Editorial

The 25th UPU Congress in Doha
from an EU perspective

Report from CERP WG Policy

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Editorial

Dear Reader,

This third CERP Newsletter in 2012 includes an assessment of the results of the 25th UPU Congress in Doha from an EU perspective by Werner Stengg, Head of Unit, Postal and online services, Directorate-General for the Internal Market and Services, European Commission.

Furthermore the results of two projects finalized in CERP Working Group Policy are published.

In addition the section "News" has been included in the CERP Newsletter where you may find information on recent developments in CERP member countries.

I hope this Newsletter will find your interest.

Finally I may wish all of you a Merry Christmas and a Happy and Peaceful New Year.

Yours sincerely

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The 25th UPU Congress from an EU Perspective [1]

From an EU perspective, the 25th Congress of the Universal Postal Union (UPU) was very successful and provided an important milestone in the relationship between the EU and the UPU. Clearly this account of the Congress is neither complete – this would be impossible in view of the hundreds of subjects covered in three weeks of debate – nor always objective as it is essentially a subjective account of the proceedings with a necessarily Eurocentric point of departure.

Why was this Congress so successful?

First, it adopted unanimously a resolution granting the EU formal/de iure observer status in the organs of the UPU and formally recognized the importance of already well-established relationship between the EU and the UPU. This UPU Resolution followed the Conclusions of the Council of the EU of 7 June and a proposal by all 27 Member States to the UPU (Proposal of a general nature 74). The Resolution confirms not only that sound preparation together with UPU experts of the Member States is a key, but also that the EU takes postal matters and the cooperation with other major players very seriously. The observer status is not only a one-off achievement, but a firm commitment to actively pursue the topics that are of particular relevance for the EU Member States further in the bodies of the organisation.

Second, following a proposal by EU Member States, the 25th UPU Congress amended, by overwhelming majority, Article 9 of the UPU Convention by introducing advance electronic information as a future requirement for postal traffic (excluding postcards and letters). This showed both broad understanding of the importance of air cargo security and the essential role the" postal world" plays in this process. Furthermore, it again confirmed that on important files a broad consensus can be achieved if there is sufficient and all-inclusive preparation. Here again, the relevant implementing acts will require further work from experts and we are aware that an active input from the European Union is generally expected. The engagement in this matter is justified not least by the understanding that the postal world needs to take all members and their specific situations on board.

Third, it is also important that proposals limiting the right of member countries to designate postal operators for the provision of the universal service (e.g. to only one operator) were rejected.

Fourth, counterfeit and pirated goods continue to be items not admitted in mail. It will have to be seen that this is implemented consistently on the ground.

As we all know after the Congress is before the Congress. Preparations for the 2016 Congress in Istanbul will have to start early. Some lessons can be drawn from Doha: One needs to be aware that concrete proposals are only known at a very late stage. This makes preparations far from easy, but is a fact that we will have to take into account. Technical expertise is of the utmost importance – and it is here where CERP with its WG UPU provides a very valuable background work and input to discussion. For sure, "hot subjects" are likely to come back on the agenda for 2016 (e.g. terminal dues). For these kinds of technically very challenging items, it will be advisable to build up trust and get an in-depth picture of the interests of all actors' well before the official "negotiations" even

[1]Please note that this is not an official EU position, it is the independent opinion of the author and does not bind the EC or its services.

start. Generally preparation needs to start earlier and coordination between different competent services is needed at a very early stage. It needs to involve (also) those that will be physically present in the Congress. And, last but not least: Priorities need to be defined in advance. This, as we all know is of utmost importance in a time where resources are extremely limited.

