



# Position Paper

## EMOTA Position for the EU Commission Public Consultation on the challenges faced by distance sellers in cross-border parcel delivery

EMOTA<sup>1</sup>'s main goal is to assist policy makers in removing any barriers to cross-border trade. EMOTA's commitment to a barrier free EU Single Market is long standing and can be traced across all our positions and actions. We are making the following comments with the aim to constructively contribute to the debate over the future of the EU Digital Single Market for products and services by reflecting the views of online sellers across 17 markets, including the largest.

### Recommendations

- Remedies against unfair competition from Asian eCommerce merchants, notably from China, who benefit from a significantly reduced postal delivery tariffs, which is no longer justified
- Introduce measures: to increase transparency in pricing and tariffs; to improve regulatory oversight and; ensure application of competition law
- Create a platform for dialogue between different stakeholders (users, enforcers, operators) - Select carefully the new postal standards without restricting competition; postal users should be more involved in the standardization process
- Support to: IPC/PostEurop efforts to develop new cross-border parcel delivery products and; actions aimed at informing stakeholders about cross-border delivery services.

### Introduction:

The current EU legal framework for postal services required Member States to fully liberalize the postal services market by 31 December 2012, creating a Single European Market for Postal Services. The aim of this measure was to increase competition and quality while decreasing costs in support of cross-border trade. Both in national markets and in the cross-border segment the parcel volume continuously increased for the past 10 years. While cross-border parcel delivery services have greatly improved over the years, many challenges remain for distance sellers engaging in cross-border trade.

EMOTA would like to raise awareness for the need of timely actions and coordination among stakeholders, policy makers and enforcers for the removal of the barriers to cross-border intra- EU trade. Many of the recent studies, including by the EU Commission (Digital Single Market Scoreboard 2015), point to delivery problems (high costs, lack of information about the available services) as some of the main barriers distance sellers face in cross-border trade.

<sup>1</sup> 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 register N° 11251212351-96



We take this opportunity to provide feedback on the main policy and stakeholder actions, the comments below are meant to complete the replies provided by EMOTA in the context of the EU Commission Public Consultation on Cross-border Parcel Delivery (comments in Annex):

**1. Implementing an EU strategy concerning international competition issues in parcel delivery:**

In 2015, the EMOTA Members are noticing a rapidly growing interest for the EU markets by large international distance sellers. In addition, certain international markets (e.g. Asia) benefit from a very low tariff system, under the Universal Postal Union rules, which allow shippers from these markets to deliver into Europe at a very low cost.

Such low tariffs are no longer justified for economies which in some segments outweigh many developed markets. These only result in competition distortions within the EU. The EU Commission should take action to develop and implement a strategy which should result into a fair tariff structure for parcels imported into the EU.

**2. Legislative initiative for transparency in pricing and enhanced regulatory oversight:**

EMOTA welcomes the EU Commission Digital Single Market Strategy which includes the commitment that in the near future the EU Commission could consider legislative initiatives meant to enhance transparency in pricing and tariffs and regulatory oversight for postal services, should the market fail to identify and implement the necessary improvements.

While it can be argued that Postal Regulators do have the necessary tools to ensure the oversight at the national level, it is less clear whether the current legal framework can form the basis for regulatory oversight at the regional and EU level, especially concerning cross-border parcel delivery. The same can be said regarding the application of competition law in this area as often there seems to be an insufficient cooperation between Postal Regulators, Competition authorities and consumer protection bodies, and even less in cross-border issues.

We encourage and support the EU Commission in launching a comprehensive dialogue with stakeholders (users, enforcers and operators) in order to identify the legal gaps which could lead to market distortions, namely restricting the development of competition for certain segments of services and products.

At the same time, it is important to maintain the secrecy of individually negotiated contracts, which are built on specific volumes of parcels and packets and the level to which the seller can internalize various steps of the sorting process.

**3. Standardization and competition:**

EMOTA stresses the importance of standardization in cross-border parcel delivery services as a way to reduce steps in the sorting processes and ultimately reduce costs for consumers and sellers.

At the same time, we call on policy makers and standardization bodies to ensure that any current and new standards are not used as a barrier to reduce competition, for example due to certain restrictions some stakeholders (mainly users of postal services) could face in the participation at the development and implementation of such standards.



