



# Position Paper EU Commission Parcel Delivery Regulation

## Key messages

- *EMOTA welcomes the Commission goal to enable the further development of eCommerce*
- *We support the Commissions' view that the single piece parcel segment could be more competitive in some Member States*
- *Regulatory monitoring is important to address any potential market failures*
- *EMOTA supports the information and transparency requirements, with the necessary safeguards*
- *EMOTA welcomes the EU Commission's focus on transparency and affordability, as already enshrined in the Postal Directives*
- *Third party access provisions should include the necessary safeguards*

## Introductory remarks

EMOTA's<sup>[1]</sup> welcomes and supports the EU Commission's commitment to further address potential postal and parcel market failures.

The EMOTA Members are users of postal services ranging from very small companies, micro-enterprises, to the very large multi-national online seller. Smaller companies are typically less able to sell the necessary volume in order to be able to negotiate the discounts which are sometimes within the reach of larger sellers. Also, smaller sellers are less able to digest complex and unstructured information about the pricing structures of the various suppliers that are required for a successful online retail business (postal, payments, tax, sourcing, etc.)

The EMOTA Members welcome the important improvements and innovations implemented by postal operators in the recent years. However, the many studies published over the past three years, including those of the EU Commission, showed that while postal operators have innovated and improved parcels services for the larger senders there are a number of challenges faced by online traders that are micro-enterprises and individuals using the so called single-piece, non-negotiated, over-the-counter postal parcel services.

We share the Commission's view that while the parcels market in general is competitive (particularly B2B; bulk B2C segments and domestic business volumes), the cross-border single-piece or over-the-counter parcel segment could be more competitive in some Member States. The EC has rightly recognized that by improving the regulatory oversight for consumer and the micro-enterprise segment the cross-border

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[1] EMOTA, the European eCommerce and Omni Channel Trade Association, is the European level umbrella federation representing online and distance sellers across Europe. The main mission of EMOTA is to promote eCommerce and Distance Selling and help policy makers remove any barriers to cross-border selling. Transparency



growth of these small enterprise can be stimulated. Today's SME and individual ecommerce shipper is tomorrow's larger ecommerce business, and their growth should be encouraged for the benefit of jobs.

**The market developments: are there any areas where competition is not developed sufficiently and why?**

Over the past 15 years the market has experienced a significant decrease in letter mail volumes and a constant and rapid increase in packet and parcel services. Operators have adapted their services and in most cases made the necessary investments to capture the growth in domestic parcels and provide a better service to online sellers, including cross-border.

In this context, EMOTA welcomes the significant investments posts are making to further integrate and improve cross-border postal services including through the innovative Interconnect program run by the International Post Corporation. The IPC programme recognizes the importance of meeting shipper needs in its design and while the focus is currently on larger shippers we look forward to the improvements being made available to SMEs and individuals who access such services at post office counters.

More generally, while the postal parcels networks have adapted primarily to larger volumes, both domestically and cross-border, the choice available to smaller volume sellers, namely micro-enterprises, is less competitive particularly in respect of prices, product and delivery choices. In this context, the Commission's parcel initiative aims at stimulating product and pricing innovation for the SME segment in the same way that posts have offered attractive discounts to SMEs in letters for example through channel pricing discounts.

Small volume senders, having limited purchasing and bargaining power, will generally find it more difficult to access better prices and conditions for delivery services. This problem is further amplified in cross-border parcel delivery services where the small volume senders are unable to access services in the next country directly as some of the larger companies might be able to. These aspects are also covered by the Universal Service Obligation provisions found in the Postal Directive.

**EMOTA thus supports the focus of the EC's proposal on the single-piece segment, its emphasis on bringing transparency to the overall market size and the creation of transparency that will aid the downward pressure of parcel prices for the smallest of SMEs, where these prices are found to be insufficiently competitive. The large EU ecommerce shops of the future will emerge from these micro-enterprises, and the EC's encouragement of this through modest regulatory oversight is strongly endorsed. EMOTA expects that the effects of the proposed changes would only be visible in time.**

**Suggestions for the EU Parliament**

Small volume senders, mainly micro-enterprises, independents and consumers are principally protected by the universal service obligation (affordability) and access requirements as enshrined in the PSD and competition regulation. EMOTA encourages the EU Parliament Members to vote in favor of transparency and monitoring of market failure.



As an organization representing users of postal services, EMOTA reassures the EU Parliament Members that EU Commission proposal will not reduce any of the services available to remotely located citizens or businesses as these are safeguarded by the universal service obligation.

**Key provisions:**

**Scope (Article 1):** EMOTA favors an approach whereby the scope of the regulation is limited to the areas where the policy makers have identified potential market failures, the same areas where there is least competition and the highest prices for the products: the over the counter, non-negotiated tariff segment. EMOTA does not see any real benefits from extending the scope of Articles 4, 5 and 6 to non-Universal Service Providers or other new or developing business models.

