

Public consultation on cross-border parcel delivery – 15 October 2020

UNI Europa Post & Logistics provides its feedback on the application of Regulation (EU) 2018/644. Efforts to create a digital single market adapted to the needs of e-retailers and customers must not come at the expense of social, employment and environmental standards. Postal liberalisation coupled with digitalisation has had an overall negative impact on working conditions, especially in parcel delivery. This consultation should be seen in conjunction with the overall revision of the Postal Services Directive (PSD) as parcel delivery is shared by both postal and private delivery operators.

Market developments in parcel delivery

Parcels are of crucial importance for national economies and can support SMEs' growth in the regions. The Covid-19 outbreak has reinforced the importance of parcel delivery as an essential service. Parcels¹ have a distinct regulatory framework to letter mail depending on the national context. In the Courier, Express and Parcels (CEP) business, competition is based mainly on prices and not on quality. Postal regulation has additional USO quality requirements. Competition on prices in network industries is almost exclusively based on salaries. PSD definitions do not clearly indicate when a parcel delivery service is a postal service, with implications on market definitions and access regimes. There is a lack of harmonised regulatory regime when it comes to parcels. Competition in CEP is fierce.

Universal Service Providers (USPs) adapted to competition. They diversified their offerings to compete with parcel operators. In parcels, competition is based essentially on the cost of labour². Labour shortages in CEP have become a global issue as companies report difficulties in recruiting qualified drivers. Parcel market growth is expected to continue, even accelerate in coming years as more people than ever shop online. The Covid-19 pandemic has intensified this trend. Three types of operators compete in CEP: global integrators, USPs, and private companies. CEP is characterised by many new market entrants and large e-retailers developing their own integrated networks of delivery.

CEP operators adopt low-cost business strategies reliant on low-tech, low fixed costs, and are heavily dependent on the use of cheap labour³. This challenges the USPs with higher labour costs and employment protections. Confronted with market changes, USPs progressively shift their business models towards CEP and restructure the postal networks. USPs' diversification led to the deterioration of working conditions and employment losses. USPs adapted to competition by becoming cheaper, more efficient, and more flexible. This was achieved through restructuring and rationalisation; outsourcing, franchising, and new subsidiaries; investments in new technologies; downsizing of the postal network; and new forms of employment (more precarious forms).

In discussing the application of the Regulation, postal trade unions call for a fully-fledged citizen right to consume postal products (parcels) based on an informed choice between operators. This choice becomes informed if all market players abide by similar legal and regulatory standards, which is currently not the case. The Regulation must oblige all parcel delivery operators to compete within a regulatory level-playing field including **minimum employment, social and environmental standards**. Currently USPs follow national postal regulation and legislation and compete with private operators

¹ ERGP Report on Postal Definitions (2020)

² Costs of labour represent on average 60-70% of a USPs' cost structure

³ <https://www.theguardian.com/society/2016/jul/18/hermes-couriers-paying-staff-less-than-living-wage>

in parcel delivery which follow different legislation and regulations. The Regulation must address this regulatory gap.

Digital technologies transformed post and logistics. Automated sorting coupled with object tracing during delivery, enabled parcel operators to save labour costs. USPs optimised deliveries through outsourcing and prior quantification of tasks. Digital tracking is not only applied to the transported goods but also to workers themselves. Delivery work is controlled by digital navigation software that generates delivery routes and instructs deliverers where to go next. This is often accompanied by behaviour monitoring with negative consequences in terms of workers' health and safety. **In turn, these also generates drops in the quality of service.**

Digitalisation in parcel delivery also enabled the emergence of digital labour platforms. Some USPs founded their own platforms. E-retailers develop their own parcel delivery platforms and compete directly with transport platforms like Uber. Delivery work platforms contribute to the deterioration of labour standards through various forms of bogus self-employment and precarious working conditions. Postal trade unions call for all parcel delivery operators to abide by a minimum set of standards in terms of employment and working conditions. The lack of a clear regulatory framework for parcel delivery operators further impedes fair competition and a level playing field.

