



The Consumer Voice in Europe

# An integrated parcel delivery market for the growth of e-commerce in the EU

BEUC's response to the public consultation

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## Summary

BEUC, The European Consumer Organisation, welcomes the European Commission's Green Paper 'An integrated parcel delivery market for the growth of e-commerce in the EU'.

From a consumer perspective, delivery is a major concern in the development of businesses-to-consumer e-commerce in the EU. For example, in 2010, 47% of surveyed consumers in the UK responded that concern over problems with delivery may prevent them from shopping online. This figure is even higher at EU level where 49% of European consumers are worried about delivery.

BEUC has identified necessary key improvements in parcel delivery such as to:

- Provide practical solutions to consumers that correspond to their needs and way of life (e.g. counter inflexible/lack of delivery options and inconvenient delivery office opening hours);
- Improve accessibility to delivery services in remote areas;
- Improve transparency and information on delivery services, in particular on the tracking of parcels;
- Address the problem of higher prices for cross-border delivery compared to domestic delivery in order to create competitive online marketplaces.
- Clarify within the existing legal framework the liability regimes for sellers and delivery operators, in particular when consumers return items upon withdrawal or as a result of a lack of conformity.

In this paper, BEUC provides an overview of the main consumer problems with parcel delivery in the EU and makes specific input to a selection of the questions in the European Commission's Green Paper i.e. those relevant from a consumer viewpoint.

## **General comments**

BEUC, the European Consumer Organisation, welcomes the European Commission's Green Paper 'An integrated parcel delivery market for the growth of e-commerce in the EU'.

Efficient delivery is a fundamental element for a Single Market which works for both businesses and consumers. It is also critical to the development of e-commerce in the EU.

Existing data shows that consumers are willing to buy online, a fact also demonstrated by consistent growth in the sector<sup>1</sup>; however our members' evidence confirms significant consumer detriment due to problems with parcel delivery. Thus we call on the Commission take appropriate steps.

## **Consumer concerns**

Smooth delivery is seen by consumers as key to a successful e-commerce transaction: 47% of consumers reported that problems with delivery may prevent them from shopping online<sup>2</sup>.

The most frequently recurrent issues identified by BEUC members are:

- Unsatisfactory delivery times;
- A lack of transparency/information on the service, for example the gap of information when the carriers do not dispose tracking systems when the parcel leaves the country of origin;
- A lack of information at the beginning of the purchase about the goods' delivery cost (VAT, customs costs, extra costs not indicated, etc.)
- Delays;
- Items damaged during the delivery process;
- A lack of clarity concerning liability for loss or damage;
- Theft;
- Lack of pick up/collection services;
- Lack of return procedures;
- High prices for cross-border delivery.

In terms of consumer confidence, delivery issues are one of the main barriers preventing consumers from buying online across borders. For example, in 2010 49% of online buyers did not do so across borders because they were worried about delivery<sup>3</sup>.

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<sup>1</sup> According to the 7<sup>th</sup> Edition of the Consumer Market Scoreboard (May 2012) more than four out of ten EU consumers (43%) have purchased goods and services over the Internet in the past year. This represents an increase of 3 percentage points compared to 2010. Since 2004 the proportion of Internet shoppers has risen by 23 percentage points from 20%.

<sup>2</sup> Consumer Focus research on consumer needs, November 2010.

<sup>3</sup> Consumer Market Scoreboard, 5<sup>th</sup> Edition.

The input we received from our members reveals that problems of delivery are diverse in nature. For example, research<sup>4</sup> carried out in Scotland by our UK member Consumer Focus found that consumers have to contend with inflexible delivery options and inconvenient delivery office opening hours.

Further Consumer Focus research<sup>5</sup> confirmed these concerns - though the majority of residential consumers believed their online shopping activity would increase in the future and therefore they would have an increased reliance on packet and parcel delivery to complete orders placed online. Many of these products do not fit through letter boxes or require signature upon delivery. Residents stated that they want alternatives to the current system which many see as frustrating and no longer in line with the way they live.

The report also outlined the specific concerns of those living in remote and rural areas heavily reliant on online shopping and effective delivery solutions for basic goods in the absence of high street alternatives.

Our Dutch member Consumentenbond<sup>6</sup> highlighted that the main problem reported by consumers in 2012 was the inaccuracy of the parcel arrival times, even though the number of online purchases is increasing in the Netherlands. A mystery shopping exercise conducted by Consumentenbond showed that online shops' promise on the delivery time may not accurately reflect the reality. Consumentenbond ordered 268 different products to be delivered to different addresses throughout the country: 11% of the orders did not arrive by the agreed time. Most parcels were delivered within 2 working days, but some only arrived after 14 working days.

Our Portuguese member DECO stressed that Portuguese consumers are dissatisfied with the systems in place for the delivery of parcels as the quality parameters of the universal postal service fixed by the Portuguese regulator (ICP – ANACOM) are not always respected.

In the UK, BEUC member Which? reported that more than 60% of people have had delivery problems with something bought online, while nearly one in ten experienced problems with a Christmas delivery<sup>7</sup> not arriving on time.

