European Commission

Explanatory meeting Postal services (Part 1) – 12 December 2018

These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

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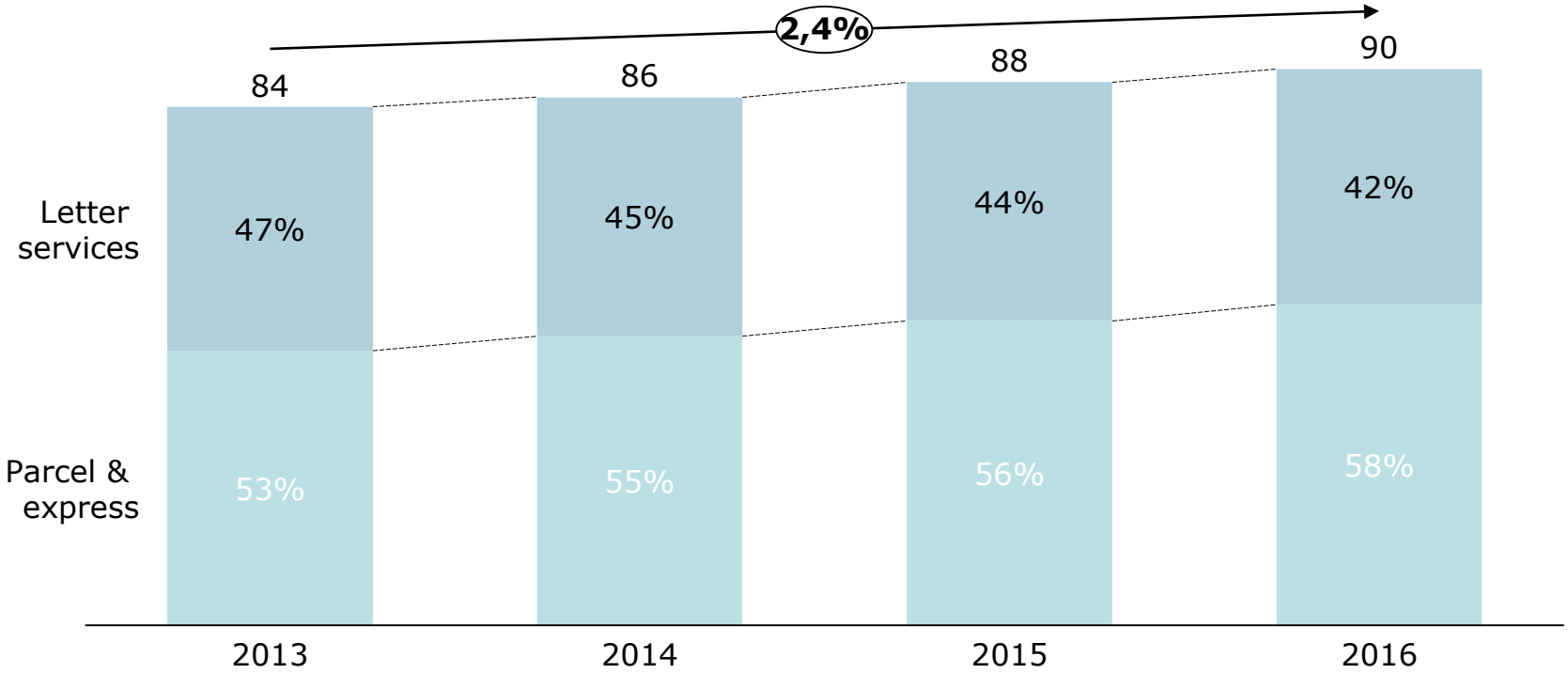
Some basic facts about the postal sector in the Union

