

Executive Order No. 725 of 24 June 2011

**Executive Order on a compensation mechanism
to ensure the financing of the universal service obligation**

Pursuant to section 18 and section 29 of the Postal Services Act, Act No. 1536 of 21 December 2010, the following provisions shall apply:

General provisions

1. – (1) Postal service providers providing postal services for commercial purpose in respect of addressed letters of up to 2 kg or addressed parcels of up to 20 kg, including letters or parcels to and from abroad, may be ordered to make a financial contribution to a compensation mechanism which serves the purpose of sharing net costs of the universal service obligation between all postal service providers providing the main service (respectively letters and parcels) in question.

(2) Letters shall be understood to mean addressed items containing messages in written form regardless of physical medium where this is placed in an envelope or similar packaging as well as postcards and other messages with individual, written contents. In this Executive Order, letters shall not include catalogues, brochures, daily papers, magazines and other addressed items with uniform, printed contents.

(3) Addressed parcels shall not be comprised by the compensation mechanism if carried under an agreement between the carrier and the sender.

(4) The universal service provider designated by the Danish Transport Authority shall defray its proportionate share of the net costs but shall not make contributions to the compensation mechanism. Postal service providers offering or providing a main service on terms similar to those of the universal service provider shall be relieved of their contribution in so far as the relevant main service is concerned.

Provision of information

2. – (1) By the end of each calendar year and no later than 1 March, postal services providers not subject to a universal service obligation shall submit a statement to the Danish Transport Authority of the number of addressed items carried in the relevant calendar year, i.e. addressed letters of up to 2 kg and addressed parcels of up to 20 kg, including letters and parcels to and from abroad.

(2) The statement must be accompanied by a public accountant's declaration.

Submission of request for contributions and calculation of contributions and net costs

3. If requesting contributions from the compensation mechanism to cover the net costs of the universal service obligation for a given year, the universal service provider shall submit this request

with documentation to the Danish Transport Authority no later than at the time of the presentation of the financial statements. The net costs shall be calculated separately for each individual main service (respectively addressed letters and addressed parcels). In addition to documentation of the level of net costs, the universal service provider shall provide documentation that the net costs in question represent an unfair financial burden.

4. – (1) The net costs of the provision of the relevant main service shall include all costs related to and necessary for fulfilment of the universal service obligation. The net costs shall be calculated as the difference between the net costs for the universal service provider of operating with and without this universal service obligation.

(2) The calculation shall take into account all relevant elements, including any intangible and market benefits, which accrue to the postal service provider as designated to provide the relevant main service falling within the scope of the universal service obligation, the entitlement to a reasonable profit and incentives for cost efficiency. Costs that the universal service provider would have chosen to avoid, had there been no universal service obligation, shall be included.

(3) The calculation shall be based on the costs attributable to:

1) Elements of the relevant main service which can only be provided at a loss or under cost conditions falling outside normal commercial standards.

2) Specific users or groups of users who, taking into account the cost of providing the specific service, the revenue generated and prices, can only be served at a loss or under cost conditions falling outside normal commercial standards.

(4) The calculation of the net costs of specific aspects of the universal service obligation shall be made separately. The overall net costs of the universal service obligation shall be calculated as the sum of the net costs arising from the specific components of the universal service obligation, taking account of any intangible and market benefits.

5. – (1) The responsibility for verifying that the universal service provider has calculated the net costs of the relevant main service in a correct manner lies with the Danish Transport Authority. On this background, a decision shall be made as to the level of net costs and whether they represent an unfair financial burden on the universal service provider. The decision shall be made in good time for allowing a possible contribution per item to be determined by the annual Finance Act for the following year.

(2) The universal service provider is obliged to provide the Danish Transport Authority with any information necessary for it to verify the calculation of net costs.

(3) The Danish Transport Authority shall treat as confidential any information about the universal service provider's product economy as well as other information of a commercial character it has acquired.

6. – (1) On the basis of net costs and total number of items carried within the relevant main service by the universal service provider and the postal service providers not subject to a universal service obligation in the year of payment of the net costs (stated as the base year in the example in Appendix 1), the Danish Transport Authority shall calculate a financial contribution per item from

the postal service providers not subject to a universal service obligation. The contribution shall be calculated by dividing net costs with total number of items carried the relevant year.

