



# Compensating USO costs under EU State aid rules

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Disclaimer: The views expressed are those of the author and cannot be regarded as stating an official position of the European Commission

# Overview



- Scope of State aid control
  - Existence of aid
  - Compatibility assessment
- Net cost benchmarks
  - Existence of aid
  - Compatible aid
    - Current rules – 2005 Framework
    - Future rules – New Postal Directive
- Conclusions

# State aid control



**Art 107(1) TFEU**  
**Existence of aid**

**Art 106(2) TFEU**  
**Compatible aid for  
universal services**

# Existence of aid



- Does the compensation payment provide an **economic advantage** to universal service provider?
  - Court case C-280/00 Altmark

- Aid can be granted in different forms:
  - Subsidies
  - Capital injection
  - Tax waivers
  - Guarantees
  - ...
  - *NB: Revenues of regulated services are not an aid measure*

# Compatibility of aid measures for universal service



- Is the compensation payment a **necessary** and **proportional** measure to ensure the provision of the universal service?
- **2005 Framework on State aid** to compensate costs of services of general economic interest (SGEI)
  - Currently applicable
- **New Postal Directive**
  - Applicable with entry into force (31 Dec 2010/12)

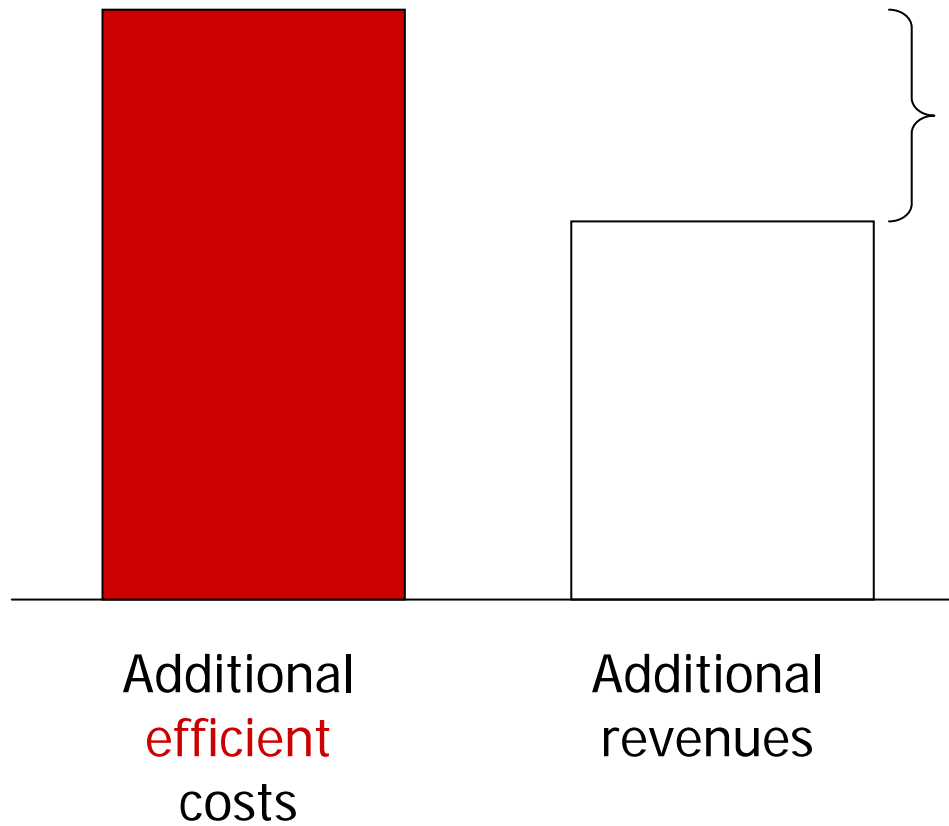
# Net cost benchmarks



- No aid pursuant to Altmark judgement
- Compatible aid pursuant to 2005 Framework
- Compatible aid pursuant to New Postal Directive