Development of revenue in letter post and parcel & express segments

Billions Euro

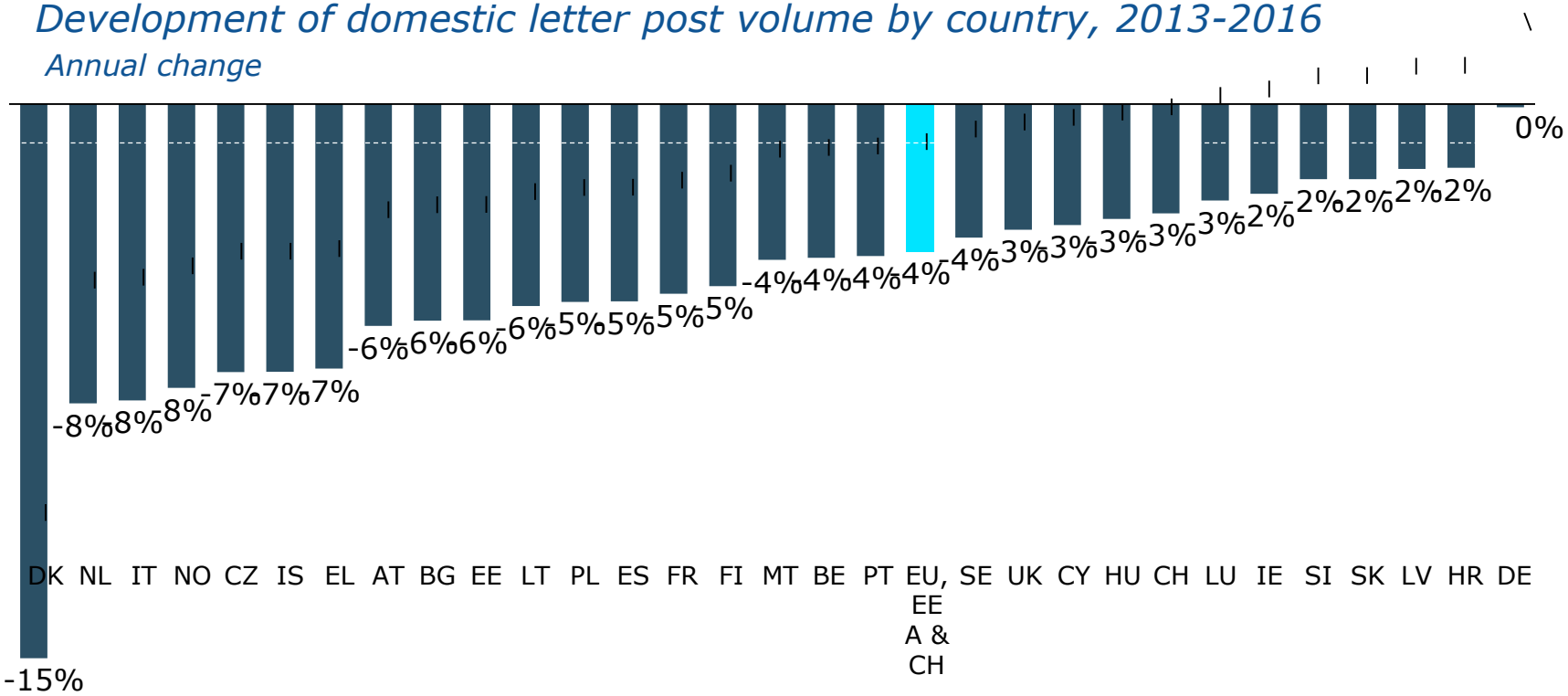


Postal and delivery market in the EU, EEA & CH area had revenues of €90 billions in 2016

