

# COMPENSATION FUND IN POSTAL SERVICE: A STEP FORWARD AFTER THE POLISH CASE – AN UPDATE FROM THE 25<sup>TH</sup> CONFERENCE ON POSTAL AND DELIVERY ECONOMICS, BARCELONA

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26<sup>th</sup> Conference on Postal and Delivery Economics

- **Introduction and main elements of Polish Decision**
- **The European Commission Definition of the Express Courier Market and the Standard Delivery Market**
- **The Different Delivery Markets**
- **Conclusions**


- Constantly decreasing mail volumes and increasing parcel volumes
- Austerity concerning for public spending in Europe
- The sustainability of the universal service is a key issue
  
- The net cost of the universal service provision can be compensated by public funds or/and a compensation fund (article 7 Postal Directive 97/67/EC)
- The Compensation Fund (CF) is a mechanism for sharing the net cost of the universal service obligations among postal services providers
- EC with the Decision SA.38869 (2014/N) “Compensation of Poczta Polska for the net cost of USO 2013-2015” approved the CF as a mean for financing the universal service net cost
  
- Our research update the last paper taking into consideration the issue emerged during the discussion in Barcelona, the Opinion of the Advocate Campos Sánchez Bordona (case Confetra) and the Copenhagen Economics “Study on the interchangeability of USO and non USO services”

# THE MAIN ELEMENTS OF THE POLISH DECISION

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- The Polish Decision sets the main elements of the CF: the contribution rate and the contribution base

## The contribution base

- The contribution base is made by the revenues of the companies offering universal services and services inter-changeable with these
  - Recital 27 of the Third Postal Directive defines substitute services as services which, considered from the user's perspective are interchangeable with universal services to a sufficient degree, valuing their characteristics (including the value added features), the intended use and the pricing
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- The presence in the market of competitors, who provide substitute services and are not subject to the universal service constraints, entails a further squeeze of the universal service provider profitability

- § 81 *“The contributions by postal service providers to the financing of the universal service is intended to establish some parity between them, by requiring new entrants who do not incur the same costs as operators entrusted with the universal service to pay into that fund and contribute to the financing of certain obligations based on the principle of solidarity”*
  
- § 87 *“do not preclude national legislation, like that applied in the main proceedings, which permits the imposition on holders of general authorisations of the obligation to contribute to the financing of the compensation fund in respect of universal service costs, where the conditions referred to in recital 27 of Directive 2008/6 are satisfied”*

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# THE MAIN CHARACTERISTICS OF POSTAL UNIVERSAL PARCELS

## UNIVERSAL PARCEL

Product Name	Country	Weight (kilos)	Price up to 10 kilos (€)	Delivery time	Money Back	Track and trace
Colissimo France	FR	up to 20	19,20	D+2	NO	YES
Standard Versand Paket	DE	up to 20	9,49	D+2	NO	YES
Paquete Azul	ES	up to 20	19,34	D+4/5	NO	YES
Standard parcel	NL	up to 10	6,95	D+1	NO	YES
Pacco ordinario	IT	up to 20	11,00	D+4/5	NO	YES

Source: Postal Operator's web site, Groupe La Poste (2018), PostNL (2018)

- The time of delivery is not definite but there is an indication of the day and it varies among Countries
- Although there is a range of price variation, pricing seems to be rather low
- All products enjoy track and trace facility
- There is no money back guarantee as for delivery time

# THE EUROPEAN COMMISSION DEFINITION OF THE EXPRESS COURIER MARKET

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- The Polish case excludes the courier express services from the contribution to the CF

## EC Definitions

- 1999 - TNT Post Group/Jet Services and Deutsche Post/Securicor (1999) observed that express courier services have a higher price versus standard parcel services and are “*next day/time certain services*”.
- Subsequent EC Decisions have confirmed previous market definitions
- 2016 - The most recent Decision Fedex/Tnt Express confirms the line pursued by the EC during time, defining express services as a “*committed delivery by next day*”



# THE EUROPEAN COMMISSION DEFINITION OF THE STANDARD DELIVERY MARKET

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- EC has defined the standard delivery market several times
- Decision Deutsche Post/Danzas/Nedlloyd (1999) - standard parcel deliveries are defined as *“standard services contain no time guarantee but a general indication of the time laps, e.g. 24 hours, for the delivery”*
- Decision UPS/TNT Express (2013) - standard deliveries have not a *“next day delivery commitment”* which is the main feature of the express deliveries
- Decision Fedex/TNT Express (2016) - *“deferred delivery services”* are those *“with a longer delivery time”* comparing to express deliveries which are *“also considerably more expensive”*

# COPENHAGEN ECONOMICS – STUDY ON THE INTERCHANGEABILITY OF USO AND NON USO SERVICES

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- The study analyzes the different methods of identifying the interchangeability in the light of the practice of competition law
- The hypothetical monopolist or SSNIP test is recognized as the best quantitative tool to use in order to identify the substitutive services
- The EC has raised doubts on the SSNIP test (Decision UPS/Tnt Express (2013)):
  - *“the characteristics of the industry render a direct empirical implementation of the SSNIP test unsuitable”*
  - *“the “price” that each customer pays is individually negotiated and, thus, for similar transactions, customers may pay different prices. The main consequence of this feature is that the willingness of certain customers “to switch marginal volumes“*
- Even if the EC Decision has raised doubts on the SSNIP test the study raises some important issues which will need to be addressed also by trying to adapt the SSNIP test to the postal sector while taking into account the EC Decision

