

ANEC comments on the WIK Presentation

“The evolution of the regulatory model for European Postal Services”, 26 April 2005

ANEC is very concerned about the April 2005 WIK presentation on its study for the European Commission on “The evolution of the regulatory model for European Postal Services”. ANEC cannot agree with many of the statements and conclusions made by the consultants.

Specific ANEC comments

Slide 4 - Methodology

Slide 4 stated that interviews with consumer associations took place. We wish to be informed of the **associations which were contacted, those who provided feedback and details of the feedback received**. ANEC, which has previously contributed a great deal to previous WIK studies on postal services was not approached and would like to know **why ANEC was not contacted**.

Slide 11 – Evaluation of current regulatory model – policy coherence

ANEC disagrees with Slide 11 in that it **does not mention the basis of universal service** which is specifically mentioned within the postal directive. In postal services, there is an enshrined need for a universal service. In the case of postal services we disagree with the statement that “development of trade must not be affected to such an extent as would be contrary to the interests of the community”.

Slide 13 - Evaluation of current regulatory model – necessity and proportionality

We have several questions concerning Slide 13, such as:

- In designation of USP why is there a cross against **except for areas not served by the market - surely there should be a tick**;
- **Why is there a cross against “ensure reliability reflecting local customer needs”?**

Similarly Slide 14 - Evaluation of current regulatory model – necessity and proportionality

- **Why should there be no Quality of Service standards for cross border mail?**

Similarly Slide 15 - Evaluation of current regulatory model – necessity and proportionality

- Why is no regulation needed with regard to reserved areas or licensing within the Universal Services? **Surely all Universal Service Providers should be licensed?**

Slide 16 Evaluation of current regulatory model – market transparency

There is also a **need for accounting rules to be applied to certain postal operators who are not market dominant**. For example, we know that original state monopoly postal providers are now operating in other Member States where they are not monopoly providers (Deutsche Post in the UK for example). However, if their accounts are not regulated, the possibility arises for subsidy from their monopoly position in one Member State to be used to subsidise their supposedly non-monopoly position in another member state so operating unfair competition.

Slide 18 - Evaluation of current regulatory model – competence

On the concept and definition of universal services, it is mentioned that “EC legislation is most appropriate to harmonisation of basic concepts, but some current service standards appear too rigid.... **ANEC would like more explanation on what is meant and to which service standards this refers** especially as the next sentence states “national institutions appear more apt to set standards reflecting local customer needs (e.g. frequency of delivery, Quality of Service standards). To what standards does this refer – those set by the EU or those set by CEN.

Slide 20 – Evaluation of current regulatory model – MS level - examples of regulatory innovations

The statement that “postal directives implemented differently in various Member States” is nothing new. This is a perennial problem.

Slide 24 – Future Directions – a new regulatory model

ANEC would like the consultants to take into account that Universal Services covers more than just letters and parcels.

Slide 27 – Future directions - objectives

This slide presents the draft statement of objectives: “the objective of Community postal development is to promote development of a fully operational internal market in postal services while ensuring the availability of an accessible, affordable, reliable, and efficient universal postal service that responds to the basic needs of users and society...”

ANEC is of the opinion that Universal Services should also be seen as having an essential role for increasing quality of life for all citizens and for overcoming social exclusion and isolation. Universal service is to protect consumers who may not benefit from market forces because some essential services would not be provided to all consumers at an affordable cost, or some essential services are not economically viable and would therefore not be provided by the market at all.

Although Universal Services may be considered basic in the sense that they should include services deemed basic for social inclusion/citizenship, **these services should not be basic in terms of poor service. Hence the need for quality of service and monitoring of Universal Services.** This should be mentioned in the draft statement of objectives.