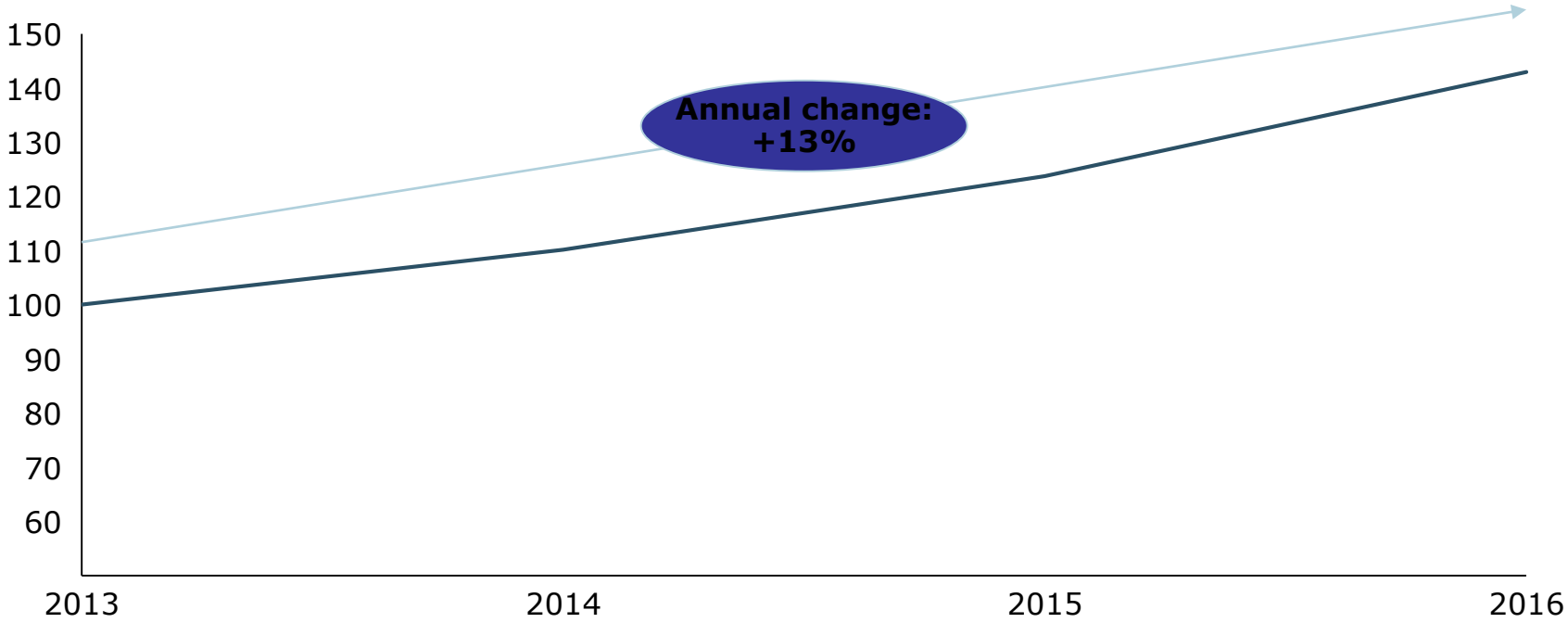
Addressed letter demand declined by 4% annually in *2013-2016*

Development of domestic letter post volume by country, 2013-2016

Annual change



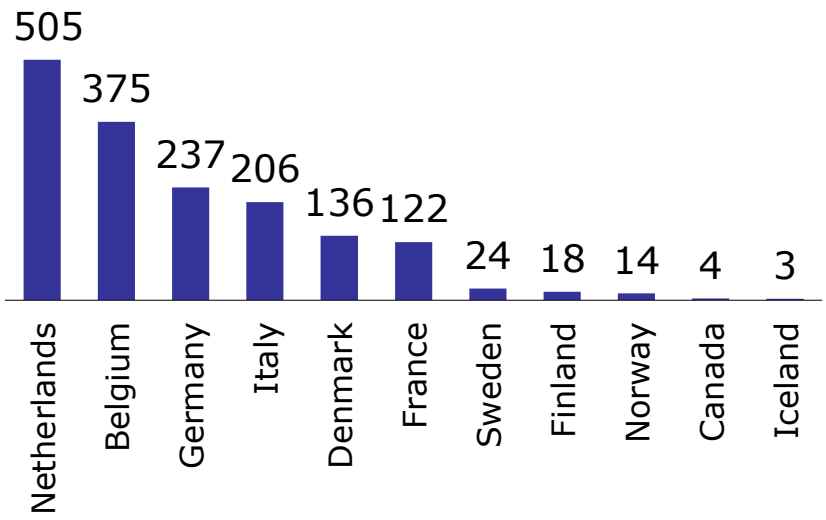
Evolution of domestic parcel & express services volumes
Index (2013=100)



