

Brussels, 20 March 2018
(OR. en)

7085/18

**Interinstitutional File:
2016/0149 (COD)**

**CODEC 369
POSTES 3
TELECOM 63
MI 170
COMPET 151
DIGIT 33
CONSOM 64
PE 29**

INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council on cross-border parcel delivery services. - Outcome of the European Parliament's first reading (Strasbourg, 12 to 15 March 2018)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

¹ OJ C 145, 30.6.2007, p.5

In this context, the rapporteur, Lucy ARDENSON (S&D, UK) presented one compromise amendment (amendment 95) to the proposal for a Regulation, on behalf of the Committee on Transport and Tourism. This amendment had been agreed during the informal contacts referred to above.

II. VOTE

When it voted on 13 March 2018, the plenary adopted one compromise amendment (amendment 95) to the proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

Cross-border parcel delivery services *I**

European Parliament legislative resolution of 13 March 2018 on the proposal for a regulation of the European Parliament and of the Council on cross-border parcel delivery services (COM(2016)0285 – C8-0195/2016 – 2016/0149(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0285),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0195/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 19 October 2016³,
 - having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 20 December 2017 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on the Internal Market and Consumer Protection (A8-0315/2017),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

³ OJ C 34, 2.2.2017, p. 106.

P8_TC1-COD(2016)0149

Position of the European Parliament adopted at first reading on 13 March 2018 with a view to the adoption of Regulation (EU) 2018/... of the European Parliament and of the Council on cross-border parcel delivery services

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁴,

I

Acting in accordance with the ordinary legislative procedure⁵,

⁴ OJ C 34, 2.2.2017, p. 106.

⁵ Position of the European Parliament of 13 March 2018.

Whereas:

- (1) The tariffs applicable to cross-border parcels and other postal items for low volume senders, particularly small and medium-sized enterprises (**SMEs**) and individuals, are still relatively high. This has a direct negative impact on users seeking cross-border parcel delivery services, especially in the context of e-commerce.
- (2) *Article 14 of the Treaty on the Functioning of the European Union (TFEU) highlights the place occupied by services of general economic interest, such as postal services, in the shared values of the Union, as well as their role in promoting social and territorial cohesion. It states that care is to be taken that such services operate on the basis of principles and conditions which enable them to fulfil their missions.*
- (3) *Protocol No 26 on services of general interest, annexed to the Treaty on European Union (TEU) and the TFEU, further highlights that the shared values of the Union in respect of services of general economic interest within the meaning of Article 14 TFEU include the differences in the needs and preferences of users that might result from different geographical, social or cultural situations as well as a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights.*
- (4) *Article 169(1) and point (a) of Article 169(2) TFEU provide that the Union is to contribute to the attainment of a high level of consumer protection through measures adopted pursuant to Article 114 thereof.*

- (5) There are fundamental differences between Member States when it comes to competences conferred on national regulatory authorities with regard to market monitoring and regulatory oversight of parcel delivery *service* providers. ***For example, some authorities are able to successfully require providers to supply relevant price information.*** The existence of such differences has been confirmed by a joint opinion of the Body of European Regulators for Electronic Communications and the European Regulators Group for Postal Services, which concluded that national regulatory authorities need the appropriate regulatory powers to intervene and that such powers do not seem to be present in all Member States. Those differences result in additional administrative burdens and compliance costs for parcel delivery service providers who operate ***across borders***. Those differences therefore constitute an obstacle to the cross-border provision of parcel delivery services and thus have a direct effect on the functioning of the internal market.
- (6) ***Due to the international nature of the postal and parcel sector, the further development of European and international technical standards is important in order to benefit users and the environment, and to broaden market opportunities for businesses. Furthermore, users often report quality of service issues when sending, receiving or returning cross-border parcels. There is, therefore, an equal need for further improvements in the quality of service standards and in the interoperability of cross-border parcel delivery services. Both should be prioritised further in accordance with Directive 97/67/EC of the European Parliament and of the Council⁶, through the European Committee for Standardization (CEN) and otherwise. More progress is also needed in making services more efficient, which should, in particular, take into account the interests of users.***

⁶ Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service (OJ L 15, 21.1.1998, p. 14).