(2) The contribution per item shall be determined by the annual Finance Act computed by the price level for the relevant year (year 2 in the appendix).

Payment of contributions

7. – (1) The responsibility for calculating, charging and collecting contributions from postal service providers lies with the Danish Transport Authority.

(2) Contributions shall be calculated on the basis of the number of items within the relevant main service carried by the postal service provider the year after the Danish Transport Authority's decision on the calculation of contributions (year 2 in the appendix).

8. – (1) Contributions shall be collected by the Danish Transport Authority on 15 April of the year of payment (year 3 in the appendix). The final date of payment shall be 1 May.

(2) If the final date of payment under subsection 1 falls on a public holiday or a Saturday, the date of payment shall be extended to the next succeeding business day.

9. – (1) Default interest shall be charged from the postal service provider on overdue payment of any contribution. Default interest shall be charged at the rate of 1.5 per cent per month or part thereof from the final date of payment.

(2) The Danish Transport Authority may waive any claim for default interest if justified by special circumstances.

10. Missing payment of contributions and default interest accrued may imply a revocation of the postal service provider's licence to provide postal services for commercial purpose.

Payment to the universal service provider

11. – (1) Contributions to the compensation mechanism shall be paid to the universal service provider.

(2) The responsibility for payment to the universal service provider immediately after expiry of the final date of payment, cf. section 8 (1), of contributions to the compensation mechanism lies with the Danish Transport Authority.

12. The total amount paid to the universal service provider in a calendar year cannot exceed the calculated net costs of the preceding calendar year in respect of which the contributions shall finance the net costs, computed by the price level for the year of payment.

Supervision and right to complain

13. – (1) The compliance with the provisions of this Executive Order shall be supervised by the Danish Transport Authority.

(2) Decisions of the Danish Transport Authority made in pursuance of this Executive Order cannot be referred to another administrative authority.

Penalty

14. Unless more severe penalty is incurred under other legislation, any infringement of section 2 of this Executive Order shall be punishable by a fine.

15. Companies etc. (legal persons) may incur criminal liability under the rules laid down in Part 5 of the Danish Criminal Code.

Commencement

16. This Executive Order shall come into force on 1 July 2011.

Danish Transport Authority, 24 June 2011

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Appendix 1

Compensation mechanism – Example of calculation of net costs on the letters market

	Base year	Year 1	Year 2	Year 3
Net costs (letters)	Post Danmark A/S calculates the company's net costs to be DKK 250 million in the base year.	On its verification of net costs, the Danish Transport Authority calculates the net cost to be DKK 200 million. The unit price per letter to cover the net costs is listed on the annual state budget for year 2. The unit price is 20.4 øre (1 øre = DKK 0.01) or 20 øre adjusted for the development in the net price index from the base year to year 2.	Postal service providers' contribution to the compensation mechanism per item carried is set out in the annual Finance Act for year 2.	
Volumes carried	Letter volumes carried in the base year constitute 1 billion items on the total letters market.		Volumes carried in year 2 provide the basis for postal service providers' payment of contributions to the Danish Transport Authority in year 3.	At the beginning of year 3, postal service providers submit a statement of volumes carried in year 2 to the Danish Transport Authority.
Payment to the Danish Transport Authority				The Danish Transport Authority collects payment from postal service providers in relation to volumes carried in year 2.
Payment to Post Danmark A/S				Post Danmark A/S receives a contribution from the Danish Transport Authority corresponding to the amounts paid to the compensation mechanism by other postal service providers.

In the calculation example, the Danish Transport Authority has calculated the net costs of Post Danmark A/S in the base year to be DKK 200 million. In relation to total volumes carried in the base year, the contribution per item carried is 20 øre (1 øre = DKK 0.01). Adjusted for the development in the net price index from the base year to year 2, other postal service providers make a contribution to the compensation mechanism of 20.4 øre per item carried in year 2. This contribution per item is listed on the annual state budget for year 2. Contributions are made to the compensation mechanism and paid to Post Danmark A/S in year 3. Post Danmark A/S defrays its share of the net costs but does not make contributions to the compensation mechanism.