

June 2013

ARCEP's Annual Report 2012

PART THREE

Ensuring regulated markets runs smoothly

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The postal market

1. Overview of postal markets in France in 2012

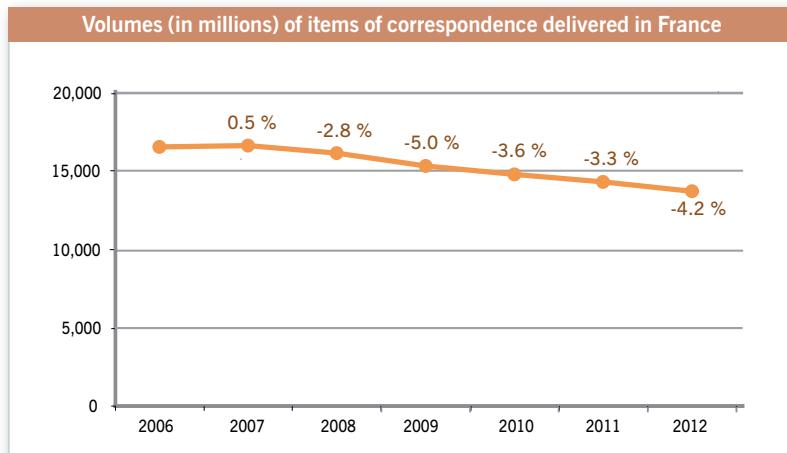
1.1 The market as a whole

a) Items of correspondence delivered in France

In 2012, the correspondence market – i.e. letters weighing less than 2 kilograms – accounted for 7.2 billion euros, down 3.5% on 2011. The corresponding volumes (13.7 billion items) fell 4.1 % compared with 2011.

The decrease in volumes for 2012 is greater than that noted for recent years. On average, volumes declined 3.8% over the past five years.

The direct mail market (approximately 20% of the market in terms of value and 30% in terms of volumes) contracted more sharply (-6.3% in value and -7.8% in volumes) than the correspondence-item market (-2.8% in value and -2.5% in volumes).



Source: ARCEP

Revenue (in millions of euros, excl. tax) for items of correspondence delivered in France							
	2007	2008	2009	2010	2011	2012	Growth 2011-2012
Direct mail	1,657	1,646	1,491	1,482	1,475	1,381	- 6.4%
Items of correspondence, not including direct mail	6,924	6,666	6,346	6,123	6,007	5,834	- 2.9%
Total items of correspondence	8,581	8,312	7,837	7,605	7,482	7,215	- 3.6%
Amount in the reserved area	6,269	6,170	5,859	5,721	-	-	-

Source: ARCEP, Observatoire postal - Enquêtes annuelles jusqu'en 2011, enquête avancée pour 2012, estimation provisoire.

Volumes (millions of items of correspondence) delivered in France							
	2007	2008	2009	2010	2011	2012	Growth 2011-2012
Direct mail	4,795	4,733	4,419	4,347	4,271	3,938	- 7.8%
Items of correspondence, not including direct mail	11,821	11,419	10,928	10,454	10,047	9,784	- 2.6%
Total items of correspondence	16,616	16,152	15,347	14,801	14,319	13,721	- 4.2%
Amount in the reserved area	13,789	13,470	12,780	12,243	-	-	-

Source: ARCEP, Observatoire postal - Enquêtes annuelles jusqu'en 2011, enquête avancée pour 2012, estimation provisoire.

b) Outward international mail

At 364 million letters, 2012 correspondence flows shrank by approximately 6 million letters (-1.5%) and 383 million euros in revenue compared with 2011.

Nearly 8 out of 10 outward international items were sent within the European Union.

Revenue (in millions of euros, excl. tax) and volumes (in millions of items) for outward international mail							
	2007	2008	2009	2010	2011	2012	Growth 2011-2012
Revenue	398	392	376	391	380	383	+ 0,8%
Volumes	462	468	436	413	370	364	- 1,5%

Source: ARCEP, Observatoire postal - Enquêtes annuelles jusqu'en 2011, enquête avancée pour 2012, estimation provisoire.