- (7) *Standardisation of postal services and the improvement of quality of service in support of Directive 97/67/EC is a strategic priority of the Union, which should be further pursued. Technical standardisation is indispensable for the promotion of interoperability between national networks and for the existence of an efficient universal service. In August 2016, the Commission submitted a fourth standardisation request to CEN with the aim of establishing a work programme and providing a final report in August 2020⁷. That work programme should, in particular, take into account the interests of users and environmental considerations, as well as efficiency, and should contribute to promoting the creation of a Digital Single Market for the Union.*
- (8) The market for cross-border parcel delivery services is diverse, *complex and competitive*, with different providers offering different services and prices depending on weight, size and format of *parcels* sent, as well as their destination, any added value features, such as traceability *systems*, and the number of *parcels sent*. *In several Member States, universal service providers do not have a majority share of the parcel delivery service market.* That diversity makes *it hard for consumers and users* to compare *parcel delivery services* offered by different providers, in terms of quality and price, *because they* are often not aware of the existence of different parcel delivery *options for similar services in cross-border online trade. It should be made easier, in particular, for SMEs and individuals to access the relevant information. Moreover, small and medium-sized traders have identified delivery concerns as an obstacle when selling cross-border.*

⁷ *Commission Implementing Decision of 1 August 2016 on a standardisation request to the European Committee of Standardization as regards postal services and the improvement of quality of service in support of Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997.*

- (9) In order to improve **■** cross-border parcel delivery services, especially for *individuals and micro and small businesses, including* those in remote or sparsely populated areas, *and for individuals with disabilities or with reduced mobility*, it is necessary to improve the *access to and* transparency of public lists of tariffs for a limited set of cross-border parcel delivery services **■** . *Making cross-border prices more transparent and easily comparable across the Union should encourage the reduction of unreasonable differences between tariffs, including*, where applicable, unjustified differences between *domestic* and cross-border *tariffs*.
- (10) *Single-piece parcel services are part of the universal service in every Member State and also represent the services that are most frequently used by individuals and small businesses. Improving the transparency and affordability of single-piece tariffs is necessary for the further development of e-commerce.*
- (11) *Many companies that sell, used to sell or have tried to sell online consider high delivery costs together with expensive complaints processes and guarantees to be a problem. Further action is needed in particular to ensure that SMEs and individuals in remote areas fully benefit from seamless cross-border parcel delivery services to which they have access and to ensure that those services are reasonably priced.*

■

- (12) The term ‘*universal service providers*’ refers to postal operators that provide a universal postal service or parts thereof within a specific Member State. Universal service providers who operate in more than one Member State should be classified as a universal service provider only in the Member State or States in which they provide a universal postal service.
- (13) Currently, postal services are regulated by Directive 97/67/EC. ***That*** Directive establishes common rules governing the provision of postal services and the universal postal service within the Union. It focuses primarily, but not exclusively, on national universal services and does not address regulatory oversight of parcel delivery service providers. ***Compliance with the minimum universal service requirements laid down in that Directive is ensured by national regulatory authorities designated by Member States.*** This Regulation therefore complements, insofar as cross-border parcel delivery services are concerned, the rules set out in Directive 97/67/EC. ***This Regulation is without prejudice to the rights and guarantees set out in Directive 97/67/EC, including in particular the continued provision of a universal postal service to users.***

- (14) *This Regulation does not alter the definition of postal item in point 6 of Article 2 of Directive 97/67/EC or national law definitions based thereon.*
- (15) An estimated 80 % of addressed *parcels* generated by e-commerce today weigh less than two kilograms, and they are often processed in the letter-post mail stream. *There is a lack of information on the weight of parcels delivered by other means.* It is important that those *lighter items* are subject to this Regulation ■ .
- (16) *For the purpose of implementing this Regulation*, it is important to provide ■ clear *definitions of parcels, parcel delivery services and parcel delivery service providers* and to specify which postal items are covered by *those definitions*. *It is assumed that postal items which are over 20 mm thick contain goods* other than items of correspondence, whether *handled or not by the universal service provider*. *Postal items consisting only of correspondence should not fall within the scope of parcel delivery services*. This Regulation should therefore, in line with consistent practice, cover *parcels containing goods with or without commercial value weighing* up to 31,5 kg, since heavier items cannot be handled by a single average individual without mechanical aids *and* this activity is part of the *freight transport and logistics* sector.

