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8 March 2018

Third edition, based on an original briefing by Jana Valant.

The 'EU Legislation in Progress' briefings are updated at key stages throughout the legislative procedure.

Please note this document has been designed for on-line viewing.

Cross-border parcel delivery services

High prices and the inconvenience of cross-border parcel delivery have been identified as being among the main obstacles to a bigger uptake of e-commerce among European consumers and retailers. Research shows that current cross-border parcel delivery prices charged by universal service providers can be almost five times higher than domestic parcel delivery prices.

To remedy the situation, the European Commission presented a legislative proposal on cross-border parcel delivery services as part of its May 2016 e-commerce package. The proposal's aim was to contribute to a decrease in delivery prices through increased price transparency and improved regulatory oversight.

In December 2017, Parliament and the Council reached a compromise on the proposal. The provisional agreement would enable consumers and businesses to compare delivery prices on a dedicated website, where the Commission will publish public tariffs of cross-border delivery service-providers. The regulation would also provide greater powers for national regulatory authorities to monitor cross-border tariffs and assess those they consider to be unreasonably high.

Proposal for a regulation of the European Parliament and of the Council on cross-border parcel delivery services

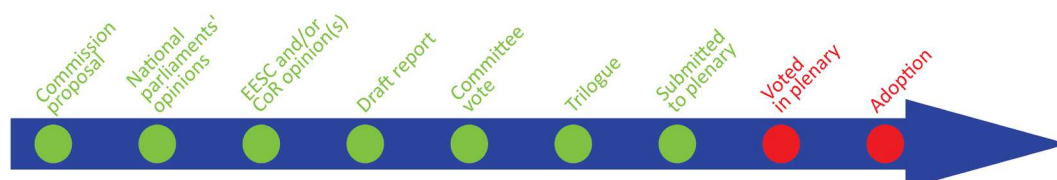
COM(2016)285, 25.05.2016, 2016/0149 (COD), Ordinary legislative procedure (COD)

Committee responsible: Transport and Tourism (TRAN)

Rapporteur: Lucy Anderson (S&D, United Kingdom)

Shadow rapporteurs: Markus Ferber (EPP, Germany), Kosma Złotowski (ECR, Poland), Pavel Telička (ALDE, Czech Republic), Tania González Peñas (GUE/NGL, Spain), Jill Evans (Greens/EFA, United Kingdom), Daniela Aiuto (EFDD, Italy), Marie-Christine Arnautu (ENF, France)

Next steps expected: First-reading vote in plenary



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Introduction

On 25 May 2016, the European Commission presented its [e-commerce package](#) of measures to help consumers and companies fully benefit from the European Single Market, in line with the [Digital Single Market strategy](#).¹ A legislative [proposal for a regulation on cross-border parcel delivery services](#) was included in this package, with the main objective of increasing the transparency of cross-border parcel delivery prices and improving regulatory oversight.

The proposal's more specific objectives are: 1) making the regulatory oversight of EU parcels markets more effective and consistent, while also encouraging competition; and 2) increasing the transparency of tariffs to reduce unjustifiable tariff differences and lowering the tariffs paid by individuals and small businesses, particularly in remote areas. These objectives fall within the broader Digital Single Market objectives of increasing cross-border e-commerce and digital inclusion in the EU.

The European courier, express and parcel market is [estimated](#) to be worth between **€37 and €53.5 billion**. Its **business-to-consumer (B2C) segment represents around 60% of its volumes** but brings in only around 30% of its revenues. The EU courier, express and parcel market is very concentrated, with just five Member States' e-commerce markets (that of the United Kingdom, Germany, France, Italy and Spain) accounting for 75% of the total market.

Context

The 2015 [Consumer Conditions Scoreboard](#) reveals that in 2014 44% of EU consumers reported buying online from their Member State and 15% from other Member States.² The Commission [believes](#) that EU consumers could save up to €11.7 billion a year if they could choose from a full range of EU goods and services when shopping online.

According to the Commission, only [12% of businesses](#) sell online to consumers in other Member States. As shown by the results of a 2015 [Flash Eurobarometer](#), 51% of companies that sell, used to sell, or tried to sell online to other Member States said that the **delivery costs involved were too high**. A 2015 Commission public consultation similarly [revealed](#) that over two thirds of consumers had given up an online purchase they had been considering because of the **high delivery costs**.