In contrast to letters, parcel and express volumes grew by 13 per cent annually

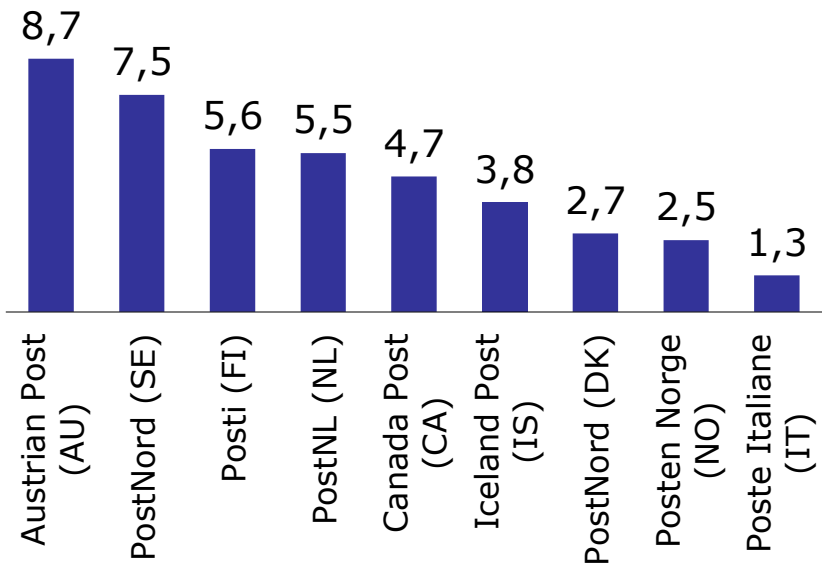
Population densities, 2016

People per sq. km of land area



Addressed mail items per household per week, 2016

Items



Low population density and few items per capita make mail delivery expensive

Further reading - Link to the study on main postal developments 2013-2016 (by CE for the EC)

http://publications.europa.eu/publication/manifestation_identifier/PUB_ET0318267ENN

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Postal Services Directive

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Internal Postal Market

Postal Services Directive	National regulatory framework	Application by the NRA

Legislative implementation is only one element….

Scope of the Postal Services Directive

*-– the conditions governing the provision of **postal services**,*

*– the provision of a **universal postal service** within the Community,*

*– the **financing** of universal services under conditions that guarantee the permanent provision of such services,*

*– **tariff principles** and transparency of **accounts** for universal service provision,*

*– the setting of **quality standards** for universal service provision and the setting-up of a system to ensure compliance with those standards,*

*– the harmonisation of **technical standards**,*

*– the creation of **independent national regulatory authorities***

What is a postal service provider?

The issue: Art 2(1), (1a) and (6) [postal services, postal service provider; and/or - at least one, transport alone.

C-259/16 (Confetra): "[…] haulage, freight-forwarding and express mail undertakings providing services involving the clearance, sorting, transport and distribution of postal items constitute, except where their business is limited to the transport of postal items, [are] postal service providers within the meaning of Article 2(1a) of the Directive."

Conclusion: A broad definition and clarity/legal certainty provided.