- (17) *Providers of parcel delivery services using alternative business models, for example those drawing on the collaborative economy and e-commerce platforms, should be subject to this Regulation if they provide at least one of the steps in the postal delivery chain. Clearance, sorting and distribution, including pick-up services, should be considered parcel delivery services, including when they are provided by express and courier service providers, as well as consolidators, in line with current practice. Transport alone that is not undertaken in conjunction with one of those steps should fall outside the scope of parcel delivery services, including when it is carried out by subcontractors, either in the context of alternative business models or not, as it should in that case be assumed that this activity is part of the transport sector, unless the undertaking concerned, or one of its subsidiaries or linked undertakings, otherwise falls within the scope of this Regulation.*
- (18) *This Regulation should not apply to undertakings that are established in only one Member State and that have domestic in-house delivery networks only in order to fulfil orders of goods that they themselves have sold under a sales contract within the meaning of point 5 of Article 2 of Directive 2011/83/EU of the European Parliament and of the Council⁸. Undertakings that also use domestic in-house delivery networks for the delivery of goods sold by third parties should be subject to this Regulation.*
- (19) *The minimum confidential information that should be forwarded to the national regulatory authorities and the procedures followed by those authorities in order to ensure compliance with the commercial nature of national operators should be defined and secure channels should be established for their communication.*

⁸ *Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).*

- (20) It is necessary for national regulatory authorities to have knowledge, and information for statistical purposes, about parcel delivery service providers active on the market ***on the basis of appropriate authorisation procedures or other legal requirements. Due to the labour intensive nature of the sector and*** in order to limit the administrative burden on small parcel delivery service providers who are only active on a national or regional market, a threshold of ***fewer than 50 persons*** should be applied, based on the number of persons who were working for the service provider ***over the previous calendar year*** and who were involved in the provision of parcel delivery services ***in the Member State in which the provider is established, unless that provider is established in more than one Member State. That threshold is in line with Commission Recommendation 2003/361/EC⁹, reflects the labour intensive nature of the sector, and captures most of the parcel delivery service market, especially in countries with low volumes of parcel flows. That threshold should, in particular, include persons involved in the provision of parcel delivery services such as full-time, part-time and temporary employees and self-employed persons working for the parcel delivery service provider. Breakdowns showing the number of persons by employment status should be in accordance with the national law of the Member States concerned. In certain cases, while taking into account the specificities of the Member State concerned, the national regulatory authority should be able to lower the threshold to 25 persons, or to request the cross-border parcel delivery service provider to include in the threshold full-time, part-time and temporary employees and self-employed workers for its subcontractors, in order to increase the transparency of the cross-border tariffs and of the market as a whole.***

⁹ ***Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).***

- (21) *Any submission to the national regulatory authority of information on the number of persons working for the parcel delivery service provider should be in accordance with established company reporting practices relating to statistical information. It is important in order to ensure comparability of data, while keeping the administrative burden on the providers to a minimum.*
- (22) The place at which a provider is established is to be determined in accordance with the case-law of the Court of Justice of the European Union. Where a provider has several places of establishment, it is important to determine the place of establishment from which the actual service concerned is provided.
- (23) *When submitting information to the national regulatory authority, the characteristics of the parcel delivery services should include the steps in the postal delivery chain (clearance, sorting, transport and distribution) undertaken by that provider, whether the service is within or outside the scope of the universal service obligation, what the territorial scope of the service (regional, domestic, cross-border) is, and whether added value is offered.*

- (24) *The list of postal items that are subject to price transparency measures should be limited in order to facilitate comparability and to minimise administrative burdens on cross-border parcel delivery service providers and national regulatory authorities. Standard and registered services should be included, given that these form the basis of the universal service obligation, and given the importance of track and trace functionality for e-commerce, the prices for track and trace and registered parcels should also be included, whether or not they form part of the universal service obligation, in order to ensure comparability across the Union. The focus should be on lighter weights, which make up the majority of postal items delivered by parcel delivery service providers, as well as on the prices for postal items over 20 mm thick, which are processed as letters. Only single-piece tariffs should be included since these are the prices paid by the smallest senders. The postal items concerned should be set out clearly in an Annex to this Regulation. This Regulation does not oblige cross-border parcel delivery service providers to offer all the postal items listed in that Annex. In order to ensure the accuracy of the tariff information, it should be provided by the cross-border parcel delivery service providers themselves. Those tariffs should be published by the Commission on a dedicated website which is neutral and non-commercial in character.*

