



Summary of the Report from the European Commission on the application of the Postal Services Directive (PSD)

1. Purpose

The Malta Communications Authority's (MCA's) primary objective with regard to the regulation of the postal sector in Malta is to safeguard the provision of an efficient, affordable and high quality universal postal service together with the promotion of sustainable competition in the provision of postal services.

The MCA's regulatory remit to regulate the postal sector comes directly from legislation, in particular from the Postal Services Act (Cap. 254)¹, which transposed the European Postal Services Directive² (PSD) into national law.

The PSD was last revised in 2008. Since then, the postal sector has undergone major changes due to digitalisation and e-commerce. On 8 November 2021, the European Commission adopted its report on the application of the PSD (hereinafter referred to as 'the Application Report'). The Application Report assesses whether the PSD still fits the purpose for which it was adopted in 1997 and whether new policy objectives might need to be considered in the future.

In this document, the MCA is providing a summary of the salient points emerging from the Commission's Application Report. This document also outlines the MCA's next steps and its contribution into the process of the review of the European Postal Services Directive.

2. Report on the Application of the Postal Services Directive

The role of postal services is changing for the single market and for the EU economy compared to several years ago. The traditional paper-based letter mail is being heavily replaced by digital means of communication and developments in technological means, electronic communications services and eCommerce have led to considerable increase in parcel delivery services. Given these shifts in market structure, the needs of postal users today are different from what they were 25 years ago when the first Postal Services Directive (PSD) was adopted in 1997.

Article 23 of the PSD requires the European Commission to submit an evaluation report on its application to the European Parliament and Council every four years (referred to as the 'Application Report'). In November 2021, the European Commission published the latest Application Report³,

¹ Postal Services Act (CAP 254) - <https://legislation.mt/eli/cap/254/eng/pdf>

² Directive 97/67/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, as amended by Directive 2002/39/EC and 2008/6/EC.

³ https://ec.europa.eu/growth/sectors/postal-services_en

aimed at assessing whether the PSD has achieved its objectives, is still fit for purpose, and recognising the present and future needs of postal users and operators.

Main Findings of the Evaluation of the Postal Services Directive

The Application Report affirms that a number of issues are not being sufficiently reflected in the current PSD. The Application Report found that:

- the benefits of universal postal services to society have been declining, while becoming increasingly costly;
- the achievement of an internal market and the stimulation of effective competition in the letter mail segment has not taken place in the scope envisaged; and
- standards are insufficiently used - this reduces legal certainty and may lead to interoperability issues.

The provision of affordable, high-quality universal postal service to all users – The report notes that, in the main, the PSD has been successful in ensuring that everyone benefits from basic postal services. As the postal market evolved, and costs have been increasing owing to the diminishing demand for letter mail, the report underlines that there may be a case for reassessing what products, services and related features need to be included in the universal service obligation and how they should be regulated. Moreover, the information required to be collected by the Member States is interpreted differently from one country, and as a result this has reduced clarity, created legal uncertainty and lack of transparency.

Establishing a well-functioning and competitive internal market for postal services - The report goes also into the issue of competition, arguing that very little competition in the letter mail segment has taken place. Competition has showed, according to the studies of the evaluation, to help stimulate demand and supply, contribute to better prices, better quality and innovation. The PSD is a minimum harmonisation directive, and absence of harmonised rules and absence of procedural access rules may have also contributed to low competition. The evaluation also remarks that where access to the incumbent's network⁴ was granted to different postal service operators, postal users, especially businesses, have benefitted from lower prices.

Harmonising principles for the regulation of postal services – The report notes that the PSD, being a minimum harmonisation directive, has resulted in a number of differences in national implementation and application. These differences have led to a number of inconsistencies and incoherencies in the respective Member States' frameworks and operations, an example of which are the definitions used to describe certain postal items.

⁴ The system of organisation 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.

Fitness of the Postal Services Directive

The Application Report further goes into analysing the fitness of the PSD by focusing on the effectiveness, efficiency, coherence and relevance of the PSD.

In general, the PSD has been effective in ensuring the delivery of a universal postal service. However, costs for maintaining the universal service obligation have been increasing since the gradual decrease in letter mail. Therefore, the interplay between the principles of cost-orientation and affordability requires further consideration.

On this note, the report concludes that the PSD is not fully efficient. Changes in users' needs suggest that the intra-EU cross-border quality of service requirements (transit time performance) set out in the PSD have been declining in recent years. In parallel, costs have been increasing over the last five to ten years. The PSD is less efficient because a number of provisions currently present in the PSD appear to generate unnecessary costs and burdens on the operators. In fact, certain provisions in the PSD may no longer be required (or not required in the current form). In particular, reference is made to the scope and features of the universal postal service and the quality parameters of such services, as well as provisions to enable market entry and competition.

In terms of coherence, the evaluation concludes that PSD is coherent with the Regulation (EU) 2018/644 on cross-border parcel delivery services⁵. It is also broadly coherent and complementary with other relevant EU-level legislation and horizontal policies as well as with international postal policy. The postal sector has an environmental impact, for instance through the frequency of delivery, and hence interlinks with the Green Deal objectives.

Conclusion

To ensure that postal operators and users can fully benefit from technological developments, innovation and e-commerce, while also securing the continued provision of an affordable and high-quality universal service, the Application Report notes that it is desirable to further explore potential adaptation of the regulatory framework in a way that would also provide the necessary conditions for the EU postal service to continue to play its role effectively in the economy. Any such steps must also be coherent with, and support, EU level horizontal actions taken within the context of the EU Green Deal and the EU Digital Agenda.

3. Way Forward and Next Steps

Despite the Commission's suggestions to further explore possible amendments to the regulatory framework, the Application Report does not spell out specific changes or a plan (or timetable) for follow-up actions.

The MCA will contribute to the work of the European Regulators Group for Postal Services⁶ (ERGP) to provide views on the Commission's Application Report conclusions. It will continue following

⁵ [The regulation on cross-border parcel delivery services](#) entered into force on 22 May 2018. The regulation requires parcel delivery providers to provide pricing information that will allow national regulatory authorities to have better regulatory oversight of the providers and their sub-contractors

⁶ The MCA participates in the ERGP. The ERGP is an advisory group to the European Commission. It facilitates consultation and cooperation between National Regulatory Authorities (NRAs) in EU countries, and between NRAs and the Commission to help consolidate the internal market for postal services and ensure the consistent application of postal/parcel legislation.



developments at an EU level on any positions taken with regard to a review of the PSD and in assessing any proposals by the European Commission on a new PSD.

Note: Additional information on the main findings of the Report on the application of the PSD is available in presentation format [here](#).