



II-2.12: Joëlle Toledano nominated to the Presidency of the European Regulators Group for Postal Services

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MAIN INFORMATION

From January 1st, 2011, Joëlle Toledano, a member of the College of the Autorité de Régulation des Communications Electroniques et des Postes (ARCEP – the French Postal and Telecommunications Regulatory Authority) will serve for one year as President of the recently created European Regulators Group for Post.

CONTEXT AND SUMMARY

The European Regulators Group for Post aims at creating a common culture, praxis and interpretations amongst European postal regulators. It held its first meeting on December 1st, 2010, after its establishment on August 10th, 2010, by the European Commission. Its new President is Joëlle Toledano, member of the Board of the ARCEP, the French Postal and Telecommunications Regulatory Authority.

This new institution's program for the upcoming years revolves around five major themes. First of all, the repartition of costs for historic postal operators must be fairly assessed. Indeed, postal regulators must be able to assess the right price, while taking into consideration the often contradictory objectives of competition and universal service. Inasmuch, the European Regulator's Group is a gathering of price regulators.

The second issue is the cost of the universal service and the integration of the different VAT legislation on the calculation of the final price. The financing of the universal service is a common issue in European countries, since it appears today more clearly that newcomers to the postal market cannot significantly contribute to financing the universal service. Yet, in several countries, the VAT exemption granted to former monopolies is seen by some as giving them an advantage. This issue needs to be discussed amongst European regulators.

Also, the Group is going to work on consumer satisfaction and market supervision. Another important topic is the tariff of cross-border exchanges (terminal dues), which are especially high for parcel post, and do not truly reflect the distance between a parcel's origin and destination. Finally, the Group will work on enhancing non-discrimination measures between newcomers and former monopolies, especially as concerns access to essential facilities.

Links with other documents in the same sector

BRIEF COMMENTARY

One might think, at first glance, that this group is trivial: the only concrete point on the menu is the debate on VAT and on terminal dues; and the group does not have the ability to produce obligatory rules to be followed by all of its members. However, the creation of this group is extremely important. First of all, the choice of President is a regulator who is a member of a postal and telecommunications regulatory authority. The French tradition is to group these two industries together, in a sort of historical legacy from the former Ministry of Post, Telephone, and Telegraph. However, these two sectors are, indeed, distinct, and the creation of this group is an important step

in recognizing the postal sector's institutional and conceptual uniqueness. This concept of autonomy has always been present in European legislation, which has always distinguished between telecommunications and postal services. The recognition of this specificity on the European level is a sign of the necessity of harmonizing these concepts on the European level, and will lead to increased convergence between regulatory policies with the goal of producing an single postal market. The fact that the Group's recommendations are not obligatory is relatively unimportant when it comes to regulation and the often-discussed battle between hard law and soft law. Regulation functions because the recipient of the rule understands that it is in his best interest to comply, and has reached an agreement with the producer of the rule as to its contents. This is the notion of co-regulation. Furthermore, the members of this group all have the power to produce mandatory rules within their home countries. Therefore, when they attend these European meetings, they will draw up common regulatory policies based on a shared logic and standards. When they go home, they will produce mandatory rules based on the non-obligatory discussion that they had on the European level. The most striking example of this phenomenon is the Basel Committee in the banking sector. The Basle Committee has no rule-making power. But, its members use their powers to produce identical and mandatory rules, created in Basle, in their home countries. Therefore, a group of regulators does not need rulemaking powers to transform its work into requirements as long as all of its members have rulemaking powers in their home countries. As long as the work of this new group is sufficiently well carried-out on the European level, the teamwork that will be done to address common issues will give way to precise and firm solutions. This is the purpose of this group, and it is useless to wonder whether not it produces hard law or soft law. It remains to be seen whether it will produce clear, precise, and coherent signals that every national regulator will be able to identically reproduce in his own country, which will suffice to ensure that every national corporation will be favorable to the European Regulators' Group for Postal Services.