Currently the lack of uniformity in the use of standards across the different EU markets can result in higher costs for smaller distance sellers.

We therefore encourage policy makers and standardization bodies to redouble efforts towards the involvement of postal services users in the development of standards for labelling/addressing and other information/data exchange tools.

#### **4. Industry platforms and stakeholder initiatives:**

EMOTA welcomes the commitment of IPC/PostEurop to develop a pan-European platform to facilitate cross-border parcel delivery, including the data exchange for cross-border track and trace and similar services.

Such platforms should enable more distance sellers to better understand the various possibilities for cross-border parcel delivery and improve the service offered to consumers via a complete track and trace system and consequently a more precise estimate of the delivery times. At present, many sellers with relatively high volumes of parcels (aprox. 100.000/year) will find it difficult to access competitive tariffs for cross-border deliveries. Sellers should be able to find adequate tariffs and services for their shipments, especially when trying to enter a new market. Such services should be market driven solutions and not subsidized or license.

We call on the various stakeholders involved to ensure a fair access for alternative operators in order not to restrict competition and help further boost cross-border trade. At the same time, a clear set of rules should be established in partnership with the users of postal services in order to prevent any difficulties linked to the usage and functioning of the systems.

We also strongly welcome the EU Commission plans to roll-out an information platform which should facilitate the identification of the necessary cross-border delivery services for the various categories of distance sellers. Such platforms should be comprehensive and allow the display of various services and products from all postal operators.

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## **Annex I**

### **EMOTA Comments for the online questionnaire of the EU Commission Public Consultation on Cross-border Parcel Delivery:**

#### ***Q1 - Do you agree there is an issue with both affordability and regulatory oversight of the cross-border parcel delivery market?***

Many recent surveys, including by the EU Commission, point to delivery issues (in general) as one of key barriers sellers and consumers face in cross-border trade (e.g. 2015 Digital Single Market Scoreboard). This is confirmed by the interactions between EMOTA and distance sellers across the EU. However, the experience sellers have in establishing delivery and return contracts for the different markets also greatly depends on their size and the ability to search for offers, present an attractive volume for operators, negotiate tariffs and services, and internalize some of the costs (packaging, labelling, addressing, direct injection). Some medium sized sellers find it difficult to compete when they are only offered tariffs close to the so called “over the counter” for cross-border deliveries, despite a relatively high volume of parcels (e.g. 100.000/year).

Generally, smaller to medium sized sellers, which have not been active in the market where they wish to deliver, will find it more difficult to establish delivery contracts which allow them to be competitive at a stage when the volumes of parcels are lower, typically when entering a new market. At the same time, as distance selling evolves and consumers expect to be able to buy all types of products online and cross-border, distance sellers also report difficulties in finding the flexible services, at a price which would ensure the sellers competitiveness, necessary for shipping bulkier or very sensitive/fragile products (and organizing their return).

#### ***Q2 – What regulatory response, if any, would you consider useful to address the current issues and how could it be addressed? Please explain your views.***

Distance selling is evolving very fast and EU based sellers are facing high pressure from international competitors. It is therefore essential that any improvements are timely in order to allow EU sellers (and consumers) to benefit from the widest number of markets, intra-EU and extra-EU at the most competitive cost. In EMOTA’s perspective this means that while the EU Commission and EU Member States should investigate potential future legislative measures, they should first consider whether the existing legal framework does not allow for further regulatory oversight and cooperation in cross-border issues, also including competition authorities.

Regarding the longer term perspective, EMOTA would argue in favor of the EU Commission plans to enhance regulatory oversight and improve price transparency (again, not only via legislative measures), within of course the understanding that in distance selling the volumes and services negotiated between sellers and postal operators should remain confidential and the two parties should be able to negotiate individual contracts. Legislative initiatives should ensure a broader set of tools for regulators (postal and competition) to maintain an oversight over the potential competition infringements at national, regional and EU level. We also stress that any future measures should aim to ensure a maximum level of competition and market access. In addition to regulatory action, stakeholders should be encouraged to develop commercial solutions and partnerships which would increase the competitiveness of those sellers that have a low volume of parcels as a way to help the faster development of cross-border trade.