



BIPT

BELGIAN INSTITUTE FOR POSTAL SERVICES AND TELECOMMUNICATIONS

PRESS RELEASE

Volume discounts as applied by bpost deemed non-discriminating by the European Court of Justice

Brussels, 11 February 2015 - The Court of Justice states in a reaction to the preliminary questions submitted by the Brussels Court of Appeal that the commercial discounts granted by bpost to its main direct customers are non-discriminating towards mail handlers. In 2010 bpost introduced a tariff model - called "per sender" - that calculates commercial discounts on the basis of the individual volumes per sender and not based on the total volume deposited by the intermediaries. In 2011 BIPT judged that this tariff practice was contrary to the postal legislation, more specifically based on a previous judgement of the Court of Justice. BIPT will now examine, in cooperation with other European regulators through the ERGP (the European Regulators Group for Post), the possible implications of this judgement for the development of competition on the postal market.

In 2010 bpost submitted the "per sender" tariff model for direct customers and mail handlers. Contrary to the discounts for direct customers, the commercial discounts given to mail handlers in that model were not granted based on the total volumes deposited with bpost, but only on a 'per sender' basis, meaning the separate volumes of the various senders of these mail handlers.

On 20 July 2011 BIPT stated, based on the judgement of the Court of Justice, that the per sender tariff model gave way to discrimination between bpost's direct customers and the mail handlers. Following that decision bpost abandoned the per sender model and decided to calculate the discounts per contractual partner and no longer per sender individually. bpost opted for a tariff model with less classes and consequently lower volume discounts thus emphasising operational discounts rather than volume discounts. In the field of transparency as well bpost made efforts, ensuring the publication of the contractual tariffs and the corresponding volume and operational discounts as well as a better communication with the mail handlers.

On 23 September 2011 bpost lodged an appeal against BIPT's decision.

On 12 June 2013 the Brussels Court of Appeal decided to refer the case to the Court of Justice and asked three preliminary questions to the latter in order to verify whether the per sender model is in conformity with the tariff provisions of the European Postal Directive.

Today the Court of Justice of the European Union stated, contrary to its previous judgement on this matter, that the non-discrimination principle from the European Postal Directive should be interpreted as not opposed to a system of bulk discounts per sender, as applied by bpost in 2010.

As a reaction to the publication of the judgement the European Commission asked the ERGP (the European Regulators Group for Post) of which the European national regulators are a member, to examine the implications of that judgement for the national markets. Awaiting a judgement on the merits by the Court of Appeal, BIPT will look into the implications of the judgement, in cooperation with the other European regulators.

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