1 This new e-commerce package is a follow-up on the Commission's [Digital Single Market](#) strategy from 2015, which announced the legislative and non-legislative measures for achieving the Digital Single Market (DSM). Improving online access to digital goods and services was one of the three pillars of the DSM strategy. As part of this pillar the launch of measures to improve price transparency and regulatory oversight of cross-border parcel delivery was announced for the first half of 2016.

2 E-commerce uptake across the EU remains very uneven, with below-average levels in all eastern and southern European countries. As a [comparison](#), up to 79% of UK consumers shop online, while only 10% do so in Romania.



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A recent [survey](#) by ANEC (European consumer voice in standardisation) on cross-border online shopping among consumers from 22 Member States showed that the **main reasons for cross-border shopping** are either that the items are not available in one's home country (66%) or are cheaper (58%). It also found that confidence decreases the further away from home consumers shop.

According to a 2015 [International Post Corporation survey](#) conducted in 17 different countries around the world, including 10 EU Member States, the main categories of goods bought online by cross-border shoppers were: **clothing, footwear and apparel** (25%), followed by **consumer electronics** (14%), **books, music and media** (11%). The majority (59%) of cross-border online purchases ranged between €10 and €100 in worth.

Existing situation

Business-to-consumer (B2C) parcel deliveries driven by e-commerce growth [seem to](#) be a rather recent phenomenon in the postal services sector. The focus of the currently applicable [Directive 97/67/EC](#) (the Postal Services Directive),³ when it was first adopted in 1997, was letter mail, with most parcel delivery services being outside the scope of the [universal service](#). Letter mail, which in 2007 fetched 52% of the European postal sector's revenues, now [accounts](#) for less than half of these revenues.⁴

While the parcel market is generally considered more competitive than that of letter mail, in many EU Member States it is dominated by the larger operators which often have a combined market share of above 60%, the Commission [notes](#). Competition is [concentrated](#) where revenues are higher, namely in the business-to-business-segments, in areas with higher population density and where there is a high volume of B2C segments. Different types of delivery operators – from national postal operators, international express carriers, couriers with largely domestic presence, to consolidators and parcel brokers – are active on the market.⁵

The Commission has identified high prices and the inconvenience of cross-border parcel delivery as being some of the main [obstacles](#) to a bigger uptake of e-commerce among consumers and retailers across the EU. The Commission's [public consultation](#) on cross-border parcel delivery as well as a 2015 Eurobarometer [survey on e-commerce](#) suggest that lower prices for cross-border delivery could encourage businesses

3 As amended in [2002](#) and [2008](#). See the [consolidated version](#). The Postal Services Directive sets out common rules for the development of the internal postal services market and the improvement of service quality.

4 Mail items weighing up to 2 kg ('packets') [represent around 80%](#) of all mail items generated by e-commerce and are in general processed in the letter mail stream. Parcel markets are expanding, says the Commission's [2015 report](#), but estimates differ with regard to the size of this segment and the number of parcels per capita across the EU Member States. For instance in 2011, the UK and Germany had double the EU-28 average of 13 parcels per capita, while several other Member States only registered two parcels per capita.

5 Online brokers and parcel consolidators [offer discounts](#) on single shipments by integrators, or national operators.



