

LIMITED
Without prejudice

EU TEXT PROPOSAL ON DELIVERY SERVICES in TTIP

Article 1

Scope and definitions

1. This Section sets out the principles of the regulatory framework for all delivery services.
2. For the purpose of this Section:
 - (a) Delivery services mean postal and courier/express services, which include the following activities: the collection, sorting, transport, and delivery of postal items.
 - (b) Postal Item means an item up to 31.5kg addressed in the final form in which it is to be carried by any type of delivery service provider, whether public or private, and may include items such as a letter, parcel, newspaper, catalogue, and others.
 - (c) Express delivery services means the collection, sorting, transport and delivery of postal items at accelerated speed and reliability and may include value added elements such as collection from point of origin, personal delivery to the addressee, tracing, possibility of changing the destination and addressee in transit or confirmation of receipt.
 - (d) Express Mail Services means international express delivery services supplied through the EMS Cooperative, the voluntary association of designated postal operators under Universal Postal Union (UPU).
 - (e) Postal monopoly means the exclusive right to supply specified delivery services within a Party's territory pursuant to a legislative measure by the Party.
 - (f) Universal service means the permanent provision of a delivery service of a specified quality at all points in the territory of a Party at affordable prices for all users.
 - (g) A licence means an authorisation, granted to an individual supplier by a regulatory authority, setting out procedures, obligations and requirements specific to the delivery services sector.

Article 2

Prevention of market distortive practices

Each Party shall ensure that a supplier of delivery services subject to a universal service obligation or a postal monopoly does not engage in market distortive practices such as:

- (a) using revenues derived from the supply of such service to cross-subsidize the supply of an express delivery service or any non-universal delivery service, and
- (b) unjustifiably differentiating among customers such as businesses, large volume mailers or consolidators with respect to tariffs or other terms and conditions for the supply of a service subject to a universal service obligation or a postal monopoly.

Article 3

Universal service

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1. Each Party has the right to define the kind of universal service obligation it wishes to maintain. Each Party that maintains a universal service obligation shall administer it in a transparent, non-discriminatory and neutral manner with regard to all suppliers subject to the obligation.
2. If a Party requires inbound Express Mail Services to be supplied on a universal service basis, it shall not accord preferential treatment to this service over other international express delivery services.

Article 4
Universal service funding

No Party may impose fees or other charges on the supply of a non-universal delivery service for the purpose of funding the supply of a universal service.¹

Article 5
Licences

1. When a licence is required for the provision of delivery services, each Party shall make publicly available:
 - (a) all licensing requirements and the period of time normally required to reach a decision concerning an application for a licence, and
 - (b) the terms and conditions of licences.
2. The procedures, obligations and requirements of a license shall be transparent, non-discriminatory and based on objective criteria.
3. Each Party shall inform the applicant of the reasons for denial of the licence in writing. Each party shall ensure that it institutes or maintains an appeal procedure through a body that is independent from the parties involved. This body may be a court.

Article 6
Independence of the regulatory body

1. Each Party shall create or maintain a regulatory body which shall be legally distinct from and functionally independent from any supplier of delivery services. Parties that retain ownership or control of undertakings providing delivery services shall ensure effective structural separation of the regulatory function from activities associated with ownership or control.
2. Each Party shall ensure that regulatory bodies perform their tasks in a transparent and timely manner. They shall ensure that regulatory bodies have adequate financial and human resources to carry out the task assigned to them.
3. The decisions of and the procedures used by the regulatory body shall be impartial with respect to all market participants.

¹ This paragraph does not apply to generally applicable taxation measures or administrative fees.