

Cross-border mail charges between 17 European postal operators cleared until 2006

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Today, the European Commission adopted a decision granting 17 European postal operators a further five-year exemption with respect to the system of terminal dues. Terminal dues are the remuneration postal operators pay to each other for the delivery of cross-border mail in the country of destination. The previous REIMS II agreement exempted from the antitrust rules since 1999 - has led to substantial improvements in the quality of cross-border mail services and to prices which reflect more properly the actual cost of delivering incoming cross-border mail. The decision furthermore ensures that new entrants on the recently liberalised markets for outgoing cross-border mail will be able to enjoy the same terms for the delivery of incoming cross border mail as the REIMS II parties.

Especially third-party operators private companies that are not postal incumbents stand to gain most from the renewal of the exemption. This is because today's decision requires the 17 postal operators that signed the REIMS II agreement to deliver incoming cross-border mail for those parties on the same terms that they apply among themselves. Private operators need to have access to this service since outgoing cross-border mail has been opened to competition on 1 January 2003.

To ensure that the REIMS II Agreement gives postal users a fair share of the benefits that result from this agreement, the Commission's decision sets forth the following principles:

Terminal dues must reflect the actual cost of delivery. According to the cost data supplied by the parties, the charges for incoming cross-border mail items can be increased gradually during the period of the exemption from 73.3% in 2002 to 78.5% in 2006. These levels of terminal dues will only be exempted from the antitrust rules until the 31 December 2006.

Should stringent quality-of service targets not be met, penalties applied which reduce the amount of terminal dues substantially. This penalty system was introduced in the 1999 exemption and, in 2002, prevented 10 out of the 17 parties from charging the full terminal dues set forth in the Agreement.

The REIMS II signatories will be obliged to deliver incoming cross-border mail on behalf of private operators under the same terms and conditions as they apply among each other. ⁽¹⁾

This provision has become necessary as by virtue of the new Postal Directive - outgoing cross border mail in the EU has been open to competition as of 1 January 2003.

Attractive domestic rates for cross border bulk mail delivery must be made available to the other REIMS II parties as well as third party postal operators ⁽²⁾. As terminal dues gradually rise, the need for low cost deliveries becomes more important. Recent figures show that the parties are increasingly making use of such attractive domestic tariffs in the country of delivery.

Background

The REIMS II Agreement concerns the remuneration, called terminal dues, that the parties pay each other for the delivery of cross-border mail, namely mail sent from one country to another. Seventeen public postal operators (“PPOs”), including the incumbent postal operators of all European Union (EU) Member States other than the Netherlands, and the PPOs of Norway, Iceland and Switzerland, have currently signed the REIMS II Agreement.

The main aims of the REIMS II Agreement are to provide the parties with appropriate compensation for the delivery of cross-border mail, and to improve the quality of the cross-border mail service. The Agreement calculates terminal as a percentage of the domestic mail tariffs that is applicable in the country of destination. The Agreement applies a system of quality-of-service standards reinforced by a strict penalty system when the agreed standards are not met.

On 15 September 1999 ⁽³⁾, the Commission exempted the REIMS II agreement until the end of 2001 but limited the level of remuneration to 70% of the applicable domestic tariff. Upon the expiry of the 1999 exemption, an amended REIMS II agreement was re-notified to the Commission on 18 June 2001 with the request for a renewal of the exemption. Subsequently, the Commission has re-examined the effects of the Agreement, and found that it has indeed led to improvements in cross border mail deliveries. For example, between 1998 and 2000, the percentage of inbound cross-border mail delivered within one day from entering the country of destination has improved, on average, by 6%. In Italy, the improvement amounts to 50% and in Norway to 13%. Indicators show that the improvements continued after 2000. Quicker cross border mail deliveries are a direct benefit for EU postal users.

On 23 April 2003, the Commission published an Article 19(3) notice indicating a positive orientation. The Article 19(3) notice gave rise to numerous third party comments, which were taken into account in the exemption decision adopted by the Commission today.

Once the parties have identified proprietary business secrets, the full text of this decision will be published in the Official Journal of the European Communities.

Frequently asked questions

Why does the terminal due system need an exemption from the antitrust rules?

Legally speaking, the system of a common level of Terminal Dues (TDs) expressed as a percentage of the domestic tariff in the receiving country, falls under the cartel prohibition. Although the absolute amounts of TDs are not fixed, the automatic fixation of the TDs as a percentage of the tariff for the domestic delivery reduces the signatories' freedom to set the prices for the delivery of incoming cross-border mail.

Why does the Commission exempt terminal dues from the prohibition on cartels?

The system of TDs has allowed postal operators to migrate towards a more cost-based system of charging each other for the delivery of incoming cross-border mail. In addition the quality-of-service incentives improve the quality of their cross-border mail services. .

Why is a collective agreement on terminal dues good for postal users?

The higher quality cross-border mail services brought about by linking terminal dues to stringent quality-of-service standards benefit postal users. In addition, remuneration for incoming mail that is more closely aligned toward the actual cost of mail delivery reduces the cross-subsidises previously necessary to cover losses incurred in delivery of cross-border mail. However, the Commission obliged the REIMS II-parties to accept that full TDs would only be paid if quality-of-service actually improved.

(1) So far, third party postal operators must either turn the mail over to the sending PPO in the country of origin and pay the full international tariff, or alternatively transport the mail to the country of destination and pay the full domestic tariff. Either alternative makes the cost of delivery for the non-REIMS II operator more expensive than for the REIMS II parties.

(2) The condition imposed in the decision reproduces the one already imposed in the 1999 exemption decision. This condition requires the parties to take all the necessary steps in order to grant each other effective access to the generally available domestic rates in the country of delivery ("Level 3 access"). The Parties have also agreed on a new harmonised product for direct mail (International Direct Mail).

(3) The REIMS II agreement was exempted in 1999 for a short period ending on 31 December 2001. See Commission Decision of 15 September 1999 relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Case No COMP/36.748 - REIMS II), O.J. 1999 L 275/17.