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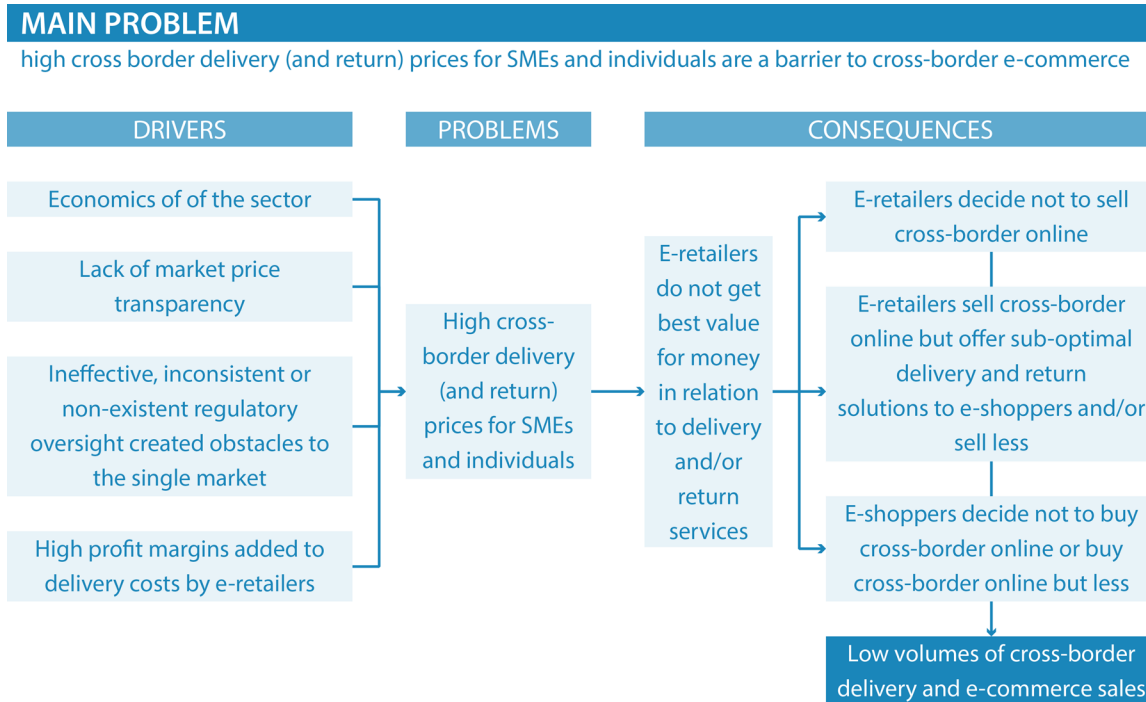
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and consumers to buy and sell online more often. Currently, cross-border parcel delivery prices charged by universal service providers⁶ can be up to **five times higher than domestic prices**.⁷

Figure 1: Problem identification



Data source: [European Commission Impact Assessment](#), 2016, page 14.

Divergence in national legal frameworks and differences among Member States in terms of implementing the Postal Services Directive have led to a lack of transparency in cross-border parcel delivery prices in the EU. Presently, national postal regulators do not possess the information needed to assess prices and monitor parcel operators that are active on the delivery markets. To remedy this situation⁸, the Commission proposed a new regulation that would be directly applicable across the EU without a need for transposition. This is the Commission's response to the market's failure to accommodate the interests of small companies

6 A [universal service provider](#) is a public or private entity providing a universal service (or parts thereof) within a country. A universal postal service provider is one that operates under the universal service obligation in line with Article 3 of Postal Services Directive. More precisely, the universal postal service encompasses a minimum range of services of specified quality that needs to be provided in all Member States at an affordable price for the benefit of all users, regardless of their geographical location within the EU.

7 A 2015 [econometric study on parcel list prices](#) prepared by Saint-Louis University for the Commission, showed that cross-border prices for parcels are 471% higher than domestic prices. Additionally, [sending a parcel](#) from the Netherlands to Spain would cost €13, while sending a parcel in the opposite direction would cost €32.74. As the Commission [notes](#), this price difference cannot be explained by labour or other costs in the destination country.

8 According to the [Commission](#), high prices for cross-border parcel delivery are due to high barriers to market entry; ineffective or inexistent regulatory oversight; lack of information about the parcel delivery market (availability of delivery services, providers and prices) and some e-retailers charging for delivery more than they pay themselves.



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and individuals with low parcel volumes which lack the bargaining power to obtain better pricing conditions under negotiated tariffs.

Parliament's starting position

The Parliament has adopted several resolutions related to cross-border parcel delivery.⁹ In its 2014 [resolution](#) on an integrated parcel delivery market for the growth of e-commerce in the EU, the Parliament **deplored the lack of transparency on the pricing** conditions and performance of cross-border parcel services, arguing that tools must be put in place to provide information on offers by all European delivery operators. It stressed the need to **improve the geographical coverage and accessibility of the universal service for the delivery of parcels** in rural and remote areas. It further emphasised that market monitoring should take into account not only established postal operators but also other types of delivery service providers. It called on the Commission to work together with businesses on the adoption of **European standards on addressing and labelling**, as well as e-commerce-friendly letter-box standards.

In its 2016 [resolution](#) on Single Market governance within the European Semester 2016, the Parliament stressed that **accessible, affordable, efficient and high-quality parcel delivery** is an essential prerequisite for a thriving cross-border e-commerce, for the benefit of small and medium-sized enterprises (SMEs) and consumers in particular.

