, and indispensable to the exercise of their postal activities, under transparent and non-discriminatory conditions (cf. section 2.5).

It did not seem necessary to extend this system beyond postal activities, per se. In France, no regulatory framework has ever been put into application for sectors such as package deliveries or unaddressed advertisements. When competition issues have arisen in these sectors, they were settled by the competent authorities (European Union, DGCCRF, Competition Council).

Transport of addressed mail (correspondence and advertisements) is only just beginning to be liberalised, however, and does give rise to the issue of ensuring the confidentiality of the items. The scope of licences is therefore limited to the delivery of items of correspondence, including the particular case of international mail.

## 2.5. Access to resources owned or controlled by the universal service provider

La Poste's licensed competitors can gain access to some of La Poste's facilities, and to certain information that it holds.

Based on the regulatory experience in countries where these issues have already arisen, the bill provides for access to four types of "resources which are indispensable to the exercise of postal activities" owned by the universal service provider:

- delivery service to post office boxes installed in post offices, for customers who have opted for this particular delivery method;
- postcode directory which correlate these codes with geographical information on the streets and addresses. It is indeed crucial that the postcode directory, in its role of reference material, and all other geographic points of reference used as the basis for addressing, be transparent. Moreover, enumeration of the postcodes concerned could constitute a

practical means of identifying the zone covered by each of the licensed operators. And, finally, postal service operators need to have access to the directory of streets and addresses, in addition to the postcode directory, to be able to perform computer-assisted pre-sorts of postal items, based on common address codification standards (postcode, location, delivery tour's digital code, street, street number, etc.). Up until now, these standards have been established by their owner: La Poste;

- information collected by La Poste on receivers' change of address. Naturally, this information has historically been communicated to the operator having the postal monopoly. Their retransmission to the postal market's new entrants, under economic terms that remain to be determined, constitutes an obvious condition for establishing balanced competition.
- a mail forwarding service in case of a change of address. This type of service cannot be undertaken by a licensed operator when the receiver's new address is located outside the geographic zone covered by the new entrant operator. In this case, La Poste will be obliged to render this service on behalf of the licensed operator.

ARCEP will issue recommendations on the conditions and timeframe for accessing these resources. These decisions will be submitted to the Minister for approval. Also planned is a system for settling disputes arising in this area.

## 2.6. Essential requirements imposed on all postal operators

These requirements expand on those stipulated in Article 2, Item 19 of the Directive of 1997. They are aimed in particular at protecting consumers in view of:

- Guaranteeing the safety of users, and the security of the universal service provider's staff and facilities;
- Guaranteeing the confidentiality of correspondence and the integrity of its contents;
- Ensuring the protection of personal data of which La Poste or licensed operators may be in possession, and protection of the privacy of these services' users;
- Enabling the exercise of these activities under technical conditions that comply with environmental protection objectives.

These requirements apply to the universal service provider, to licensed operators and to operators involved in market segments that do not require a license, namely distributors of catalogues, magazines and periodicals, and postal package delivery services.

## 2.7. Access to individual letterboxes

The law provides for the universal service operator and licensed operators to have access to receivers' letterboxes. It is the Conseil d'État's task to define the precise conditions of application.

The prospect of putting this provision into practice gave rise to several legal and technical issues (building security, private property rights), which led the Minister to call upon the CGTI (General Council on Information Technologies) for advice. Based on the Council's conclusions, the second reading in the Senate made it possible to specify the methods for putting this Article into application.

Licensed operators and the universal service provider enjoy this right to access individuals' letterboxes for the purpose of delivering postal items (services which mark the scope of the universal postal service, in other words, delivery of items of correspondence, packages up to 20 kg, catalogues, magazines, periodicals and international mail).

The terms of access must be identical, and defined by a Conseil d'État decree, following receipt of ARCEP's opinion. The building and housing code will need to be adapted in kind. It is in fact now planned that property and condominium owners must allow access to their letterboxes.

At its second reading, the members of parliament voted in favour of an amendment to extend this right to newspaper carriers. Newspapers are generally delivered based on a subscriber list, without the customer's name or address being displayed on them. The carriers' main activity does therefore not involve the delivery of items of correspondence.

