



Engineering the flow of communication

Postal VAT. An Harmonisation Issue. A Competition Issue.
An Implementation Issue

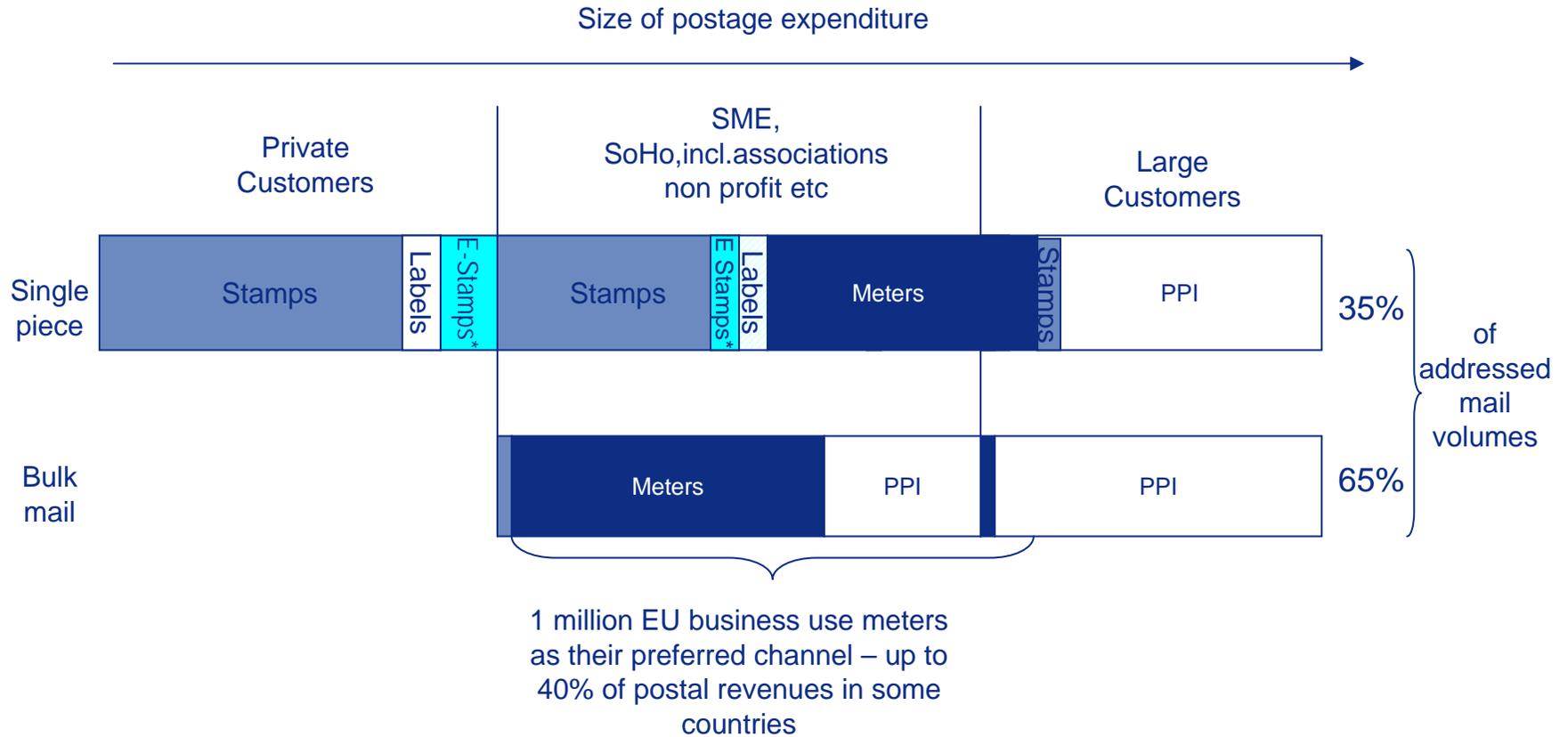
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The Customer Context For Postal VAT

VAT and Postal Payment Channels



**Including e-merchant websites e.g. Ebay. Illustrative. Not to scale. Based on Ducasse.*

Likely Basis For ECJ Decision?

Reference	Legal Basis	Comment
EU Jurisprudence	Principle of fiscal neutrality: the same activities cannot be treated differently	Essential principle of EU Tax law
Art132 of Directive 2006/112 EC Evidence to ECJ	Exemption of "public postal services" means those products defined as part of the universal service:	Regarded as likely outcome – definition needed which provides clarity while respect "subsidiarity" Could effectively pass tax decision over to NRA Broadly defined universal service product classification will entrench the VAT distortion for new entrants: Implementation issues at point-of-sale:
Art 135 1. (h) 2006/112	Exemption of "postage stamps"?	Breaks fiscal neutrality principle between payment channels - product substitutability between 1C meters, PPI & stamped services: Fiscal incentive to switch to least efficient and typically loss-making stamp channel – cuts across Directive efficient USO objective Meter defined as "postage stamps"?
Postal Services Directive, 2008 Recital 28 and Article 2, 20	Single piece mail: "allow MS to maintain uniform tariffs for single piece mail, the service most frequently used by consumers, including SMEs." "Services provided at single piece tariff: postal services for which the tariff is set in the general terms and conditions of universal service provider(s) for individual postal items"	Not referred to by EC in the hearings – though was referenced by DG Tax in other contexts: Possibly breaches fiscal neutrality principle: -single piece mail may be of interest to retail new entrant (e.g. via new retail networks or hybrid mail platforms) "Single piece mail" <i>irrespective</i> of payment channel does not breach fiscal neutrality principle:

Advocate General's Opinion expected early 2009. ECJ decision toward end 2009?. Decision binding on all Member States and non-appealable.