In its [resolution](#), Towards a Digital Single Market Act, the Parliament argued that the inadequacies of cross-border parcel delivery can be solved only from a European Single Market perspective. It underlined the importance of competition in this sector as well the need for the parcel industry to adapt to modern living patterns and offer flexible delivery options, such as networks of collection and parcel points, and price comparators. It supported the proposed measures to **improve price transparency** as a means to increase consumer awareness of the price structure, calling on the Commission and the Member States to actively share best practices in the parcel delivery sector. It also called on the Commission to propose a revision of the relevant legislation if need be, stressing that the further harmonisation of parcel delivery should not lead to lower social protection and working conditions for parcel deliverers, irrespective of their employment status.

Council & European Council starting position

At the Transport, Telecommunications and Energy Council meeting of 11 and 12 June 2015, EU ministers discussed the Commission's Digital Single Market strategy. They [emphasised](#) that the different pricing of parcel delivery across the EU needs to become much more transparent.

In the conclusions of the European Council of 25 and 26 June 2015, the EU Heads of State or Government [noted](#) that the Digital Single Market should be used as a vehicle for inclusive growth in all EU regions. They

⁹ In 2015 alone, several Members of the European Parliament raised the issue of cross-border postal delivery in questions to the Commission ([E-005205-15](#), [E-007591-15](#), [E-010903-15](#), [E-010548-15](#), [E-013886-15](#), [E-014859-15](#)).



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added that action must be taken also to remove the remaining barriers to the free circulation of goods and services sold online.



Proposal

Preparation of the proposal

In 2012, the Commission presented its [Green Paper](#), 'An integrated parcel delivery market for the growth of e-commerce in the EU', to launch a consultation among interested parties focusing on cross-border issues and e-commerce needs. It identified three priority areas for addressing the problems and challenges faced by EU consumers and e-retailers: 1) improving convenience of delivery services for consumers and SMEs across the Union; 2) ensuring more cost-effective delivery solutions and better prices for both actors; and 3) promoting improved interoperability of delivery services between operators as well as between operators and e-retailers, especially SMEs.

Feeding on those results, in 2013 the Commission published a [roadmap](#) for completing the single market for parcel delivery. The roadmap set out the issues at stake in the case of an incomplete market for cross-border parcel delivery, and the challenges identified by consumers, e-retailers and delivery operators. It outlined the Commission's three main objectives before assessing the need of additional measures: 1) increased transparency and information; 2) improved availability, quality and affordability of delivery solutions; and 3) enhanced complaint handling and redress mechanisms for consumers.

Between May and August 2015, the Commission held a [public consultation on cross-border parcel delivery](#), receiving 361 responses in total. The main problems reported by consumers were uncertainty or lack of choice regarding the delivery date and time, followed by the prices charged for the delivery. The contributions to the consultation also showed that national postal operators considered system interoperability to be the main element for improving delivery services, while many other delivery operators identified increased competition as a way forward.

In November 2015, complying with the obligation set forth in the Postal Services Directive, the Commission published its [fifth report](#) on the application of the Directive. The report highlighted the increased importance of parcel deliveries and provided an overview of economic, social and employment patterns as well as technological aspects and quality of service in the postal sector.

In May 2016, the Commission published an [Impact Assessment](#) accompanying the legislative proposal. It states that the new regulation would allow a swift implementation of targeted and directly applicable rules in the sector, thereby reducing fragmentation and ensuring legal certainty to all market operators. It argues that so far, non-legislative measures such as the 2013 roadmap have not improved affordability or regulatory oversight. It clarifies that because of rapid changes in some parts of the market and limited market knowledge, price regulation is not being proposed. It also estimates the new regulation to cost around €221 000 for regulators, €20 000 for national postal operators and €170 000 for other delivery operators, these values being based on the EU standard cost model and the Commission's statistical experience. According to the Commission, the proposal would have no negative social impacts. Increased e-commerce, because of more affordable cross-border delivery prices, would in its opinion favour growth and jobs and consumer welfare, particularly for vulnerable users in peripheral areas. While the Commission [does not expect](#) any direct environmental impacts, it says that improved market efficiency due to increased price transparency may lead to indirect negative environmental impacts (for instance, more vehicle emissions),



but also to indirect positive impacts (for instance, freight pooling). EPRS has published an [initial appraisal](#) of the Commission's impact assessment, finding that the analysis of impacts undertaken was rather limited.

The changes the proposal would bring

The [proposed regulation](#) is to complement the rules set out in the Postal Services Directive and covers postal items **weighing up to 31.5 kg** and having a **minimum width of 20 mm**.¹⁰ Small and micro enterprises (delivery operators with fewer than 50 employees) which are established only in one Member State are exempt from the scope of the proposal. Three main elements are proposed.