- (25) When national regulatory authorities *objectively* assess the *cross-border* tariffs that *they consider that it is necessary for them to assess*, they should base themselves on *elements*, such as: the domestic *and any other relevant* tariffs of the *comparable parcel delivery services in the originating Member State and in the destination Member State*; any *application of a uniform tariff to two or more Member States*; *bilateral volumes, specific transportation or handling costs*; *other relevant costs and service quality standards*; and, *where possible without disproportionate burden, the likely impact of the applicable cross-border tariffs on individual and small and medium-sized enterprise users including those situated in remote or sparsely populated areas, and on individual users with disabilities or with reduced mobility*. Those common elements may be complemented by *other elements of particular relevance for explaining the tariffs in question, such as whether tariffs are subject to a specific price regulation under national legislation or whether abuses of dominant market position have been established in accordance with relevant applicable law*. In addition, in order to reduce the administrative burden on the national regulatory authorities and on parcel delivery service providers subject to the universal service obligation, and in accordance with the principle of proportionality, national regulatory authorities can, when identifying which cross-border tariffs it is necessary to assess, base their identification on an objective pre-assessment filter mechanism.

- (26) Uniform tariffs for cross-border deliveries to two or more Member States might be important for the protection of regional and social cohesion. In that context, ***consideration*** should be ***given to the need to promote*** e-commerce ***and to offer*** new opportunities for remote or sparsely populated areas to participate in ***online trade, and to enhance their regional economies***.
- (27) Significant differences between domestic and cross-border tariffs for parcel delivery services should be justified on the basis of objective criteria, such as ***specific transportation or handling costs or other relevant costs***. ***It might be necessary for the national regulatory authority to gather evidence for the purposes of the assessment. That evidence, together with any justification of the tariffs under assessment, should be provided to the national regulatory authority upon request.***
- (28) In order to ensure transparency across the Union, ***a non-confidential version of the assessment submitted by each*** national regulatory authority ***should be published by the Commission***.

- (29) *In order to limit the administrative burden, parcel delivery service providers, national regulatory authorities and the Commission should transfer data electronically, and in particular should allow the use of e-signatures, as provided for in Regulation (EU) No 910/2014 of the European Parliament and of the Council¹⁰.*
- (30) As markets for parcel delivery services are changing fast, the Commission should re-assess the efficiency and effectiveness of this Regulation, *taking into account developments in e-commerce*, and should submit a regular report to the European Parliament and to the Council. That report should be accompanied, where appropriate, by a legislative proposal for review to the European Parliament and the Council. *That report should be produced with the involvement of all relevant stakeholders including the European Social Dialogue Committee for the postal sector.*
- (31) *The Commission should build on valuable input from the European Regulators Group for Postal Services composed by representatives of the national regulatory authorities.*

¹⁰ *Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).*

- (32) In order to ensure uniform conditions for the implementation of *this Regulation*, implementing powers should be conferred on the Commission to establish a form for the submission of such information *by parcel delivery service providers to national regulatory authorities*. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹¹.
- (33) This Regulation respects the fundamental rights, and observes the principles, recognised in particular by the Charter of Fundamental Rights of the European Union, and should be implemented in accordance with those rights and principles.
- (34) Regulation (EU) 2016/679 of the European Parliament and of the Council¹² and Directive (EU) 2016/680 of the European Parliament and of the Council¹³ apply to the processing of personal data within the framework of this Regulation.