Employment and working conditions in parcel delivery

The pace of USPs' adaptation varies from one country to another. While some (DPD, GLS) managed to develop pan-European (or even global) parcel delivery networks⁴, other USPs struggle to gain a foothold in their domestic parcel delivery market. The restructurings adversely impacted the nature and quality of the work performed by postal workers, as it created new low-skilled job profiles replacing the traditional sorting and delivery agents. The use of alternative forms of employment, notably precarious forms of work, is the norm in the CEP industry. This adds cost pressure especially in parcel delivery which is labour-intensive.

USPs implemented alternative forms of employment to remain competitive. This breaks the tradition of stable and decent quality employment in the postal sector. Increasingly, USPs outsource delivery activities resulting in the hire of self-employed drivers to carry out the delivery tasks. This is particularly the case in USPs' parcel delivery subsidiaries. With low labour-cost models of alternative operators putting pressure on USPs, the wages paid by the latter deteriorated. Wages in the postal sector, often below the average national wage remain higher nonetheless than those offered by many competitors in CEP. In some countries, self-employed deliverers are paid piece rates with the resulting hourly wages below national or sectoral minimum wages⁵. Workers struggle to earn a living wage, while customers endure poor service quality, as parcels are more likely to get lost or damaged.

CEP market trends led to a far-reaching deterioration of working conditions and resulted in increased workloads and work pressure. Increased workloads are the direct result of increased volumes (and heavier parcels to carry), heightened consumer expectations for parcel delivery and employment cuts. At USPs level, restructuring, deteriorating working conditions and low wages also led to a loss of

⁴ DPD is now the second-largest operator in Europe behind Deutsche Post DHL, with a market share estimated at 12.9% (with leading positions on several European markets like Germany, the UK, France, Poland or Portugal).

⁵ This is the case for example in the UK, where companies such as Amazon, Yodel and Hermes have become notorious for employing couriers on a self-employed basis and paying piece rates for successful delivery.

positive job identification. This is linked to a progressive deskilling of postal jobs. The separation of preparation and delivery operations led to the creation of two new low-skilled profiles, the sorting agent, and the delivery agent. The deterioration in employment and working conditions increases the number of mistakes and the risk of accidents⁶. Drivers and couriers working in delivery experience an increase in work intensity and the extension of working time. At CEP level, working time regulation is different to the postal sector generating further market distortions in parcel delivery.

Regulatory aspects in parcel delivery

The Regulation must be integrated into the PSD to guarantee fair competition in parcel delivery for all operators.

Parcel delivery is subject to regulatory fragmentation depending on whether the parcel is considered part of the USO or not, according to national definitions. The CEP market however does not follow postal regulation. The main challenge is the different regulatory framework that applies to USPs and to private competitors in turn. As competition is mainly based on prices, private competitors are placed in a competitive advantage as they can offer much lower wages and far worse working conditions. Private parcel delivery operators benefit from unfair competition as they do not abide by postal regulatory standards in terms of occupational health and safety, working time and wage levels. Blurred sector boundaries in parcel delivery mean that unscrupulous employers can evade higher-wage collective agreements through outsourcing. The expansion of low-cost and insecure employment models in parcel delivery threatens a race to the bottom in terms of pay and conditions across the whole sector. The rise of precarious employment conditions such as temporary work, subcontracting and bogus self-employment are a central feature of parcel delivery in the context of digitalisation. These processes are enabled by the lack of a harmonised regulatory framework for parcel delivery.

The Regulation must include the obligation for giving the receivers an informed choice over their parcel delivery carrier based on a wide range of information such as social and environmental standards.

Regarding the objective of increased transparency of certain public tariffs, the publication of the tariff lists enables price comparisons for senders but is incomplete as negotiated tariffs for big customers like Amazon are lacking as considered confidential. For receivers of parcels, however, there still is no effective informed choice possible between operators when you order online. Parcel delivery has a price. Free delivery advertisements give the wrong impression and create market distortions with significant pressure on prices. This pressure on prices has immediate consequences on levels of wages, working conditions and create pockets of unfair competition in postal markets that have engaged network third-party access. Third-party network access licensees should abide by national social, labour, and environmental practices and standards. The National Regulatory Authorities (NRAs) must be made fully accountable in those supervisory functions.

The Regulation must foresee to render delivery costs visible and clearly indicated for customers who purchase online.