The newly elected Director General of the International bureau, Ambassador Bishar Hussein (Kenya), and his deputy, Mr Pascal Clivaz, are well-known for their professional competence and for their inclusive spirit. I can only wish them every success over the next four years term as they set about, implementing the Acts of the Congress and the Doha Postal Strategy. I have spoken with both of them on several occasions and am sure that the organisation is in good hands. We are all aware of the importance of cooperation between the Universal Postal Union (UPU) and such organisations as the EU as well as the advantages that this type of cooperation presents for the Universal Postal Union and its members. And, I can assure you that the European Union is taking its observer status serious and that it will continue to play an active role in the work of the organs of the UPU.

Werner Stengg, Head of Unit, Postal and online services, Directorate-General for the Internal Market and Services, European Commission

Report from CERP WG Policy

In 2012 CERP Working Group Policy issued two questionnaires: "Ex-ante and ex-post price regulation" and "Future regulations in postal directive" (opinions of member countries on the postal directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC).

The questionnaire on ex-ante and ex-post price regulation gathered information on "Legal requirements" and "Experience".

The answers regarding "Legal requirements" show that there are differentiated solutions concerning legal basis for price regulations: For domestic and international Universal Service 10 countries use basic law, 6 countries use regulations set by NRAs and 3 countries determine their requirements by ordinance.

Applied price regulations are also differentiated: For domestic and international Universal Service mostly ex-ante price regulation is applied, followed by single price approval. Concerning regulation regarding discounts and/or special contracts of domestic Universal Service, most countries (6) require publication of those; similarly in international Universal Service (5 countries require publication).

Only few changes in price regulation appeared within the recent years and not many are foreseen for the future. However, two countries plan to introduce price cap instead of single price approval for domestic and international Universal Services, two countries plan to introduce price cap instead of single approval with regard to reserved services and one country plans to apply cost coverage instead of maximum price.

There are not many ex-ante regulations regarding the non-universal services and within last 2 years no changes were made. For the next two years there are several changes foreseen for ex-ante regulation for access and non universal services.

In the second part of the questionnaire devoted to experience, three countries encountered problems with abuse of dominant market position and/or suppressing competition by applying predatory pricing, concerning bulk and direct mail. In this regard one country encountered problems with inability to react on competitive challenges.

In one country the regulated postal operator asked for a change in the applied mechanism and/or scope of price approval in outgoing cross-border letter. This was due to a fact that the USP has asked for revisions of the price-cap formula/values that applies to the reserved services.

One country reported that a competitor complained about the applied mechanism and/or scope of price approval, regarding USO bulk mail, lack of transparency, discrimination and change to ex ante, anti-competitive behaviour, cross-subsidization to competitive services.

Several countries encountered economic problems with regard to competition policy in the non-universal service market, such as abuse of dominant position in direct mail and packets, evidence of cross subsidization in express and packets, problems with VAT exemption or internal access prices for USP subsidiaries.
There have also been two requests from regulated postal operator regarding change in applied mechanism and/or scope of ex-ante regulation. These concerned competition distortion in VAT regime and scope of ex-ante regulation in direct mail.

Finally, in case of competitors' complaints regarding applied mechanisms and/or scope of ex-ante regulation, there were two cases regarding the access to postal network, where the previous legal framework not allowed the NRA to define ex-ante rules for access to the postal network and demand by private operators to get access.

The questionnaire concerning opinions of member countries on the postal directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC was an open questionnaire, where members could freely express their views concerning certain articles of the Directive.

Most of the comments were made on the scope of universal service – differentiated among members and the fact that in the future the definition of US should consider e-services as being part of Universal Service and customer needs should be taken into account, introducing a concept of universal service providers' network (distinction between postal sector and transport of goods).

Concerning financing of the Universal Service, the term "unfair financial burden" should be clarified and the service providers that contribute to the compensation fund should be specified. In case of access some views were expressed that delivery of postal items should be included.

Further comments indicated the need of making tariffs cost based, what would eliminate the need of compensation mechanism and intra-EU services should be consi-

dered as domestic services offered within a single European internal market.

Quality of service could be measured with indicators such as setting transit time targets for parcels, customer satisfaction, waiting time at the post-office, complaints handling etc.