¹¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

¹² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

¹³ Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

- (35) *Member States should lay down rules on penalties applicable to infringements of this Regulation and should ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.*
- (36) *Since the objectives of this Regulation, namely to establish the regulatory principles and rules necessary to improve regulatory oversight, to improve transparency of **tariffs** and to establish certain principles as regards cross-border parcel delivery services that should support competition, **with the ultimate goal of fostering better cross-border parcel delivery services for users, and, in doing so, also of increasing consumer confidence in cross-border e-commerce**, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve **this** objective,*

HAVE ADOPTED THIS REGULATION:

CHAPTER I
General provisions

Article 1

Subject matter *and objectives*

This Regulation lays down specific *provisions to foster better cross-border parcel delivery services*, in addition to those laid down in Directive 97/67/EC, concerning:

- (a) regulatory oversight related to parcel delivery services;
- (b) ■ transparency of tariffs, and *assessment of tariffs* for certain cross-border parcel delivery services *for the purpose of identifying those that are unreasonably high*;
- (c) *information for consumers made available by traders concerning* cross-border parcel delivery services ■ .

Article 2

Definitions

For the purposes of this Regulation, the definitions in Article 2 of Directive 97/67/EC and in points 1, 2 and 5 of Article 2 of Directive 2011/83/EU apply. In addition, the following definitions apply:

- (1) ***"parcel" means a postal item containing goods with or without commercial value, other than an item of correspondence, with a weight not exceeding 31,5 kg;***
- (2) ***"parcel delivery services" means services involving the clearance, sorting, transport and distribution of parcels;***
- (3) ***"parcel delivery service provider" means an undertaking that provides one or more parcel delivery services with the exception of undertakings established in one Member State alone, that only provide domestic parcel delivery services as part of a sales contract and as part of the contract personally deliver goods that are subject of that contract to the user;***
- (4) ***"subcontractor" means an undertaking that provides the clearance, sorting, transport or distribution of parcels for the parcel delivery service provider.***

■

Article 3

Level of harmonisation

The requirements laid down in this Regulation are minimum requirements and shall not prevent any Member State from maintaining or introducing additional necessary and proportionate measures in order to achieve better cross-border parcel delivery services, provided that those measures are compatible with Union law.

CHAPTER II

Regulatory oversight

Article 4

Provision of information

1. All parcel delivery service providers shall submit to the national regulatory authority of the Member State in which they are established the following information, ***unless that national regulatory authority has already requested and received it:***
 - (a) their name, legal status and form, registration number in a trade or similar register, VAT ***identification*** number, the address of their establishment and the contact details of a contact person;

- (b) the *characteristics, and, where possible, a detailed description*, of the *parcel delivery* services they offer;
 - (c) their general *terms and conditions for parcel delivery services*, including *details* of complaints *procedures for users and any potential limitations of liability*.
2. ■ Parcel delivery service providers shall inform the national regulatory authority of *any* change *to the information referred to in paragraph 1* within 30 days.
3. By **30 June** of each calendar year, all parcel delivery service providers shall submit to the national regulatory authority of the Member State in which they are established the following information, *unless that national regulatory authority has already requested and received it*:
- (a) the annual turnover in parcel delivery services for the previous calendar year in the Member State in which they are established, broken down *into domestic*, incoming and outgoing cross-border *parcel delivery services*;

- (b) the number of persons working for them *over the previous calendar year* involved in the provision of parcel delivery services in the Member State in which *they are* established, *including breakdowns showing the number of persons by employment status, and in particular, those working full-time and part-time, those who are temporary employees and those who are self-employed;*
- (c) the number of *parcels handled over the previous calendar year* in the Member State in which they are established ■ , broken down into *domestic*, incoming and outgoing cross-border *parcels*;
- (d) *the names of their subcontractors, together with any information that they hold concerning the characteristics of parcel delivery services provided by those subcontractors;*
- (e) *where available, any publicly accessible price list applicable on 1 January of each calendar year for parcel delivery services.*