Slide 30 – Future directions – a new regulatory model

The slide presents a definition of services covered: “Postal services refers to a regularly scheduled service that is offered to the general public for compensation and that provides, at least, on a weekly basis, regularly scheduled collection, transport, and delivery of addressed documents or parcels or both, weighing up to 30 kilograms”. **ANEC is concerned about the weekly delivery which is set as the minimum. This is unacceptable for consumers.** In the current Postal Services framework (97/67) clearance, transport and delivery is set at a daily minimum. Also missing in the definition is any reference to the **quality of service which should be included.**

ANEC is very concerned about the repeated reference to minimum range of universal services. There is a certain range, level and quality of services provisions that need to be maintained.

Slide 31 Future directions – a new regulatory model

We are not sure what is meant by access to address database and postcode system - does this mean to other postal operators? Are there data protection issues here? ANEC would like to obtain clarification on this point.

Slide 32 - Future directions – a new regulatory model – regulation of universal services

It should be added that **these items apply to cross border as well as internal mail.**

Slide 33 - Future directions – a new regulatory model – regulation of universal services

This slide presents the characteristics of a universal service and refers to the minimum requirements which member states must maintain: Again, ANEC would like to stress that the quality of service aspect is missing . Also we would like to know what “no non-economic discrimination (political, religious or ideological) means? What about physical, mental, economic, territorial discrimination – would these be allowed? Particularly important for ANEC is that special services for people with disabilities is added (e.g. special services for blind people but there may be other disabilities).

Slide 35 - Future directions – a new regulatory model – regulation of universal services

On delivery frequency, the WIK consultants recommend: “less frequent delivery in selected areas may reduce rates and improve volume for all universal services...Member states may reasonably conclude that slower Quality of Service services the public interest”. ANEC is of the opinion that such statements eat away at the Universal Services if people are treated differently, for example, by not having daily deliveries. **ANEC has very strong concerns about this proposal made on delivery frequency.**

Slide 36 – Future directions - a new regulatory model - regulation of universal services

Slide 36 states “ an order to maintain uniform tariff despite very large differences in costs will distort markets”. **ANEC cannot agree with such a statement** - Universal Services is not just about markets. The objective of the postal directive should not only be “ to protect and promote an affordable, reliable and efficient **universal postal service**” **but also to be inclusive for all citizens, regardless of income or location.** What evidence does WIK

have that this is an unnecessary power. In addition, universal tariff is NOT currently a requirement under the Directive. Delivery to rural areas is of course more costly than to urban areas but a Member State should not be prevented from including uniform tariff if it so wishes (Slide 43).

Slide 41 - Future directions - a new regulatory model – regulation of operators with SMP

On the quality of service monitoring, ANEC would prefer that **reports and statistics on quality of service monitoring are made publicly available.**

Slide 45 – Future directions - a new regulatory model - Access and interconnection

ANEC would like clarification on the first point which states that “where necessary to protect universal service, National Regulatory Authorities should require a market dominant operator to provide access to its network”. We thought that a market dominant operator should be providing access to its networks not to preserve Universal Services but to promote liberalisation.

Slide 47 – Future directions - a new regulatory model – supplemental US

ANEC would **caution on the proposals made on the funding of universal service.** Expecting government to fund shortfalls is wishful thinking and certainly cannot be relied upon.

Slide 48 – Future directions - a new regulatory model - Institutional organisations and powers

ANEC is of the opinion that contribution of postal operators should not be limited to the number of letters and direct mail as there are other postal services.

Concerning the **right of appeal** from National Regulatory Authorities (NRA) to an impartial body, we are a worried that another 'impartial' body could end up being a duplication of the NRAs and yet another cost for consumers. In the UK, for example, regulated industries all have the right of appeal to the Competition Tribunal or some such body so we are not sure why this is here.

Slide 49 – Future directions - a new regulatory model-National Regulatory Authorities

With respect to the proposal made on the European Regulatory Group (ERG) for postal services, ANEC is concerned that **more bureaucracy and expense is created by having an ERG**. However we do agree on the need for harmonisation amongst regulators. Couldn't CERPs do this by creating a Working Group restricted to Member States?