This means that newspaper carrier companies will be able to request a license to gain the right to access individuals' letter boxes if they are exercising an activity of delivery of items of correspondence, while providing the necessary guarantees,<sup>20</sup> as stipulated in the decree of application.

### 3) Regulatory methods

#### 3.1. The timetable

The postal regulator will be responsible for overseeing the services provided by the universal service operator – monitoring quality of service and tariffs in particular. In addition, it will award licences to alternative operators, and will have the power to settle disputes between La Poste and its major customers, and between La Poste and alternative operators. The regulator will also have a power of enquiry, associated with a graduated penalty system for operators in violation of the postal activities market's operational framework.

The law provides for a specific process of implementation for Article 2 which enacts regulatory provisions. This Article will come into force on the first day of the sixth month following its ratification, with the exception of the new Article L.5 of the Post and Electronic Communications Code, concerning consultation with the regulatory authority on draft decrees, and its involvement in the preparation of the French position for international negotiations, which came into effect on the date of the Act's publication.

<sup>20</sup> Worth noting with respect to these guarantees is ARCEP's inclusion of the operator in the list of licensees. Members of parliament also planned on further guarantees: compliance with certain working hours and, for the agents of the interested parties, certain moral conditions, an individual commitment to respect the confidentiality and integrity of the items, the obligation to be in possession of an official company card and to wear a badge.

21 The decree will define QoS criteria (e.g. transport deadlines, reliability of service) to be taken into account, and the consultation procedures to be adhered to; figures relating to the objectives are set by the Ministry of Postal Affairs, in accordance with the guidelines set out in the decree.

This six-month period is required to enable the adoption of the planned regulatory provisions (notably the decrees concerning universal service and the licensing system's methods of application).

Moreover, this period will give the regulatory authority the time needed to set up its organisation.

### 3.2. Controlling the universal service offer

ARCEP is responsible for ensuring that La Poste fulfils its universal service obligations. To this end, it seeks to ensure that La Poste's offer corresponds to the general principles of universal service and contains the necessary features, as defined by the decree of application.

The Authority also ensures that quality of service objectives are met (set by the order issued by the Minister responsible for postal affairs, based on the methods established by the decree on the properties of the universal service<sup>21</sup>), and publishes an annual report on performance results.

### 3.3. Licence awards

ARCEP is in charge of awarding licences. This autonomous power assigned to the Authority is strictly regulated: Article L.5-1 specifies the obligations that can be associated with a licence, and the criteria that can be used to justify refusal of a licence.

The licence stipulates the causes for deterrent administrative penalties such as suspension or (full or partial) withdrawal, in cases of violation of the postal monopoly, for instance.

The licences are granted for a renewable 10-year period, and cannot be traded.

The obligations associated with a licence can include:

- the features of the authorised postal services offer, pursuant to Article 9 of the Directive of 1997; the licence may contain "*requirements concerning the quality, availability and performance of the relevant services*";
- the territory where the service can be provided, which implies that certain operators may be authorised to exercise their activity only within a limited geographic zone;
- procedures for handling user complaints, in cases of loss or theft or non-compliance with quality standards, including when several service providers are involved;
- obligations imposed on the licence-holder to enable the regulatory authority to supervise its postal activity.

The exact content of these obligations will be specified in the decree of application. As concerns the framework for refusing a licence, the Authority can base its refusal on issues relating to law and order, defence or public safety only following a reasoned opinion from the Minister of Postal Affairs.



### 3.4. Control of the universal service provider's accounts and tariffs

ARCEP is responsible for setting the analytical accounting rules that enable verification of La Poste's compliance with its obligations relating to the universal service's financial equilibrium and its financing by the monopoly.

Drawing on its longstanding experience in overseeing operators' analytical accounting related to universal service financing conditions, pursuant to Article L.5-2 the regulatory authority has the power to advise the Minister responsible for postal affairs on the measures to take to ensure the long-term safeguard of universal service provision.

es are used to verify that all tariffs comply with the principles of universal service pricing (single price nationwide for monopoly products, cost-orientated, affordability...) and, to this end, to draw conclusions from the Authority's examination of the analytical accounts.

ARCEP's involvement in this area will vary depending on the situation:

- tariff approval for reserved sector services;
- multi-annual framework procedures for competitive universal service tariffs, which might distinguish bulk mail from personalised individual postal items.