1.2 Operators in a fully liberalised market

a) ARCEP-authorised postal operators

In compliance with the 1997 European Postal Directive¹ the Law of 9 February 2010² fully liberalised the postal market in France. Since 1 January 2011, the entire postal market has been opened up to alternative postal-service providers.

To enter the market, companies wishing to exercise postal activities must hold an ARCEP authorisation. Processing of authorisation applications may inter alia give rise to on-site inspections.

In addition to granting authorisations, ARCEP maintains regular contacts with all postal providers. Operator developments are monitored in particular through the Statistical Observatory on Postal Activities published annually by ARCEP.

1- Directive 97/67/EC of 15 December 1997 as amended.

2- Law No. 2010-123 of 9 February 2010 on the state-owned company La Poste and postal activities.

Since June 2006, ARCEP has issued 43 authorisations. At 31 December 2012, 32 authorised service providers were operating on the postal market:

- 21 providers of domestic letter services, including delivery;
- 10 providers of outward cross-border correspondence services;
- La Poste, which is authorised to deliver domestic items of correspondence and to handle outward cross-border mail.

b) The authorisations issued in 2012

■ In 2012, five new authorisations for **mail delivery activities in France** were issued (Optimum mail, Neopress, Modulo, Mediapost and Colis Privé), and one postal operator ceased trading. Two of these new authorisations applied to the whole of Metropolitan France, namely Colis Privé, which grew out of Adrexo-colis, and Mediapost, a La Poste Group subsidiary.

Alongside La Poste, the main domestic operator in 2012 was Adrexo, which covers virtually all of mainland France, for direct mail and free newspapers. The other operators are generally SMEs with a local business base offering various postal services, including the delivery of correspondence.

■ No authorisation application for the **outward cross-border market** was submitted in 2012.

The main providers operating in parallel with La Poste are subsidiaries of established national incumbent operators (Germany, Netherlands, Switzerland, United Kingdom, Belgium) or the operator itself, like Austria Post.

In addition, there are two other private French operators—IMX-France and Optimail-Solutions.

How to become an authorised postal provider
ARCEP published [a guide](#) to help candidates compile their application

Following a public consultation, ARCEP published a guide in July 2012 on applying for an authorisation to provide postal services so as to facilitate the submission of applications to ARCEP.



Authorisations issued since 2006 had revealed the difficulties applicants experienced in compiling their applications:

- not a single authorisation application had been complete when first submitted;
- discussions with candidates were necessary to help them assemble their application;
- clarification was often requested about the scope of operations requiring an authorisation.

The main difficulties seemed to be linked to the plethora of texts that applied. From the authorisations granted in the second half of 2012, publishing this guide containing all these texts in a single document appears to have improved matters.

1.3 The mail preparation market

Following the publication, in 2011 of the study on the mail preparation market carried out by the consultancy firm BASIC, ARCEP held talks with the “*Syndicat des entreprises de logistique de communication écrite directe*” (SELCED) to extend its analysis to sector operations. On this occasion, ARCEP services inspected the production facilities of several providers.

These talks focused, *inter alia*, on:

- mail preparation activities which are characterised by asymmetrical relationships in which La Poste is in a strong negotiating position with regard to mailing houses so it can impose its requirements on providers,

for instance with respect to technical or financial-guarantee specifications;. It has also tried to reinforce the contractual link with the principal, by identifying the individual mailers involved in each campaign;

- the VAT exemption enjoyed by universal service providers which prompts mailing houses to resort to the outlay system³, to avoid charging their customers VAT on these services; however, this system puts constraints on mailing houses which have to act as the mailer's agents.

Mail-preparation market players note that La Poste does not offer access to its delivery network, i.e. the possibility of posting items as close as possible to delivery, thus allowing tariff discounts.