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# TOWARDS AN APPROPRIATE CLASSIFICATION OF E-COMMERCE DELIVERIES

- The fast growing market segment is e-commerce and this trend will continue
- The majority of e-commerce shipments seems to be standard deliveries

**Decision  
UPS/TNT  
Express  
(2013)**

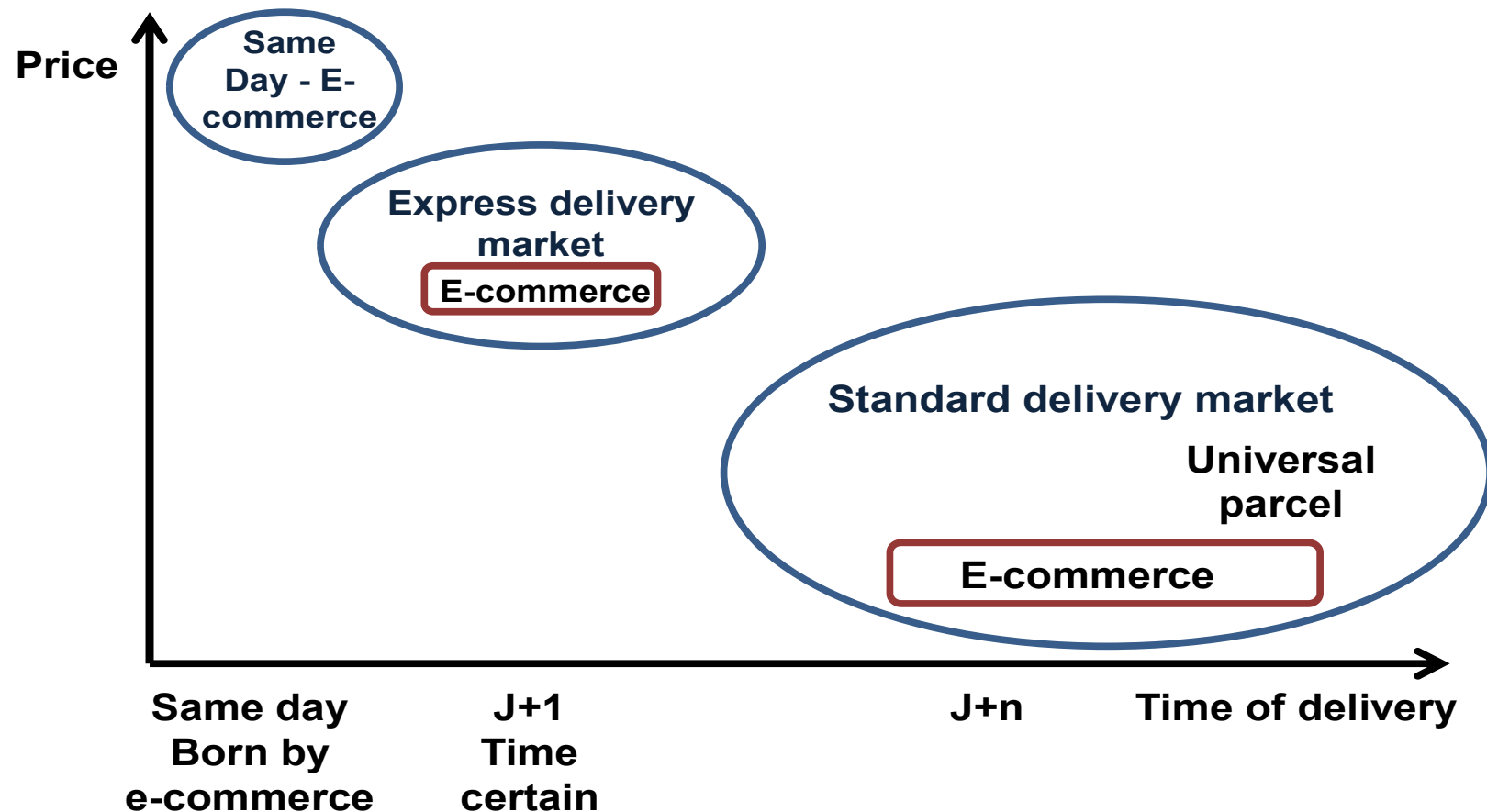
- *“deferred market grew even more (which largely seems to be explained by the growth of e-commerce and B2C deliveries which are predominantly shipped by deferred shipments)”*

**McKinsey  
(2014 and  
2016)**

- The majority of on-line buyers still prefer the least expensive option for the shipments
- The studies noticed the development of a new time lag delivery, the same day delivery. The main features of this kind of deliveries seem to be the extreme speed of delivery and a premium price

# SUMMARY- A POSSIBLE CLASSIFICATION OF THE DIFFERENT DELIVERIES MARKETS

- From the EC Decisions and the other studies previous quoted, using the main elements that distinguish deliveries – time of delivery and price paid – it is possible to define different markets



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# CONCLUSIONS

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- The sustainability of universal service provision is a key issue. The CF may become a primary tool to support the burden of the universal service
- Recently the EC has approved the CF set up in Poland, judging its characteristics as appropriate. An important role is played by the substitute services of those included in the universal service. The exclusion of substitute services results in an unfair shrinking of the CF, and so in a further distortion of competition
- The Opinion of the Advocate General (case Confetra) confirms the CF as an appropriate financing instrument of universal service burden for the services which satisfy the conditions referred in recital 27 of Directive 2008/6
- Copenhagen Economics' study has recognized the SSNIP test as the best tool to identify the substitutive services but EC (Decision UPS/TNT Express) raised some doubts
- Most of e-commerce shipments are part of the standard delivery market as customers are more interested in having a low price and longer delivery times

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