Finally, our Italian member Altroconsumo compared delivery charges for goods bought online both domestically and cross-border in a mystery shopping exercise<sup>8</sup>. The results showed the price of delivery is often so high that shopping abroad is not a real advantage for consumers, even if the price of the good is cheaper abroad.

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<sup>4</sup> Consumer Focus Scotland, Effective parcel delivery in the online era. What consumers in Scotland need, 2012, available at:

<http://www.consumerfocus.org.uk/scotland/files/2012/08/Effective-parcel-delivery-WEB.pdf>

<sup>5</sup> Consumer Focus, Sense and sustainability, 2012, available at:

<http://www.consumerfocus.org.uk/files/2012/07/Sense-and-sustainability1.pdf>

<sup>6</sup> Evelien MANSSENS, Bezorging van pakketten : Waar blijft dat pakje ?, Consumentengids, December 2012, pp. 31-35.

<sup>7</sup> <http://www.which.co.uk/news/2012/11/delivery-problems-rife-when-buying-online--302882/>

<sup>8</sup> <http://www.altroconsumo.it/hi-tech/nc/articoli/inchiesta-acquistare-online-sui-siti-esteri>

Below we have provided answers to the most relevant questions from a consumer point of view.

### **Questionnaire**

#### **Questions: the regulatory and institutional framework for the EU parcel delivery market**

- 1) For the purpose of this Green Paper, 'parcel' is defined in the broadest sense and includes all items weighing up to 30 kg. Are there particular elements which in your view are of crucial relevance for the qualification as 'parcel' in the context of the ambition to achieve a more integrated, well-performing parcel delivery market in the EU?

A wide and flexible definition of 'parcel' is necessary to encompass different business' delivery models under a common legal regime.

However, it is necessary to take into account that different rules might apply according to the volume and weight of the parcel, which can lead to different treatment (e.g. liability regimes) or raise practical concerns such as delivery times. For example, in Greece: A parcel of up to 2kg is considered simple mail and can be delivered within 2-3 days including all the benefits of simple mail (registration, insurance, express mail, delivery with receipt, delivery to door). From 2kg to 10kg, delivery is within 8-12 days and of the benefits in the prior category, only insurance can be done. From 10kg to 30kg delivery is done within 15-30 days, without any of the benefits mentioned above. Especially, during holidays the delivery time is unknown. Generally, these parcels entail a risk of being lost, are totally untraced and not delivered to consumers' doors. If the 'parcel' is defined as weighing up to 30kg these eventual different features should be taken into account in the definition.

- 2) Is, and if so to what extent, the existing framework an obstacle to the creation of a truly integrated European parcel delivery market that meets the needs and expectations of retailers, consumers and workers in the sector?

The implementation of the Consumer Rights Directive is expected to address some of the problems related to delivery which occur in business-to-consumer contracts for transactions. In particular, the Directive includes rules with regards to:

- Pre-contractual information related to delivery charges (article 5.1(c) and article 6.1(e));
- Reimbursement of delivery costs upon withdrawal (article 13.2);
- Timeframe and costs of returning the goods in case of withdrawal (article 14.1);
- The trader's responsibility to deliver the goods within a maximum 30 day period (unless agreed otherwise with the consumer) as well as the legal consequences for late and non-delivery (article 18);
- Passing of risk (article 20), according to which the consumer assumes the risk for the good upon receipt unless the consumer has selected a carrier not offered by the trader, in which case the consumer assumes the risk when the item passes to the carrier.

However, this directive does not cover issues related to quality of service; the liability regime for delivery operators; or practical questions such as accessibility to collecting points, opening hours of postal offices, geographical coverage and big differentiations in price charges for cross-border delivery, as mentioned above. All these aspects should be addressed by the appropriate means.

3) What are the top three challenges posed by the regulatory framework? What could be done to help you respond, in the short and long term, to these challenges?

- a) **Liability of delivery operators:** this is covered mainly by the general contract terms of the delivery operators or by the liability regimes of contract law. The European Commission should consider whether specific rules are needed.
- b) **Geographical coverage and accessibility.**
- c) **Pricing:** in particular for cross-border delivery and delivery to remote areas.

In relation to points b) and c) these aspects would be already covered by the universal service of directive 97/67/EC. However, there is no obligation for online traders to provide the universal service for delivery of parcels to consumers, leading to consumers in rural and remote areas (in the same or other countries) facing delivery options that are more expensive and less convenient than consumers in urban areas. In this respect, e-retailers should be encouraged to offer to consumers – as a minimum – the option of a postal service equivalent to that provided in the directive for online purchase.

4) Do you consider there are regulatory gaps or a need for additional measures/regulation? If so, please specify.

Clarification is needed as to the consumer obligation to send the goods back in instances of withdrawal from a contract (article 14 CRD): Under certain circumstances (e.g. due to the volume of the parcel or the distance to a delivery operator contact point) it would be difficult for consumers to send the goods back within 14 days after withdrawal from the contract. A similar problem occurs when consumers want to exercise their rights to any remedy in the event of lack of conformity that would require sending the goods back to the trader (e.g. for repair or replacement).