4. ***By ... [four months after the entry into force of this Regulation],*** the Commission shall adopt an implementing act, establishing a form for the submission of the information referred to in paragraphs 1 ***and 3.*** ***That*** implementing act shall be adopted in accordance with the examination procedure referred to in Article 12.
5. The national regulatory authorities may impose information requirements additional to those referred to in paragraphs 1 and 3, ***provided that*** they are necessary ***and proportionate.***
6. ***Paragraphs 1 to 5 shall not apply to any*** parcel delivery service provider which ***had over the previous calendar year on average*** fewer than 50 persons ***working for it and involved in the provision of parcel delivery services in the Member State in which that provider is established,*** unless that provider is established in more than one Member State. ***A national regulatory authority may include in the threshold of 50 persons the persons working for the parcel delivery service provider's subcontractors.***
7. ***Notwithstanding paragraph 6, a national regulatory authority may request the information to be submitted under paragraphs 1 to 5 by any parcel delivery service provider which employed over the previous calendar year on average between 25 and 49 persons where the specificities of the Member State concerned so require and provided that it is necessary and proportionate to ensure conformity with this Regulation.***

Article 5

Transparency of *cross-border* tariffs ■

1. *All cross-border parcel delivery* service providers *other than those excluded by Article 4(6) and (7)* shall provide the national regulatory authority of the Member State in which they are established with the public list of tariffs applicable on 1 January of each calendar year for the delivery of *single-piece postal items, other than items of correspondence*, falling within the categories listed in the Annex. That information shall be provided by 31 January of each calendar year ■ .
2. The national regulatory authorities shall without delay and by 28 February of each calendar year submit the public lists of tariffs obtained in accordance with paragraph 1 to the Commission. The Commission shall publish them on a dedicated website by **31 March** of each calendar year, *and shall ensure that the dedicated website is neutral and non-commercial in character.*

■

Article 6

Assessment of cross-border single-piece parcel tariffs

1. ***On the basis of*** the public lists of tariffs obtained in accordance with Article 5, the national regulatory authority shall identify, ***for each of the single-piece postal items listed in the Annex, the cross-border tariffs of the parcel delivery service provider that originates in its Member State and that are subject to a universal service obligation that*** the national regulatory authority ***objectively considers necessary to assess.***

■

2. ■ The national regulatory authority ***shall objectively assess, in accordance with the principles in Article 12 of Directive 97/67/EC, the cross-border tariffs identified under paragraph 1 in order to identify those cross-border tariffs that it considers to be unreasonably high. In that assessment, the national regulatory authority shall in particular take into account the following elements:***

- (a) ***the domestic and any other relevant tariffs of the comparable parcel delivery services in the originating Member State and in the destination Member State;***
- (b) ***any application of a uniform tariff to two or more Member States;***
- (c) ***bilateral volumes, specific transportation or handling costs, other relevant costs and service quality standards;***

(d) the likely impact of the applicable cross-border tariffs on individual and small and medium-sized enterprise users including those situated in remote or sparsely populated areas, and on individual users with disabilities or with reduced mobility, where possible without imposing a disproportionate burden.

3. *In addition to the elements in paragraph 2, the national regulatory authority may, when it considers it to be necessary, in particular also take into account the following elements:*

(a) whether tariffs are subject to a specific price regulation under national legislation;

(b) abuses of dominant market position established in accordance with relevant applicable law.

4. *The Commission shall set out guidelines on the methodology to be used in respect of the elements listed in paragraphs 2 and 3.*

5. *For the purposes of the assessment referred to in paragraph 2, the national regulatory authority shall, when it considers that it is necessary, request any further relevant evidence in relation to those tariffs that is needed for the assessment to be made.*

6. *The evidence referred to in paragraph 5 shall be provided to the national regulatory authority within one month of receipt of the request, together with any justification of the tariffs under assessment.*
7. *The national regulatory authority shall submit its assessment to the Commission by 30 June of the relevant calendar year. In addition, the national regulatory authority shall provide a non-confidential version of that assessment to the Commission.*
8. The Commission shall publish the non-confidential version of the assessment provided by the national regulatory authorities *without delay and in any event within one month of receipt.*

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Article 7

Information to consumers

For contracts falling within the scope of Directive 2011/83/EU, all traders concluding sales contracts with consumers that include the sending of cross-border parcels shall, where possible and applicable, make available, at the pre-contractual stage, information about the cross-border delivery options in relation to the specific sales contract and charges payable by consumers for the cross-border parcel delivery, as well as, where applicable their own complaints handling policies.