⁶ <http://www.cgtfapt77.fr/wp/?p=2120>

In e-Commerce parcel delivery, e-retailer websites do not mention the real cost of parcel delivery. The choice of who delivers the parcels, must be based on an informed decision with all the relevant information. If large customers (e-retailers) benefit from preferential rates, such benefits should also be reflected in the price they charge for delivery to avoid the negative consequences in terms of wages and working conditions in such a labour-intensive industry. Information provided to consumers should include: the actual cost of delivery (not listed price, or free delivery advertisement), service quality standards, time-definite delivery, track and trace, speed, returns options, environmental impact, etc.). 'Free delivery' distort impressions of the actual cost of parcel delivery services. The Commission should seek measures to provide consumers transparency regarding actual delivery costs to allow an informed and responsible consumption.

The Regulation must include the same reporting obligations to the NRA's for all parcel deliverers.

Regarding the objective of enhancing the regulatory oversight of parcel delivery services, all companies providing services under the USO (parcel delivery is included) ought to report in a standardised manner to the NRAs. The NRAs should uphold and safeguard social and environmental standards. The NRAs should be under the obligation to collect data to uphold and safeguard social, labour, and environmental standards for all companies providing services under the USO scope to avoid social dumping. This means the NRAs need more social and environmental responsibility and accountability in enforcing corrective mechanisms in case of non-respect of established standards and national legislation. Postal trade unions call for the enactment of minimum employment, social, and environmental criteria in the parcel delivery market. Postal trade unions see three possible avenues to enact such minimum criteria and stop the race-to-the-bottom in terms of wages and working conditions: all parcel delivery operators (main contractors) must guarantee joint and several liability throughout their value and supply chains. Subcontracting work that does not offer decent living conditions must be prohibited either through sectoral collective bargaining, a postal licence scheme guaranteed by the NRAs, or a combination of those to ensure decent working conditions and sustainable jobs in parcel delivery.

Social Partners at all levels must be included in the evaluation and interpretation of NRAs data.

The Regulation's reporting obligations enable NRAs to collect and assess social and employment data on parcel delivery operators. Given the mentioned regulatory fragmentation, NRAs are not in a capacity nor do they have a mandate to compare social and labour conditions across the operators as the collected data does not inform about the applicable Collective Labour Agreements or legislation. Social partners at European and national levels (Sectoral Social Dialogue Committee for postal services) could assist the NRAs in interpreting those figures both qualitatively and quantitatively. European social partners are best placed to compare and recommend corrective measures to NRAs when it comes to terms of employment and working conditions in such a blurred regulatory landscape.

The Regulation must include a licence system for all parcel delivery companies and equip the NRAs with the means and power to control and enforce standards and legislation.

The new regulatory framework must impede instances of unfair competition and social dumping by upholding fair practices in terms of employment conditions, environmental performance, and quality of service. All companies, including parcel delivery companies, must apply for a license under certain conditions if they want to provide (parts) of the USO (parcel delivery). The NRAs could be tasked to enforce the respect of social and environmental standards and ought to be authorised to revoke the

licences if operators fail to meet the applicable norms. It is only with the full respect of applicable norms by all market players in parcel delivery that we could achieve full transparency and regulatory oversight in parcel delivery services.

The Regulation must include financial contributions by all market players to ensure the sustainability of the USO in each country. The Regulation must include minimum employment, social and environmental standards for all parcel delivery operators, including their subcontractors.

E-retailers and large senders of parcels should contribute to the net USO cost even if it means entrusting additional standards in terms of minimum wages and environmental footprint. All market players involved in parcel delivery as part of the USO must contribute to its financing whilst guaranteeing the high quality of service at uniform affordable prices. Any assessment of cross-border parcel delivery markets, including stocktaking on price transparency and regulatory matters, is incomplete without due consideration given to the forthcoming PSD evaluation. UNI Europa Post & Logistics demands increased transparency and harmonised accounting methods to ensure that all delivery operators comply with established and applicable norms and legislation. The Regulation must address the regulatory gap that enables operators to choose the cheapest regulatory arrangements in terms of labour costs. Wage dumping and subcontracting in parcel delivery must be tackled to ensure a living wage and decent working conditions for all workers. Competition in parcels delivery should not be based solely on prices. Such social aspects should be included in the assessment of the appropriateness of the applicable regulatory frameworks by NRAs.