Worth noting is the particular case of printed press transport tariffs: this tariff is currently set by decree, and must "*encourage plurality of the press*," in addition to complying with the terms that apply to other universal service tariffs. Because this additional feature constitutes a regulatory exception, a dedicated ministerial approval procedure is created, giving power of decision to the minister, following an opinion from the regulator.

### 3.5. Power to impose penalties

This power involves solely the imposition of penalties for having violated the terms of postal service obligations in the area of universal service. This means that ARCEP can impose penalties only on the universal service operator, and on operators which have been awarded a licence in accordance with Article L.3. Other operators, such as service providers that intervene only in the areas of package delivery or transport, are outside the scope of this power. If, for instance, they fail to comply with certain essential requirements stipulated in Article L.3-2, only the Courts have the power to order penalties.

will be exercised only after a formal notice has gone unheeded. The list of possible penalties is not the same for licensed operators and for the universal service provider.

penalties can be imposed on all operators, whereas licensed operators are also eligible for administrative penalties.

### 3.6. Dispute settlement

The law provides for the settlement of two types of dispute:

- disputes arising during the negotiation or execution of contracts relating to the terms of universal service (bulk mail contracts signed with large senders, transporters, or competing delivery services requesting that La Poste take charge of deliveries in zones not covered by their licence);
- disputes over access agreements relating to La Poste resources which are indispensable to the exercise of alternative operators' postal activities.

In both cases, ARCEP must ensure that the technical and tariff conditions are non-discriminatory, and will have four months to render its ruling.

### 3.7. The Competition Council's opinion

In cases where disputes arise between La Poste and competitors with which it has no operational ties, e.g. commercial behaviour problems or anti-competitive practices, the rules of ordinary law jurisdiction will apply (Competition Council's jurisdiction). Furthermore, a system of cross-consultation for opinion between the Competition Council and the regulator is created, modelled on the system currently used for electronic communication services.

### 3.8. Power of enquiry on the universal service provider and licensed operators

ARCEP has a general power to conduct broad investigations to ensure that the universal service operator, and the different operators involved in the liberalised market, are complying with their rights and obligations.

This power to gather information concerns both the Minister responsible for postal affairs and the regulatory authority. It falls under the scope of investigating infractions which may warrant penalties, pursuant to Article L.5-3.

The scope of application of this power has been expanded, and now allows ARCEP to gather information in view of a thorough investigation of an issue, without there necessarily being immediate plans to impose a penalty.

### 3.9. Universal postal service compensation fund

Creation of this fund is contingent on establishing the need for its implementation, as stipulated in two forthcoming decrees.

The first, issued by the Conseil d'État, after having received the opinions of ARCEP and the High Committee for the Post and Electronic Communications Public Service, will specify the assessment, compensation and net cost sharing methods tied to universal service obligations.

The second, issued following ARCEP's public recommendation, at the request of the universal service provider, must make it possible to establish that financing the universal service constitutes an unfair burden for that operator.

The option of instituting a compensation fund is now explicitly provided for by law<sup>22</sup> as is already the case in Germany and in Italy.

The methods for managing this fund are modelled on the one used for the universal telecommunications service (contributions prorated based on authorised operators' universal service-related turnover, exemption threshold set by decree, managed by the Caisse des dépôts et consignations).

22 The text of earlier draft bills provided for a government report for examining this financing solution and making proposals, within a maximum two years of the law's ratification.

## 4) Other important points of law

The provisions outlined briefly here below are outside the scope of ARCEP's regulatory powers in the postal activities market (which cover liberalisation of the market for items of correspondence and safeguarding the universal postal service).

### 4.1. Updating the system of postal responsibility

The law amends La Poste's system of responsibility with respect to postal items, by expanding the scope of responsibility in cases of loss or damage to all of the services for which sufficient proof of deposit and delivery are planned.

Amending the system of responsibility is thus a complex matter, since it needs to take two objectives into account:

- first, defining the circumstances under which proof of deposit may be delivered (scanning, deposit receipt, etc.). It is difficult to obtain proof of a gesture that consists of inserting a letter in a letterbox, if the sender takes no special steps to obtain that proof. This difficulty naturally comes into play more in cases of loss than damage to a postal item;
- second, extending the new system to all postal service providers competing with La Poste, under fair and balanced operating conditions for all operators. The difficulty here lies in the limited scope of application of this specific system.