Because of this major imbalance between La Poste and mailing houses and the risk of anti-competitive practices resulting from the presence of La Poste subsidiaries in this activity, ARCEP will continue to closely monitor developments in this market segment.

2. The universal postal service

2.1 Changes in the universal postal service

a) Development of the “green letter” and availability of the priority service

■ Development of the “green letter”

In 2012, the “green letter” (forwarding in D+2) marketed by La Poste since 1 October 2011 accounted for just over 800 million items. The priority letter (forwarding in D+1) continues to dominate with a volume almost five times this volume.

■ Monitoring the availability of the priority service in post offices

After the launch of the “green letter”, ARCEP identified the risk of reduced access to the priority service (red stamp) and instigated a public inquiry⁴ in 2011 into the marketing conditions of single-piece mail. The inquiry was completed⁵ in 2012, and ARCEP began talks with La Poste about remedying the anomalies it revealed.

Among other things, La Poste undertook to ensure the availability of stamp booklets with red stamps from stamp dispensers when a post office has several dispensers, to update the dispenser “menu” to ensure equal exposure of the priority letter and the “green letter” and to install clear displays for postage payment products.

All these undertakings were put into effect from 1 December 2012. During talks about the proper fulfilment of its commitments, La Poste recalled that it did everything possible to make all products in the range of universal postal services available at postal contact points, both at counters and from dispensers. Special attention was given to the availability of red stamps (priority letter).

Moreover, in compliance with its undertaking to ARCEP, as of 1 December 2012, all post offices with at least two stamp dispensers now have one dispenser for priority-stamp booklets. A special sign identifying the type of booklets sold by each dispenser was currently being rolled out.

To further raise customer awareness of the various postal prepayment options available, La Poste would very shortly conduct an information campaign about the various measures taken to make the whole range available⁶.

³ - Under the fiscal outlay system, intermediaries do not have to charge VAT on the sums paid them as commission on certain conditions (Article 267 II-2 of the General Tax Code).

⁴ - Decision No. 2011-1246 of 20 October 2011.

⁵ - Decision No. 2012-0156 of 2 February 2012.

⁶ - Letter from Jean-Paul Bailly, CEO of La Poste, to Jean-Ludovic Silicani, dated 28 January 2013.

Regarding distribution via dispensers, La Poste added that it was having talks with dispenser manufacturers to ensure that the new models ordered following calls for tender could sell the two different kinds of stamp booklet.

b) Sending of low-value items

In December 2011, ARCEP fined⁷ La Poste one million euros for failing to provide an affordably priced universal-service product, i.e. one with a tariff close to that for the priority letter, for sending items other than letters weighing less than 2 kilograms and no thicker than 2 centimetres.

Early in 2013, La Poste sent ARCEP a dossier with its plans to alter the characteristics of the “ Mini-Max” product so as to bring its tariffs into line with those of the priority letter and to extend it to items weighing between 1 and 2 kilograms (with a tariff of 5.75 euros) and up to 2.5 s thick (compared with the current 2 centimetres).

ARCEP considered⁸ this an improvement but deemed that it still failed to address the shortcomings it had noted concerning the absence of an affordable product for low-value items. In any event, as this was a change to the universal service product range, it would have to be submitted to the Minister for Posts.

c) Changes to the registered letter

La Poste approached ARCEP and the Minister for Posts about changing the catalogue of universal postal services so as to amend, with effect from 1 July 2013, the guideline transit time for the registered letter to make it a non-priority product, i.e. not to be delivered the next working day after the day of posting. At the same time, La Poste undertook to improve the registered letter's quality and reliability benchmark to a delivery rate of 95% in D+2 by 2015.

ARCEP issued a favourable opinion⁹ on this amendment to the universal postal service catalogue for single-piece items, provided that:

- the registered letter's D+1 delivery quality be maintained at a level comparable to its present one;
- this change should be timed to coincide with changes to the documentation for registered letters at post offices to eliminate the words “priority letter” and replace them with a delivery undertaking of D+2;
- the catalogue of universal postal services at 1 July 2013 explicitly features the guideline transit time for advices of receipt.