Concerning the role of NRAs, comments indicated that they shall act independently and shall not seek or take instructions from any other body in relation to exercising these tasks assigned to them under national law implementing Community law.

Furthermore a requirement for more consistency and regularity in the publication of the reports, postal statistics data production and much more time coherence to the year they refer was expressed.

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Czech Republic: In June 2012 the Parliament of the Czech Republic adopted the substantial amendment to the Act on Postal Services, transposing Directive 2008/6/EC. On the basis of this amendment, which will enter into force on 1 January 2013, the last part of the monopoly of the postal licence holder, i.e. Czech Post, will be removed and the Czech postal market will be fully liberalized. The universal service obligation will be imposed on Czech Post for a five-year period, it means to the end of 2017; after that, a new entity to ensure the universal service will be chosen on the basis of the public procurement. Above the framework of the universal service scope as specified in the Postal Directive, also money orders are a part of universal services.

All operators intending to provide postal services will need to be registered at the NRA – Czech Telecommunication Office, which will be at the same time the price regulator, but only for the universal services provided by the postal licence holder, i.e. Czech Post. Czech Telecommunication Office will also be the supervisory body for consumer protection.

The mechanism of financing possible net costs of the universal service obligations is based on the universal service fund. The new legal regulations include also obligation for the postal licence holder to give other operators access to elements of postal infrastructure.

At present, adoption of secondary legislation prepared by Czech Telecommunication Office is being finished. It relates e.g. to the methodology for calculating net costs, register of postal services providers, basic services (universal services) specification etc. Those regulations will as well enter into force on 1 January 2013.

Germany: The German Cartel-Office has introduced a claim against Deutsche Post AG for applying predatory pricing in the business mail segment by offering unjustified discounts to large customers so that competitors are pushed outside the market.

Greece: In the context of the full implementation of the third postal Directive, which was adopted by law 4053/2012 at a national level, and the liberalisation of the postal market, the Ministry, in collaboration with the NRA, is in the process of issuing the relevant secondary legislation as follows:

1. Ministerial Decision regarding the determination of the content of the Universal Postal Service.

2. Joint Ministerial Decision regarding the determination of methodology of the procedure of sharing part of the net cost of the provision of universal postal service charged on operators providing postal service.

The above draft has been sent to DG Competition of the European Commission in the context of the pre-notification procedure.

The NRA (EETT) on its behalf has concluded public consultations regarding the methodology of universal service net cost calculation, the licensing regime and consumer protection issues, with the aim of having all necessary legislation ready by 1/1/2013.

Lithuania: In order to go in line with the international obligations assumed by the Republic of Lithuania, and from the 1st of January 2013 to liberalize the country's postal sector, on 8 November 2012 the draft of the revised version of the Postal Law was adopted in the Seimas (Parliament) of the Republic of Lithuania. Currently the secondary legal acts are in the process of preparation.

In addition information was provided, that Lithuania takes over the presidency of the Council of the European Union on 1 July 2013. During its presidency, Lithuania will host the ICT'2013 conference under the title "ICT 2013: Create, Connect, Grow", which will take place on the 6–8 November next year in Vilnius, the capital city of Lithuania. The main issues to be discussed are: future trends, scientific researches, socio-economic benefits of ICTs, etc.

In the name of the authorities of the Ministry of Transport and Communications, Lithuania would like to invite the representatives of the CERP member countries to take an active part in the ICT'2013 conference."

Norway: Last spring the Norwegian Government put forward to the Parliament a proposal to abolish most of the obligations for Norway Post to offer banking services throughout its network. The proposal was adopted by the Parliament in June.

Now the banking obligation only remains with the rural postmen. In the next two years, Norway Post will as a result of this reduce the number of regular post offices with almost 150, keeping only 30 post offices in the whole country. Instead, all the 150 offices are contracted to food stores, kiosks etc. Thus, the number of contact points will not be reduced.