Firstly, the regulation envisions **increased regulatory oversight of all parcel delivery service providers**.¹¹ All parcel delivery providers that have 50 or more employees or are active in more than one EU Member State would need to send national regulatory authorities basic information about their operations (such as name and address) and annual updates on their volumes, turnover and number of employees. This would enable national regulators to monitor the parcel market more effectively and help them identify potential problems.

Secondly, the regulation introduces **the requirement for universal service providers to publish domestic and cross-border prices for a set of basic services**, such as sending a 2 kg parcel to another country, to ensure better price transparency. More precisely, universal service providers offering parcel delivery services would at the beginning of each calendar year need to provide their national regulatory authority with the public list of tariffs for delivery of certain categories of postal items listed in the [Annex](#) to the proposal. They would also need to provide these authorities with the terminal rates¹² applicable on 1 January of each calendar year for postal items originating from other Member States. National regulatory authorities would then communicate this information to the Commission. According to Article 5 of the proposal, the national regulatory authorities would also be required to assess the affordability of cross-border tariffs included in the public lists of tariffs they have obtained. After receiving all relevant information, the Commission would, on a dedicated website, publish the prices of the public lists of tariffs that have been obtained from the universal service providers via the regulators, by 30 April of each calendar year. The Commission would also publish non-confidential versions of tariffs affordability assessments provided by the national regulatory authorities, within the same deadline and also on a dedicated public website.

Thirdly, the obligation of universal service providers to offer **transparent and non-discriminatory third party access to multilateral cross-border agreements**, in particular on terminal rates, is introduced to encourage competition in cross-border parcel markets (see Article 6).

10 Postal items for which the public list of national and all cross-border tariffs to other Member States would need to be notified to the national regulatory authorities are categorised in detail in the [Annex](#) to the proposal.

11 As defined in the [proposal](#), a parcel delivery service provider is 'an undertaking that provides one or more parcel delivery services'. It is to be noted that parcel delivery services involve clearance, sorting, transport or distribution of postal items other than items of correspondence. Transport on its own is not considered a parcel delivery service, and neither is the delivery of items exceeding 31.5 kg.

12 As defined in the [proposal](#), terminal rates refer to 'payments from the originating universal service provider to the destination universal service provider for the costs of cross-border parcel delivery services in the destination Member State'.



Preparation of the proposal

The changes the proposal would bring

Regarding implementation, Member States would be responsible for laying down rules concerning penalties for infringements of the proposed regulation. Finally, according to Article 8 of the proposed text, the Commission would submit an evaluation report on the application of the regulation to the Parliament, the Council and the European Economic and Social Committee (EESC) in 2019, and every four years thereafter.

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Views

Advisory committees

The European Economic and Social Committee adopted its [opinion](#) on 19 October 2016. It expressed concern that the proposed measures may not be sufficient to reduce cross-border tariffs, and called on the Commission to take the same approach it took to roaming charges in mobile communications. The Committee of the Regions did not issue an opinion.

National parliaments

The subsidiarity [deadline](#) for the submission of reasoned opinions was 25 July 2016, and the proposals were scrutinised by the parliaments of 15 countries. No reasoned opinions were issued, while the parliaments of [Cyprus](#), [Luxembourg](#), [Portugal](#) and [Romania](#) opened political dialogue.

Stakeholders' views¹³

This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.

In their initial reactions, stakeholders welcomed the proposed improved price transparency in the sector, but were more cautious regarding some other measures.

The [European eCommerce and Omni Channel Trade Association](#) (EMOTA) welcomed the Commission's ambition to foster the growth of e-commerce, but expressed caution about possible future debates around the new forms of the universal service obligation, strictly regarding parcel delivery, which could affect competition.

[PostEurop](#), representing European public postal operators, welcomed the greater price transparency for end consumers but regretted the increased administrative burden for businesses. It also stated that the affordability assessment and third-party access to delivery networks are disproportionate to the Commission's objective, arguing that they go in the direction of price regulation and do not reflect market conditions.

[Ecommerce Europe](#), representing companies selling goods and services online, recognised that the proposal has the potential for creating a level playing field for competing postal-, courier- and express operators. It also welcomed the increase in visibility on cross-border tariffs and the greater power for national regulatory authorities to make comprehensive analyses of the competition in cross-border parcel

¹³ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.



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National parliaments

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markets. Opposing any type of price regulation, it supports the Commission's approach allowing for case-by-case tariffs assessment by national authorities.