La Poste has undertaken to make several improvements to advices of receipt:

- to modernise registration documentation for registered letters for the mechanical processing of advices of receipt, thus improving transit times;
- to publish the guideline transit time for advices of receipt in the catalogue of universal postal services from 1 July 2013;
- to introduce an indicator for advice-of-receipt transit times; the results of this measure will be published in the universal service indicator table from 2014.

2.2 Quality of service

a) Universal postal service indicator table

The Post and Electronic Communications Code (CPCE) assigns ARCEP the general mission of monitoring the universal postal service, specifying that ARCEP ensure compliance by the universal service operator with the obligations arising from the legislative and regulatory measures relating to provision of the universal service.

Thus, every year since 2006, La Poste has, at ARCEP's request, published a universal postal service [indicator table](#) whose content is regularly updated in cooperation

7- [Decision No. 2011-1453 of 20 December 2011](#).

8- [Opinion No. 2013-0217 of 12 February 2013](#).

9- Opinion No. 2012-1352, of 11 December 2012.

with consumer associations. The list of indicators featured in this table has expanded year after year and now covers a large part of users' essential information requirements.

In 2012, ARCEP conducted a public consultation on the pertinence and coherence of the information requested about user requirements. It received replies from consumer organisations (*Association de défense, d'éducation et d'information du consommateur* (ADEIC), *Association Léo Lagrange pour la défense des consommateurs* (ALLDC), *Confédération syndicale des familles* (CSF)), from private individuals (Mr. Hofer) and the La Poste Group.

Based on these replies, ARCEP's [summary](#) advocated that La Poste expand the information published in the universal service indicator table in respect of complaints, by stratifying complaints by level (Level 1, Appeal level, Mediation), as this would be an interesting indication of the quality of La Poste's Level 1 replies.

ARCEP also considered it expedient for La Poste to provide the public with basic information about post boxes in line with the "open data" principle. Ideally, this information could be provided at post-box level and comprise geographical location and in particular mail collection times.

b) Quality of service measurement

■ General framework for measuring universal postal service quality

For satisfactory evaluation of postal service quality, the quality of the main universal services provided is measured in accordance with standards designed by the European Committee for Standardisation (CEN), at the European Commission's behest.

In particular, Standard EN 13850 organises the measurement of transit times for single-piece priority

items which are in principle delivered in D+1. The measurement system set out in this Standard is based on test letters sent by panellists who are independent of the postal operator. The measurement must be conducted by a body which is likewise independent of the postal operator – in France, this is currently the IFOP market research institute.

Standard EN 13850 also provides for a periodic audit to check the measurement system. This audit must be carried out by an auditor, independent of both the postal operator and the measuring body, which is charged with verifying whether the measurement system complies with the Standard's requirements. If selected by the postal operator, the auditor must nevertheless be approved by the national regulatory body – ARCEP, in the case of France.

In 2012, ARCEP published a recommendation on implementation procedures for the audit of quality of service measurement of the priority letter and of the "green letter"¹⁰.

■ Application of this quality measurement system in France

La Poste, the operator responsible for the universal service in France, measures quality of service for the priority letter in accordance with Standard EN 13850. La Poste even goes beyond the regulatory requirements and applies this same Standard to measuring quality of service for the "green letter".

Should force majeure (severe weather conditions, for instance) prevent the operator from exercising its activity, Standard EN 13850 allows the corresponding days to be cancelled out in the measurement. Following preliminary work with ARCEP, La Poste, however, eschewed this option, thus increasing confidence in and the credibility of its measurement results.

¹⁰- *Implementation procedures for auditing the measurement of quality of service for the priority letter and the "green letter".*

A general audit of quality of service measurement will be conducted in 2013 for priority letters and for the “green letter”, a new universal service product whose measurement has not yet been checked.