CHAPTER III

Final provisions

Article 8

Penalties

1. Member States shall lay down the rules on the penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.
2. Member States shall, *by ... [18 months after the entry into force of this Regulation]*, notify the Commission of *the provisions of their laws which they adopt pursuant to paragraph 1 and shall notify it*, without delay, of any subsequent amendment affecting them.

Article 9

Confidentiality

Any confidential business information provided in accordance with this Regulation to national regulatory authorities or to the Commission shall be subject to strict confidentiality requirements under the applicable provisions of Union and national law.

Article 10
Application

Except where this Regulation specifically provides otherwise, this Regulation shall be without prejudice to Union and national law, to appropriate authorisation procedures applicable to parcel delivery service providers, to social and employment rules and to requirements to submit information to national regulatory authorities.

Article 11
Review

*By ... [two years after the date of entry into force of this Regulation], and thereafter every three years, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee an evaluation report on the application **and implementation** of this Regulation, accompanied, where **necessary**, by a **legislative** proposal for its review. **All relevant stakeholders should be involved and informed before the production of that report.***

The Commission shall evaluate at least the following:

- (a) ***the contribution of this Regulation to the improvement** of cross-border parcel delivery services **■**, including **the affordability for SMEs and individuals, especially those** located in remote or sparsely populated areas **and whether the transparency of cross-border tariffs has improved;***

- (b) the *impact of this Regulation on* cross-border  parcel delivery *levels and electronic commerce, including data on delivery charges*;
- (c) the extent to which national regulatory authorities have had difficulties applying this Regulation, *including a quantitative analysis of the administrative consequences*;
- (d) progress made concerning other initiatives for completing the single market for parcel delivery services, *and in particular progress in the fields of consumer protection and development of standards*.

Article 12

Committee procedure

1. The Commission shall be assisted by the Postal Directive Committee established by Article 21 of Directive 97/67/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 13

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall apply from ... [date of entry into force of this Regulation], with the exception of Article 8, which shall apply from ... [18 months after the entry into force of this Regulation].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament

For the Council

The President

The President

ANNEX

Single-piece postal items for which parcel delivery service providers' tariffs are subject to the price transparency measures and the assessment provided for in Articles 5 and 6:

- (a) a 500 g (domestic and intra Union) standard letter;
- (b) a 1 kg (domestic and intra Union) standard letter;
- (c) a 2 kg (domestic and intra Union) standard letter;
- (d) a 500 g (domestic and intra Union) registered letter;
- (e) a 1 kg (domestic and intra Union) registered letter;
- (f) a 2 kg (domestic and intra Union) registered letter;
- (g) a 500 g (domestic and intra Union) track and trace letter;
- (h) a 1 kg (domestic and intra Union) track and trace letter;
- (i) a 2 kg (domestic and intra Union) track and trace letter;
- (j) a 1 kg (domestic and intra Union) standard parcel;
- (k) a 2 kg (domestic and intra Union) standard parcel;
- (l) a 5 kg (domestic and intra Union) standard parcel;
- (m) a 1 kg (domestic and intra Union) track and trace parcel;
- (n) a 2 kg (domestic and intra Union) track and trace parcel;
- (o) a 5 kg (domestic and intra Union) track and trace parcel.

The postal items *listed in points (a) to (o)* shall meet the following criteria:

- (a) The size limits of the postal items *listed in points (a) to (i)* (letter mail products) shall *follow* the following rule:
Length, width and *thickness* combined: 900 mm, the greatest dimension *shall* not exceed 600 mm, the smallest dimension shall exceed 20 mm;
- (b) The parcels *listed in points (j) to (o)* shall not be smaller than the size prescribed for *those listed in points (a) to (i)*.

Elements to be taken into account when providing the information on the tariffs for points (a) to (o):

- (*) The tariffs corresponding to the postal items shall *be single piece and* not contain any special discounts on the basis of volumes or on any other special treatment.
- (**) The value of the tariffs shall be provided to the national regulatory authorities net of VAT.
- (***) Providers who offer more than one *postal item* meeting the criteria above should report the least expensive *tariff*.
- (****) The tariffs above shall correspond to *postal* items delivered at the home or *other* premises *of the addressee* in the *destination* Member State, *or at other premises requested by the addressee if such tariff includes that option without additional charge*.