# No aid

Altmark judgement



Efficient net costs

# No aid

## Altmark judgement

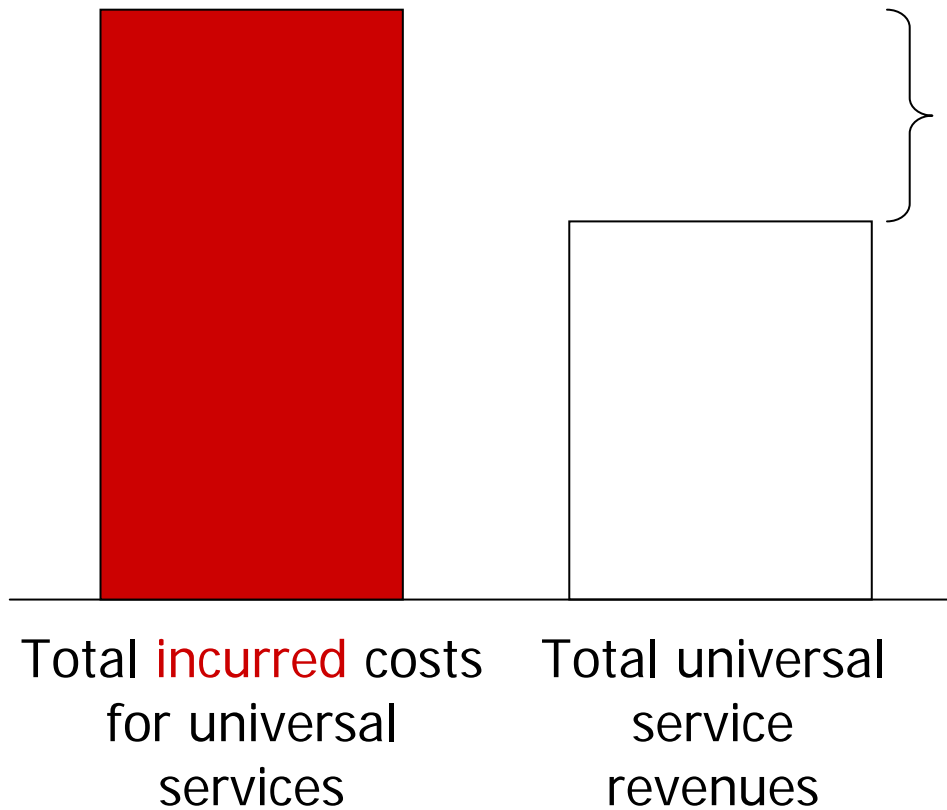


- How to prove?
  - Tender
  - Expert study on cost efficiency
- Practical relevance
  - Minor
  - Difficult to prove efficiency



# Compatible compensation

2005 Framework



**Incurred** loss for universal services

# Compatible compensation

2005 Framework



Revenue of universal services

- Accounting costs of universal services
  - Reasonable profit
  - + Compensation payments
- 

Over- or undercompensation

# Compatible compensation

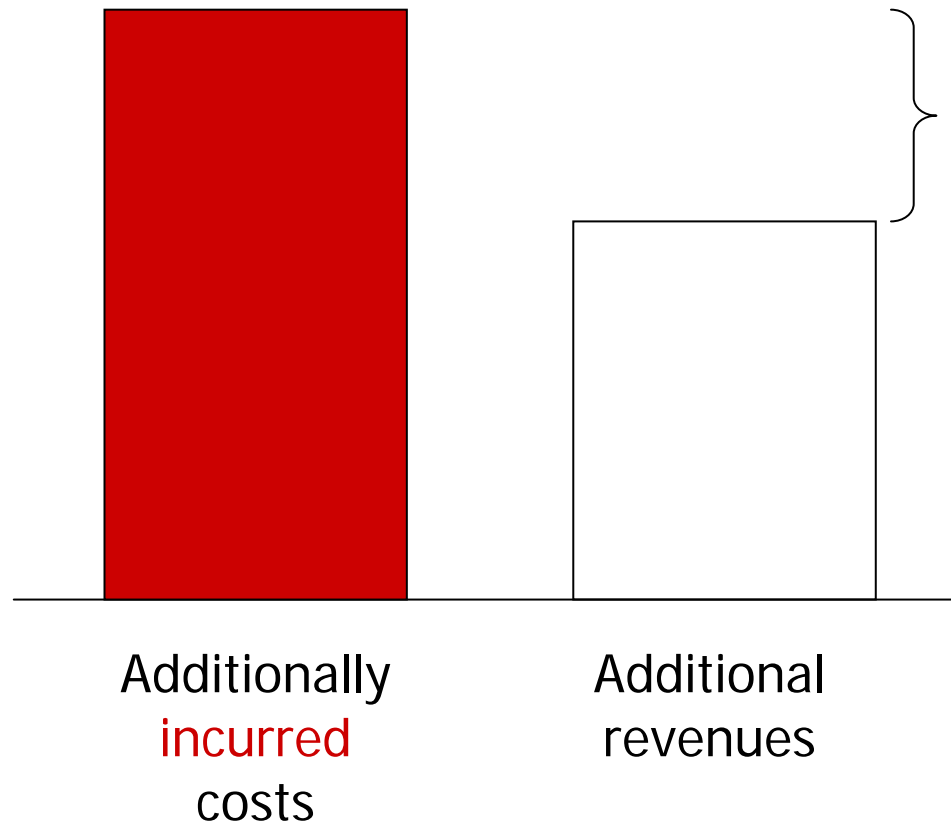
2005 Framework



- Accounting exercise
  - Cost allocation between universal and commercial services
    - Court case C-83/01 *Chronopost vs Commission*
  - Reasonable profit
    - Comparable companies

# Compatible compensation

## New Postal Directive



Incurred net costs

*...but to be further qualified...*

# Compatible compensation

## New Postal Directive



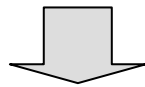
- Further assessment criteria
  - Cost efficiency
  - Unfair financial burden

# Conclusions

## Net cost benchmarks



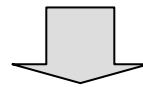
No aid



Net  
efficient  
costs

Compatible aid

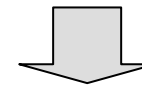
2005 Framework



Incurred  
loss for  
universal  
services

Compatible aid

New Postal Directive



Incurred  
net costs +  
further  
assessment