In keeping with Standard EN 13850 and the recommendation published by ARCEP, the latter will ensure that the auditor chosen by La Poste provides satisfactory guarantees of independence and has the level of expertise required for conducting this audit. As necessary, it will adopt a decision on approval of the auditor.

c) Quality of service in 2012

■ Mail transit times

2012 saw shorter priority-letter transit times with a D+1 delivery rate of nearly 88%, beating the quality of service target of 85% set by the Minister for Posts

Quality of service statistics for the “green letter”, launched in 2011 were published for the first time. With a D+2 delivery rate of nearly 93%, 2012 results are in line with start-up-phase expectations for this product.

Mail transit times								Growth 2011-2012
	2006	2007	2008	2009	2010	2011	2012	
Priority letters								
% delivered in D+1	81.2%	82.5%	83.9%	84.7%	83.4%	87.3%	87.9%	+ 0.6 pt
% delivered in D+2	96.2%	96.3%	96.8%	96.8%	96.0%	97.5%	97.8%	+ 0.3 pt
% delivered in D+3	-	-	-	-	-	99.2%	99.4%	+ 0.2 pt
Green letters								
% delivered in D+2	-	-	-	-	-	-	92.8%	
Cross-border mail (inward)								
% delivered in D+3	95.9%	95.5%	97.0%	95.7%	92.7%	96.0%	95.8%	- 0,2 pt
% delivered in D+5	99.3%	99.1%	99.5%	99.3%	98.7%	99.3%	99.2%	- 0,1 pt
Cross-border mail (outward)								
% delivered in D+3	94.0%	94.8%	95.4%	94.4%	90.4%	93.6%	94.2%	+ 0,6 pt
% delivered in D+5	98.7%	98.8%	99.0%	98.7%	99.6%	98.4%	98.8%	+ 0,4 pt

Source: La Poste.

■ Transit times for registered letters

Similarly, 2012 transit times for registered letters improved considerably, with a delivery rate in D+2 of nearly 95% (compared with 92.5% in 2011).

This improvement in the quality of service for registered letters documents the continuation of vigorous efforts, begun in 2011 at ARCEP's request, to improve the quality of this product and ensure its reliable measurement.

Registered-letter transit times and reliability							Growth 2011-2012
	2008	2009	2010	2011	2012		
Transit times							
% delivered in D+2	90.9%	88.7%	85.8%	92.5%	94.7%	+ 2,2 pts	
Reliability							
% delivered in D+7	99.6%	99.7%	99.6%	99.8%	99.9%	+ 0,1 pt	

Source: La Poste.

■ Transit times “Colissimo guichet”

Parcel measurements are for the “Colissimo guichet” product, i.e. single parcels posted at La Poste counters and contact points by private customers and small businesses. The contractual transit time is D+2. If this

target is not met, La Poste undertakes to give senders a voucher for posting their next parcel free of charge. The percentage of Colissimo parcels delivered in D+4 or less complies with the maximum transit-time rate.

	“Colissimo” transit times and reliability							
	2006	2007	2008	2009	2010	2011	2012	Growth 2011-2012
Transit times								
% delivered in D+2	84.1%	85.8%	85.0%	87.7%	84.8%	88.7%	89.8%	+ 1.1 pt
Excessive delivery times (more than D+4)								
% of excessive delivery times	-	1.4%	1.3%	1.1%	1.7%	1.0%	0.8%	- 0.2 pt

Source: *La Poste*.

■ Number of post boxes and latest posting times

For the past two years, the statistics published by La Poste reveal a decrease in the number of post boxes in France. La Poste ascribes this trend first to improved post-box counts (possibility of previous overestimates) and second to a rationalisation policy of replacing small-capacity post

boxes with fewer large-capacity boxes.

The number of post boxes emptied before 1 pm fell by 7,000. In contrast, the number of boxes emptied after 1 pm rose, with the number emptied after 4 pm up by around 900.