The Regulation must ensure transparency and set actions to lower the carbon footprint of parcel delivery.

Parcel delivery has an environmental cost. UNI Europa Post & Logistics favours further interoperability between parcel operators to have a positive effect on carbon emissions. Combined delivery between different operators should be promoted along with an electrification obligation of the fleets. Information on environmental effects of delivery operators should be available to consumers, especially when they order goods online. Parcel return policies of large e-retailers should also be considered. The Regulation ought to promote regulatory coherence. The European Green Deal endeavours in that sense ought to be reflected in the information obligations of e-retailers regarding the environmental footprint of parcel delivery operations. This Regulation could address this issue by enhancing consumer and client choices through the establishment of minimum criteria for responsible consumption. The Regulation must oblige all parcel delivery operators (main contractors) to guarantee joint and several liability throughout their value and supply chains, especially subcontracted activities.

UNI Europa Post & Logistics recommendations on the application of Regulation (EU) 2018/644

In assessing the implementation and application of the Regulation, UNI Europa Post & Logistics calls on the legislators to enact a full citizen right to regular and affordable parcel delivery at uniform prices in a national territory, to send and receive parcels.

This implies strong market regulation that guarantees good working conditions, decent wages, and a high quality of service. This also implies achieving regulatory clarity as to the scope of the postal sector regarding parcel delivery. Clear definitions of the boundaries of the postal sector concerning parcel delivery can provide NRAs legal certainty as regards their area of responsibility and competence. Only clear definitions of those boundaries can ensure a level playing field for all parcel operators active in

the parcels market and a harmonised regulatory approach whereby all market players abide by similar social, labour, and environmental standards.

Quality of service indicators in parcel delivery need to be regulated at national level reflecting an expansive definition of the USO. We call for the inclusion of parcels (up to 31,5 kg) in the scope of the USO as defined at national level. This market segment must be carefully supervised by the NRAs. The scope of the USO must include parcels and include a definition that foresees reporting obligations for all companies providing parcel delivery. Cross-border parcel delivery must be regulated specifically to allow a level-playing field in terms of working conditions and prices charged to access the postal networks.

Social dumping cannot be promoted through regulatory uncertainty (what is within or outside the scope of the USO). Current definitions of the USO in terms of high-quality, affordable services at uniform prices in the whole territory, access points density, delivery time standards (d+1) and last mile delivery must be upheld and/or maintained in each national context. The Regulation must address market distortions caused by 'free delivery' advertisements by e-retailers.

To support a harmonised regulatory approach in parcel delivery and e-Commerce expansion, the Regulation must uphold the postal mission of services of general economic interest to benefit the citizens and the consumers. To achieve this, market operators must compete within a regulatory level-playing field that abides by social, labour, and environmental standards and does not engage in a race-to-the-bottom in terms of wages, working conditions and profit-seeking.

UNI Europa Post & Logistics demands the establishment of a minimum regulatory floor for parcel delivery that accounts for the national diversities as implemented thus far. The overall Quality of Service of the PSD must be upheld. The Regulation review must not undermine established national practices whilst defending the provision of the USO. Market liberalisation needs to be accompanied by social cohesion measures that guarantee decent wages and working conditions for all market players involved in the parcel delivery supply chain.

The adaptation of postal activities and parcel delivery must be enabled in a democratic manner with the full involvement of all stakeholders (workers, citizens, consumers) whilst accounting for the regional and national differences and divergences following postal liberalisation. In many parts of Europe, notably rural areas, postal services constitute the only means of communication and social inclusion. The Covid-19 pandemic has shown how essential and vital it is to have access to parcel delivery and be able to order online within the single market. Postal services have a crucial role in promoting social and territorial cohesion. Rather than facilitating the downsizing of the postal networks the new regulatory framework must guarantee good quality postal services and delivery networks whilst ensuring a level-playing field for all market players that have access to the postal networks. Operational costs for accessible postal networks' segments must be valued fairly and the USPs must be compensated to enable the sustainability of the postal networks into the future.