In cases of delays in postal item deliveries, the new wording of Article L. 13 of the Code makes it possible to cite postal service providers' responsibilities, but only when the provider has committed to a specific delivery date.

A decree issued by the Conseil d'État will set the compensatory limits, taking into account the nature of the postal item and the postage tariffs paid.

### 4.2. Creation of a postal credit union

The law authorises La Poste to grant real estate credit without prior registered savings plans, as well as consumer credit, under conditions that ensure fair competition with credit unions that already offer these services.

Debates on this issue took place in Parliament, notably over the system for transferring goods, duties and debentures tied to La Poste's financial services to the ECP (postal credit union): relations with the Caisse des dépôts et consignations, date of transfer, which must be prior to 1 January 2006, the Court's assessment

of the accounts of the thus created organisation, the postal credit union's operational mode, and the relationship it has with La Poste's other enterprises  
Parliament also examined the social aspects involved in the creation of the  
Chapter 5.- La Poste's regional development mandate and regional postal equalisation fund

# La Poste's regional development mandate and regional postal equalisation fund

- I. A mission outside the scope of ARCEP's competence
- II. Methods implemented



# I. A mission outside the scope of ARCEP'S competence

For the first time, postal law introduces a clear distinction between La Poste's universal service mandate, and its regional development mandate. The first is required to appear, symbolically, in the Post and Electronic Communications Code (CPCE), while the second is contained in the Act of 1990 creating the public establishment. It follows then, that different methods are used to finance each of these missions: universal postal service compensation fund<sup>23</sup>/regional postal equalisation fund.

The existence of a postal service in fact derives from a regional development mandate instigated by the French legislator<sup>24</sup>, which is therefore distinct from and complementary to the "accessibility" aspect of the universal postal service. The scope of the universal service's accessibility is defined by Article 3 of the Directive of 1997: "*Member States shall take steps to ensure that the density of the points of contact and of the access points takes account of the needs of users*" and specified in the outline of the postal sector's legal and regulatory framework<sup>25</sup>.

This regional development mandate therefore relies on La Poste's competitive postal activities, in addition to actual universal service obligations and, in the same vein, on all the activities, including financial, that La Poste undertakes pursuant to Article 2 of the Act of 1990. It is therefore with this in mind that the law states that what will be taken into account are the distance from users and working hours of the points of contact in the network, rather than the postal service, per se. Implementation and oversight of this mandate do therefore not fall under the scope of ARCEP's postal regulation mission.

## II. Methods implemented

A portion of the implementation methods is already provided for in the contract for the 5-year plan<sup>26</sup> between the State and La Poste; with another portion to be specified in the decrees of application.

In addition to formalising the existence of this regional development mandate, the draft bill on postal activity regulation includes the following provisions:

- Framework for defining the accessibility rules for the public postal network, which "except under exceptional circumstances, cannot allow more than 10% of the département's population to be located more than five kilometres, and more than twenty minutes by car under the region's driving conditions, from the closest La Poste point of contact.";

23 The aspects tied to the universal postal service are addressed in the postal sector's legal and regulatory framework.

24 This applies as well to the public printed press transport service.

25 Minimum national coverage for letterboxes used for collection, and points of contact to meet the needs of the universal postal service's users (e.g. for depositing and retrieving postal items, such as registered letters and packages, filing complaints, etc.). Please refer to the section on the postal sector's legal and regulatory framework.

26 The 5-year plan contract signed in January 2004 provides for the creation of a national regional equalisation fund, to finance La Poste's presence beyond its mandatory areas of presence defined by universal service accessibility obligations.

- The cartography and location criteria for these “regional development” points of contact will be defined locally by departmental postal presence commissions (CDPPT); the goal being to provide a framework for making the required changes to the points of contact network (half of the points of contact account for 90% of total turnover, and 20% of the points of contact work less than one hour a day).
- The sum of La Poste’s local tax exemption is allocated to its financing, and placed into an equalisation fund, whose operational methods are defined by decree.

postal credit union, and specified the terms under which the ECP could make use of La Poste’s personnel.