

# WIK 1<sup>st</sup> December 2011

"How UPU Regulations Affect a Private Operator"

Denis CAYET CEO IMX France / Presentation



# Introduction to IMX



1/2

The Group IMX is present in several European countries.

The core business of IMX is outbound cross border mail (periodicals, catalogs, direct mail, transactional mail and parcels). IMX France contracts with all EC Designated Operators (DOs) and about 20 DOs outside Europe.

# Introduction to IMX



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IMX France handles 3 ETOEs with DPAG, BPI and Correos de Nicaragua..

To simplify the presentation, IMX presented only the case of French regulation.

# The private competitor in the international postal sector: 3 different environments

French National  
postal regulation  
& UPU regulations



# Designations



The French Government designated by law, for 15 years, LA POSTE as the DO for providing the universal service.

*Consequently*, for outbound cross border mail the French government nominated LA POSTE as THE UPU DO for import AND for export volumes!

# Designations

Consequences for IMX in France:



1/2

IMX cannot do business with DO outside Europe except with some commercially orientated. The others will oblige IMX to clear customs, not use CN documentation and or simply administratively cannot deal with so called NDOs.

The UPU relation with French government excludes the regulator to give its new entrants same access to foreign DO outside Europe.

# Designations

Consequences for IMX in France:



2/2

UPU concept of commercial operators opposed to “social DOs”, forbids IMX to send mail directly to USA, Canada, ... opposed countries to ETOE traffic.



# IMPC codes



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Authorization to operate is granted by l'ARCEP, the French regulator. However, the regulator does not have authority over the necessary “International Mail Process Center (IMPC)” code. Under UPU regulations, IMX must have an IMPC code in order to send mail to a foreign country for acceptance and delivery under the terms of the UPU Convention.



# IMPC codes



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All IMPC codes are distributed by the International Bureau of UPU on request of, the French Ministry of Economy and Finance.

IMX does not understand why l'ARCEP is not in charge of the management of IMPC codes instead of the French Ministry!

# IMPC codes

Consequences for IMX in France:



1/2

Return mail is a terrible mess which harms relations with customers,

No access to IMPC code forbids IMX to sign with DOs outside Europe.

# IMPC codes

Consequences for IMX in France:



2/2

Without IMPC code a private operator cannot use CN documentation to send its mail abroad. The private operator is therefore obliged to use a neighboring DO or an ETOE to have access to international Terminal dues (plus mark up from its partner).

# The private competitor in the international postal sector: 3 different environments

EC postal  
regulation  
& UPU regulations



# The EC Third Party Operator



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IMX France is the only private postal operator taking advantage of the Third Party Operator opportunity provided by the Commission in the Riems II Renewal decision. (EC decision 23rd October 2003)

# The EC Third Party Operator



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In 2005, IMX received an IMPC code from the UPU, “FRPARI”.

No more IMPC code have been given by UPU to private operators since then.

# The EC Third Party Operator

Consequences for IMX in France:

1/4

IMX has gained a competitive advantage on the market since it is the only private operator paying same Terminal Dues for European destinations.

Lack of participants forbids the update of the Decision. EU changed its competition law policies so the Commission no longer issues opinions exempting agreement from competition rules.



# The EC Third Party Operator

Consequences for IMX in France:

2/4

This is why there are no more decisions like Reims II Renewal. However, with more parties, it is possible that the EU would have updated the decision by issuing a new Directive or at least a “notice”. Many details could have changed like:

Rejection of the UPU decision to stop delivering IMPC code to NDO

# The EC Third Party Operator

Consequences for IMX in France:

3/4

To clarify the extra cost concept to some European DO. Initially set up for additional services but used by some DO to ask more money to TPOs),

Introduce legislation on the necessary organization of international returns,

Forcing REIMS DO members to accept participation of TPO in their negotiations.

# The EC Third Party Operator

Consequences for IMX in France:

4/4

Update of the Decision for the DO leaving REIMS group.

Representing the EC members at the UPU.

# The possible view on “Designation” to harmonize UPU & EC regulations


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For the management of the domestic distribution, the Third Postal Directive interestingly offer the possibility to Government/regulator, if required, to nominate 1 or several Designated Operators. When more than one are nominated, different criteria could be retained as “Designation” by region, product, Service quality, etc...Therefore,

# The possible view on “Designation” to harmonize UPU & EC regulations 2/2

- for the Import cross border mail, each regulator, according to the scope of the designations should declare to the IB of UPU, one or several Designated Operator/IMPC codes.
- for the Export cross border mail it seems the EC forgot to ask government/regulator delivering authorizations for cross border mail to nominate its additional TPO at the IB of UPU.

# Merging UPU IC terminal dues and REIMS negotiations in one new system



*“EC leaves no doubt that UPU terminal dues agreements are incompatible with European competition rules”* from JC

“UPU TDs and REIMS agreements create incentives for private carriers and commercially-minded post offices to practice ABC remail”

Situation with REIMS is also of concern: No uniform rule for the tariffs calculation, participation is optional, etc. .

# Merging UPU IC terminal dues...

## Positive Consequences



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Commercially orientated EC DO take advantage with partners or subsidiaries of the non participation of some DO to the REIMS agreements.

Private postal operator are excluded and cannot play their role to promote new offers, sales, lower costs.



# Merging UPU IC terminal dues...

## Positive Consequences



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A real distortion between operators using for a same international shipment, REIMS V TDs (format, service, unit+kg), IC TDs (unit +kg) and ROW TDs (kg).

Thank you for your attention

