



European cross-border e-commerce parcels delivery and questions related to market analysis

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Background



- A request from the European Commission in the context of its work on increasing trust in the integrated market for e-commerce and online services by, in part, ensuring that the delivery of products bought online functions effectively to the benefit of consumers and businesses (annex 1).

- The aim of the ERGP was to provide advice on how, if this was ever judged necessary, the Commission or national regulators might go about analysing European cross-border e-commerce parcels delivery from an ex-ante perspective (with no prejudice as to a need, or not, for regulation).

- A report for publication (questionnaire, 23 NRA replies)
 - The context of ex-ante regulation
 - Market definition
 - Potential problems that concern European cross-border e-commerce parcels delivery
 - Of the issues identified, which may result from delivery and be relevant for the work of a regulator.

- A report on delivery (and not at e-commerce per se)



A report looking at delivery market(s)

Delivery of cross-border e-commerce (bulk) parcels
in Europe

Contract between online seller and delivery operator
(and not private individual online buyer)

What is
meant by this
distinction?

Why is it
important?



Online selling market(s)

Contract between private individual buyer and online
seller

Ex-ante regulation



- A last resort to address a manifest absence of effective competition
 - For example (2007/879/EC), in the presence of “*high and non-transitory barriers to entry*”, where the market structure “*does not tend towards effective competition in the relevant time horizon*” and competition law alone is insufficient to “*adequately address the market failure(s)*”
- A political decision to apply (in principle) ex-ante regulation
- A regulatory process to determine if, concretely, regulatory obligations will be applied
 - For example, market definition, finding of an absence of effective competition, identification of any entity having SMP
- Again, ex-ante regulation is applied only where ex-post competition law is not sufficient

Market definition - the “newness” of the market



- Parcels delivery is not new but online buying is a relatively recent phenomena and it is likely that the market(s) concerned have not yet stabilised
- This has implications for defining the market(s) and identifying any possible competition issues
 - An argument for being cautious as regards regulation
 - Equally an argument for better understanding the market
- The change underway in terms of online buying affects the eco-system to which parcels delivery belongs, and may radically change relationships between various actors on all related markets



Market definition – substitutes

- The product market - “*all those products and/or services which are regarded as interchangeable or substitutable by the consumer, by reason of the products' characteristics, their prices and their intended use*” (97/C 372/03).
- Express parcels as a substitute for a standard parcels offer?
- C2X, B2B, and B2C may be three distinct markets but little definitive information at this stage
- In any case, terms such as “B2C” may be less relevant for a competition perspective and “bulk” and “individually sent” parcels more appropriate (UK study, German study...)
- Other: home and shop delivery; letters e-commerce delivery; the value of the parcel.

Market definition – the geographical market



- The geographical market - *“the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring areas because the conditions of competition are appreciably different in those area”* (97/C 372/03).
- Implications of a European market for national regulatory authorities (different levels of competition and different regulatory structures in different countries)
- But may delivery markets be point to point (country A to country B) or even national markets?
- Might this vary from product to product and how is it affected by supply side substitution?



Potential (sources of) competition issues on delivery market(s)

- 1. - Dominant historical operators on traditional mail market
 - Dominance could, potentially, be used on parcels markets
 - Competition law may suffice
 - The market is emerging

- 2. - High prices
 - What “price” ?
 - High costs, a competition issue, perceptions
 - Structural or behavioural in nature

- 3. - Lack of innovation
 - If present, a structural or behavioural factor?

- These factors could indicate, or lead to, a competition issue on delivery markets. However, this is not necessarily the case (competition, if not sufficient today, could become so of its own accord). That said, it appears useful for regulators and/ or the Commission to better understand the market and ensure competition is, or will be, effective.

Issues affecting, but not necessarily stemming from, delivery market(s)



- Regulators are not expert on these issues, which do not appear to stem from the delivery market but may affect it:
- Transparency of information on the online seller's website
 - Online selling (seller – individual consumer) relationship
 - PMEs sending parcels individually (C2C market and traditional postal regulation)
 - In the interest of the online seller to provide clear information
- Legislation differences from country to country in terms of purchasing rights
- Cultural and linguistic factors
- Other (confidence, preferences, internet penetration, transport infrastructure...)



Conclusions

- Distinguish delivery markets (the focus of the work) and online selling markets
- No ready indication at this stage of a specific competition problem on delivery market(s) that may be best dealt with by ex-ante regulation
- However, it may be useful to better understand the markets concerned to ensure that competition is, or will become, effective
- Caveats:
 - A new market
 - An ecosystem
 - Essential facilities, high fixed costs (...) not questions looked at by group
 - Competition law may suffice
 - No formal market definition

Questions for future analysis



- The aim of the ERGP was not to analyse the market(s) concerned but, essentially, to give a “solid base” to current discussions. A number of questions remain:
- Who are the actors (buyers and sellers) and what is their “weight”?
- What are the main delivery models? Physically, how does a parcel goes from A to B?
- What form might future competition (future delivery models) take?
 - Alternative delivery networks?
 - Direct injection?
 - Sellers setting up own delivery (in-house delivery)?
 - What concrete examples can be cited?
- What offers are likely substitutes for standard bulk parcels delivery (purchased by online sellers)?
- Are geographical markets European, point to point or national?



Thank you for your attention

Questions?

Comments?

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Annex 1: background to the work



- January 2012 EC communication, *A coherent framework for building trust in the Digital Single Market for e-commerce and online services* (COM (2011) 942 final)
 - Aim to “facilitate cross-border access to online products and content, ultimately solve the problems of payment, delivery and consumer protection and information, and assist dispute resolution and the removal of illegal content (...)” and notes that “consumers often lack confidence in online trade or services and are concerned about whether their rights will be respected, especially when a problem arises”.
- November 2012 EC green paper *An integrated parcel delivery market for the growth of e-commerce in the EU*
- End May 2013 – request from the Commission for an ERGP opinion