National Regulatory Authorities

Key role of independent national regulatory authorities

- Price regulation – Article 12;

- Cross border mail and terminal dues – Article 13;

- Cost accounting separation/cost allocation - Article 14;

-Universal service obligation – Article 3;

- Access to certain infrastructure elements – Article 11a;

-Quality of service – scope of measurement; standardization – Article 16, 17, 18, 20;

- Complaint procedures – Article 19

Independent national regulatory authorities

*Recital 47 of Directive 2008/6/EC: "The **role of national regulatory authorities is** likely to remain **crucial**, in particular in those Member States where the transition to competition still needs to be completed. […] National regulatory authorities should be provided with **all necessary resources**, in terms of staffing, expertise and financial means, for the performance of their tasks."*

Key elements of independence and impartiality

(1) Sufficient resources (staff, own budget, financing of NRA, see C-2/15 DHL Austria);

(2) Independence vis-à-vis market players as well as other state bodies;

(3) Institutional guarantees (e.g. term of office, dismissal of the head, council members, see for example C-425/15);

(4) Internal governance (e.g. organisational structures, standards of behavior- example BNetzA).

Further reading – WIK, The Role of Regulators in a More Competitive Postal Market, study for the EC (2009)

http://ec.europa.eu/DocsRoom/documents/14118/attachments/1/translations

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European Regulators Group for Postal Services (ERGP)

EUROPEAN REGULATORS GROUP FOR POSTAL SERVICES

European Regulators Group for Postal Services

- established by Commission Decision of 10 August 2010 (OJ C 2017 of 11,08,2010);

- purpose:

- to consult and cooperate on matters of common interest (e.g. cross-border items issues);
- To assist the Commission in consolidating the internal market for postal services;
- Advise/assist the Commission as to the development and consistent application of the regulatory framework;
- Consult with stakeholders.

Further reading – webpage of ERGP

http://ec.europa.eu/growth/sectors/postal-services/ergp_en

Authorisation procedures

Authorisation Procedures (Article 9)

Obligations and requirements that may be imposed:

- if necessary and justified, impose requirements concerning the quality, availability and performance of the relevant services [9(2) ii – C-368/15, Ilves];
- where appropriate, be subject to an obligation to make a financial contribution to the sharing mechanisms referred to in Article 7 [9(2) iii and Recital 27 – interchangeability;

Authorisation Procedures

Obligations and requirements that may be imposed:

- where appropriate, be subject to an obligation to make a financial contribution to the national regulatory authority's operational costs referred to in Article 22 [C-2/15 (DHL Austria), see already C-148/10 (DHL/Express Line v. BIPT)
- where appropriate, be made subject to or impose an obligation to respect working conditions laid down by national legislation (see also Article 2, 19 essential requirements).

Authorisation Procedures

Obligations and requirements that may NOT be imposed [Article 9(2) second subparagraph]:

- be made subject to universal service obligations under Article 3, [Article 9(2) i, second subparagraph];
- be limited in number;
- for the same elements of the universal service or parts of the national territory, impose universal service obligations and, at the same time, financial contributions to a sharing mechanism;
- duplicate conditions which are applicable to undertakings by virtue of other, non-sector-specific national legislation;
- impose technical or operational conditions other than those necessary to fulfil the obligations of this Directive.

Terminal Rates – UPU issues

Terminal rates

Article 13

1. In order to ensure the cross-border provision of the universal service, **Member States shall encourage their universal service providers to arrange that in their agreements on terminal dues for intra-Community cross-border mail, the following principles are respected**:

- **terminal dues shall be fixed in relation to the costs of processing and delivering incoming cross-border mail,**

- levels of remuneration shall be related to the quality of service achieved,

- **terminal dues shall be transparent** and non-discriminatory. [...]

Towards the evaluation of the Postal Services Directive

- September 2018: Study on main postal developments 2013-2016, final report
- 19/20 September 2018: Public workshop & ERGP Stakeholder Forum
- **29 January 2019**: Study on cross-border parcel delivery, final report; user needs study-kickoff - Workshop
- Summer 2019: ERGP's opinion on the future regulatory framework
- September 2019: Study on users' needs, final report
- **19 September 2019**: Public workshop & ERGP Stakeholder Forum
- Mid-2020: EC Report on application of the Postal Services Directive
- Mid-2020: EC Report on Regulation on cross-border parcel delivery services

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Thank you for your attention

Cloudfree Europe from Sentinel, ESA