The [European Regulators Group for Postal Services](#) (ERGP), established in 2010 as a body for reflection, discussion and provision of postal services-related advice to the Commission, welcomed the proposal, agreeing that a better price transparency would benefit citizens and businesses.

[ANEC](#), the European consumer voice in standardisation, and Consumers International also in general welcomed the Commission's proposals on new e-commerce rules.



Legislative process

Parliament's Committee on Transport and Tourism (TRAN) has been responsible for the file since September 2016.¹⁴ On 26 April 2017, the rapporteur Lucy Anderson (S&D, United Kingdom) presented a [draft report](#), which the committee rejected on 11 July 2017 with 21 votes in favour, 21 against and 5 abstentions. The [report](#) was finally adopted in the TRAN committee on 12 October 2017, by 43 votes in favour, 3 against and 0 abstentions.

During the October II 2017 plenary session, the Parliament confirmed the mandate to enter into negotiations with the Council based on the TRAN report.

The Committee proposed to extend the information requirements on domestic and cross-border tariffs to all cross-border parcel delivery providers, not just universal service providers. The exemption for providers with fewer than 50 employees would be kept, but Member States would be allowed to lower this threshold to fewer than 25 employees, if they deem that their particular circumstances make this necessary. National authorities would not be required to assess prices, but could nevertheless decide to do so if they deem it necessary for identifying unreasonably high tariffs. For the purposes of such assessment, they would have to take into account a number of elements, such as the impact on individual consumers – including those who are disabled or with reduced mobility – the impact on SME users, including those situated in remote or sparsely populated areas, and potential abuses of a dominant market position. Parcel delivery service providers would not automatically be required to provide national authorities with the terminal rates they charge for deliveries originating in other Member States. However, the national authorities could still request them to do so for the purposes of price assessment. The national authorities and the European Commission would have to treat any information on terminal rates or business information in the strictest confidence. The committee report also suggested that service providers should make more information available to consumers. It deleted the provisions on the access to the cross-border agreements (Article 6).

The preparatory bodies of the Council started with examination of the proposal in July 2016. The Transport, Telecommunications and Energy Council agreed a [general approach](#) on 9 June 2017 under the Maltese Presidency. The general approach sought to limit the obligation of the national authorities to assess the prices received from universal service providers and proposes criteria for a 'pre-assessment filter mechanism' instead. It also suggested to completely eliminate the requirement to provide terminal rates to national regulatory authorities, including for universal service providers. It proposed deleting the requirement for the cross-border access (Article 6) and delaying by a year and a half the deadline for Member States to lay down the rules on penalties for infringements (Article 7).

Two rounds of trilogue negotiations between the co-legislators took place, in November and December 2017. On 14 December 2017, the [Estonian Presidency](#) and [Parliament](#) announced that they had reached a provisional agreement.

According to the [agreed text](#), every year all cross-border parcel delivery providers have to provide their national authorities with information on the characteristics of the parcel delivery services offered, general

¹⁴ The Committee on Internal Market and Consumer Protection (IMCO) also prepared an opinion, with the rapporteur Biljana Borzan (S&D, Croatia).



terms and conditions (including complaints procedures), their turnover, number of employees, number of parcels handled, the names of their subcontractors and any publicly accessible price list for parcel delivery services. Providers with fewer than 50 employees are exempted, but Member States can lower the threshold to 25 (as requested by Parliament) or include in this number the employees of a provider's sub-contractors (as requested by the Council). The national authorities are required to identify tariffs that are 'subject to universal service obligation' and that they consider to be necessary to assess. From these, authorities have to identify the cross-border tariffs that they consider to be unreasonably high. They are then required to 'objectively assess' these tariffs, taking into account elements such as domestic and other relevant tariffs, bilateral volumes, costs and quality standards and, where possible, the likely impact on individual and SME users, disabled persons and people living in remote areas. Abuses of a dominant market position and specific price regulation under national legislation can also be taken into account. The exact methodology for the assessment will be determined by the Commission. Parliament also succeeded in adding a new article requiring service providers to give more information to consumers, although during the negotiations these provisions were somewhat diluted by the Council. With regard to the level of harmonisation, an article was added, as proposed by Parliament, mentioning that the requirements of this regulation are minimum requirements that do not prevent Member States from introducing additional measures.

The provisional agreement was confirmed by the [Coreper](#) on 20 December 2017 and by the TRAN committee on 23 January 2018. Parliament is expected to vote on the adoption of the new regulation at the plenary session in March 2018.



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