It is the understanding of EMOTA that the Regulation proposed by the Commission aims to reduce the information and bargaining power asymmetries, in support of further developing eCommerce and the new business models should be allowed as much as possible to develop without further restrictions, in addition to the fact that very rarely they focus on C2C deliveries.

**Definition of parcel (Article 2):** In the view of EMOTA a parcel should be defined as an item entering the postal stream containing merchandise and goods with a weight of up to 31,5Kg. The thickness of the item should not be the only deciding factor.

**Threshold (Article 3):** EMOTA considers that the 50 employees threshold as described by the EU Commission should refer to all overall staff involved in deliveries, not only direct full time employees, thus including part-time, externals, outsourced or contractual agents. Such an approach would prevent the creation of loopholes while still maintain a workable threshold.

**Products and information transparency (Articles 4):** EMOTA strongly supports the principle of transparency which is already present in several key articles of the Postal Directive, including via the obligation of Universal Service Providers to regularly inform “users” of the main characteristics and market developments of the products within the Universal Service Obligation. However, measures should be implemented to ensure the accuracy of the price lists information required by the Regulation and as mentioned above the information requirements should avoid any duplication.

**Data collection principles:** EMOTA insists that any data collection process is organized with the aim to avoid any possible duplication. Authorities should ensure that companies are not forced to provide the same data several times. The data collection systems should be digital and built with the aim to save time and resources for those required to use them.

**Confidentiality (Article 4):** EMOTA supports the view of the EU Commission that Regulators should have visibility over the multi-lateral agreements and other inter-operator agreements on terminal rates. However, as a general principle, confidentiality of business rates should be guarded as a priority. Therefore, EMOTA would suggest that any such sensitive information should only be collected in case of evidence of market failure and not as a default data collection exercise.

**Affordability and cost orientation (Article 5):** EMOTA calls on policy makers to clearly distinguish the issues between the two concepts and to ensure that any of the measures proposed will not lead to market distortions. Both principles, cost-orientation and affordability are enshrined in the EU Postal



Directive, next to transparency and non-discrimination which should be enforced accordingly by Regulators.

**Cost orientation:** Cost orientation is already a fundamental principle in the current Postal Directive. EMOTA strongly supports this principle and urges policy makers and regulators to focus on properly enforcing the existing rules and ensuring that Regulatory bodies have the adequate resources for enforcement.

**Affordability:** EMOTA considers that the affordability test should be clearly targeted on the low competition/low bargaining power segments and be very well structured, thus avoiding unnecessary over spills or market distortions. EMOTA warns against the creation of new broad Universal Service Obligations which would result in additional market distortions.

**Third party network access (Article 6):** The principle of access to networks is enshrined in the Postal Services Directive and the REIMS II agreement giving third-parties access to the networks and prices that the posts enjoy. EMOTA therefore supports the development of commercial access arrangements which encourage innovation and choice in parcel services. It is equally important that the legal and competition framework should be enforced as to ensure that new market entrants, including very small delivery operators, should be able to quickly develop the necessary services and products for the problematic areas, such as low volume and low frequency shipping.

However, regulated access measures should be proportionate for the posts and only available to smaller competitors that have a deficit of bargaining power. National Regulatory Agencies and competition authorities should be adequately equipped to monitor any market issues and intervene in a timely manner against anti-competitive measures. EMOTA calls on policy makers to ensure that the measures adopted via this Regulation do not have a negative effect by reducing flexibility for postal operators to adapt to the needs of users.

#### **Other important aspects to consider:**

**Regulators resources and independence:** Regulators should be provided with additional resources in order to efficiently oversee their markets and cooperate regionally. As the eCommerce market is gradually becoming a regionally driven market, Regulators, both for postal and competition should have the necessary tools and mechanisms in place for cooperation and timely action. EMOTA considers that while the creation and current activity of the ERGP are very important steps forward, they seem not to be able to facilitate timely reactions to the market developments.

**Retailer's pricing policy:** On page 4 of the Communication accompanying the draft Regulation the EU Commission makes the claim that some online sellers charge more for delivery than they are charged by postal operators, the claim being based on the Copenhagen Economics study, suggesting the eCommerce market is not sufficiently competitive in order to allow consumers to choose other offers.

eCommerce shoppers enjoy a great deal of choice in Europe. EMOTA estimates that there are over 750,000 active webshops and all the data suggests that if online shoppers do not get a good delivery price from one retailers they will buy from another online store. In this context, suggestions that it is etailers who are imposing high parcel prices is absurd. Their key objective is to sell merchandise and encourage



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shoppers to return to their site in part by offering competitive delivery prices. Thus, any suggestion that policy makers should intervene in one of the most extremely competitive market in the world, the EU eCommerce market, is misplaced. The dominance is in the single-piece, over the counter parcel segment of the market not in the retail segment.

**Incentivizing micro-enterprises:** EMOTA also encourages policy makers to engage with stakeholders such as EMOTA towards the development of incentives for micro-enterprises to cut costs in their deliveries. Small volume senders might not be always aware of various cost saving aspects, such as addressing standards, formats, packaging, etc.

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