A solution to these concerns could be to ask traders to offer to consumers different delivery options (e.g. various delivery operators or different options within the same delivery operator) to send the goods back in case of withdrawal or lack of conformity (repair, replacement or termination of the contract, if applicable)

**Questions: improving consumer experience and convenience- more transparency**

**5) Information on delivery options and modalities**

- a) Which information should be made available to consumers on the e-retailer's website (name and contact details of the delivery operator(s), the delivery price, the time and place of delivery, information about complaint handling, track and trace options, return options)?

The recently adopted Consumer Rights Directive already includes part of this information (articles 5-6). However, it applies to the seller while the delivery operator's information is not covered by this directive.

The inclusion of pre-contractual information about the delivery operator could be useful, in particular regarding time and place of delivery, opportunity to collect the parcel in a contact point, opening hours or track and trace options. However consideration must be given to the fact that the seller is liable to the consumer for the delivery of the product (article 20 CRD) and any information about the delivery operator's business model (e.g. complaint handling) should not be used as a means to mislead the consumer about who is legally liable for the delivery of the parcel.

Additionally, many delivery operators or e-retailers do not propose tracking systems from the moment the parcel leaves the country of origin. So there is a gap of information and traceability between the parcels leaving the country of origin and its arrival at the destination country.

As indicated above (Q4), consumers should be equally informed about the different methods of returning the goods, which take into account the nature and cost of the parcel.

- b) Taking into account the risk of information overload, what could be done to provide consumers at the right moment with clear, transparent and comparable information on delivery?

Standardising pre-contractual information could help consumers be aware of the necessities to make an informed choice before agreeing a contract. However, special attention should be paid to avoid information overload.

The European Commission is already considering such initiatives as announced in the 2012 Consumer Agenda<sup>9</sup>. BEUC supports the European Commission's intentions to facilitate access to information and believes that information on delivery should be addressed within this context for a common approach.

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<sup>9</sup> COM(2012) 225 final, 22 May 2012.

## **6) Information on the quality/performance of delivery**

- a) Performance indicators relate, for instance, to the speed of delivery, the geographic coverage of the delivery operator, delays, damaged or lost items. How can such performance-related information be measured and gathered? Would publishing the results of such performance indicators create added value for consumers? Is there a need to develop standards to monitor such performance levels?

Performance indicators could be useful provided there is enough competition in the delivery market to allow comparison between different delivery operators. However, the reality shows that consumers rarely choose the delivery operator generally selected by the seller. This has of course implications for the liability of the seller as should the consumer choose another delivery operator; the risk would pass to the consumer when he or she hands the good over to this carrier.

- b) Would trust labels (e.g. a certificate given by an industry association that the delivery process of an operator can be trusted as they meet requirements based on best practice) offer a more efficient way to increase consumers' confidence?

BEUC sees added value in the development of an EU e-commerce trustmark scheme. This could help improve consumer confidence in the online marketplace. However, certain pre-conditions should apply. For example, which organisation issues the label, the requirements the seller must meet to obtain the label, the added value for consumers which should not be limited to compliance with legal requirements (e.g. consumer protection law).

In its Digital Agenda the European Commission has already announced the establishment of a stakeholder platform for EU online trustmarks. BEUC believes that delivery should be addressed within that initiative and not separately via sectoral trust labels. Therefore, the development of a trustmark only for delivery would not be desirable.

## **7) Independent supervision**

- Who should take the lead to monitor performance: an industry organisation, an independent body, a regulator?

It is important that supervision is entrusted to regulatory authorities or an independent body



## 9) Improving consumer experience

- a) Taking into account the existing set of consumer rights, how could consumer concerns and complaints about delivery be addressed most effectively?

As indicated below, complementary measures could be foreseen for an effective implementation and enforcement of consumer law. In addition, the European Commission should continue working on the development of EU trustmarks and the standardisation of pre-contractual information.

Effective in-house complaint handling systems of e-retailers and of parcel delivery operators should be promoted. These services can make a real difference for consumers in dealing with problems.

Traders selling online should have a timely and effective mechanism for settling disputes. In this regard, as regrettably there is no obligation in the ADR Directive nor the ODR Regulation to offer ADR to address business-to-consumers complaints - including those linked to delivery – traders should be encouraged to adhere to such dispute resolution schemes.

Moreover, it would be desirable to make tracking systems available across the EU.

- b) Do you have any concerns about liability regimes in the event of lost or damaged parcels? What could be done to improve the situation?

When consumers buy a product from an online shop, and something goes wrong with the delivery, the consumer might not have sufficient rights to take action against the postal operator due to a limitation of liability in the contract terms and conditions. So, if for example the parcel is delivered – according to the postal service – to the neighbouring address to the consumer and the neighbours (in good faith or not) deny they have received the parcel, the consumer has to take action against the online shop, instead of the postal service.

Consideration should be given to ensuring fair contractual conditions (in compliance with Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, as transposed by the Member States) and liability regimes in relation to the delivery of parcels before the risks pass to the consumer in accordance with article 20 of the CRD.

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