	Number of post boxes and their distribution by collection time						
	2008	2009	2010	2011	2012	Growth 2011-2012	
Number of post boxes	149 793	149 208	148 366	144 610	141 646	- 2 964	
- including those emptied at or before 1 pm	119 788	119 913	119 950	117 669	110 625	- 7 044	
	80.0%	80.4%	80.8%	81.4%	78.1%	- 3.3 pts	
- including those emptied at or before 4 pm	142 267	141 795	141 152	137 757	133 855	- 3 902	
	95.0%	95.0%	95.1%	95.3%	94.5%	- 0.8 pt	

Source: *La Poste*.

■ Complaints

La Poste maintains a 99% plus response rate within 21 days for complaints received.

Complaints upheld at Level 2 (appeal to La Poste services) represent less than 1%.

Complaint processing statistics								
	2006	2007	2008	2009	2010	2011	2012	Growth 2011-2012
Number of complaint letters								
Number	591 252	417 237	446 751	627 812	862 538	926 872	886 811	- 40 061
Number per 10,000 items	3	2	3	4	6	7	8	-
Nombre de réclamations au 2 nd niveau	-	-	-	-	-	-	8 046	-
Response within 21 days								
90.0%	97.0%	97.7%	95.3%	99.0%	99.2%	98.9%	- 0.3 pt	
Response within 30 days								
94.0%	98.7%	99.0%	98.0%	99.4%	99.6%	-	-	-
Indemnification								
Complaints giving rise to indemnification	7.7%	9.0%	10.4%	14.6%	13.7%	12.9%	13.8%	+ 0.9 pt

Source: *La Poste*.

2.3 2012 tariffs and the price cap

a) Tariff movements

■ Changes in 2012

In 2012, tariffs for universal postal service products rose by an average 1.2%¹¹, an increase which was lower than inflation (2.0%).

In contrast to previous years, there was no increase for mailing product tariffs, in particular single-piece items¹². Only parcel and press products were up in 2012.

At 1 March 2012, *La Poste* raised “Colissimo” tariffs by 2% and over-the-counter items for Mainland France and those exchanged between Overseas Départements (DOM) by 2.6%. Consequently, the tariff for the first weight step (0-500 grams) rose from 5.60 to 5.70 euros.

The sizeable margins observed for overseas and international products prompted ARCEP to issue an opinion¹³ rejecting *La Poste*'s plans for higher tariffs, and the latter subsequently put increases for 2012 on hold.

Average annual change in universal service tariffs						
	2009	2010	2011	2012	Average 2009-2012	Tariff increases in 2012
Single-piece stamped mail	1.7%	2.0%	3.3%	1.6%	2.1%	
Single-piece business mail	1.7%	1.6%	2.0%	0.7%	1,5%	
Transactional mail	1.0%	0.3%	1.7%	1.6%	1,1%	
Advertising	0.8%	0.1%	1.7%	1.6%	1.1%	
Parcels	3.4%	1.4%	2.3%	2.1%	2.3%	March 2.0%
Other (press, services, international ...)	2.5%	1.9%	2.1%	0.4%	1.7%	June 4.3%*
Overall basket	1.5%	1.1%	2.1%	1.2%	1.5%	- -

Source: ARCEP.

* concerns press only

11 - Increase in year N calculated on the basis of tariffs for year N-1. The result can thus postpone the tariff increases calculated for assessing compliance with the price cap based on traffic flows for year N-2.

12 - Single-piece products, with postage paid by stamps, label or franking machine used mainly by private customers and small businesses.

13 - [Opinion No. 2012-0206 of 14 February 2012](#).

■ Price increases in 2013

ARCEP approved¹⁴ tariff increases for domestic and international mail with effect from 1 January 2013. These increases (+2.9% for domestic items and +1.8% for international items) come on the back of stable tariffs in 2012. For domestic items, single-piece items saw a 3.5% increase and bulk items a 1.9% increase.

At the same time, the gap between the tariff for the first weight step for priority letters and the corresponding "green letter" tariff was increased to 5 cents (0.63 euro for priority letters compared with 0.58 euro for green letters). This clearer distinction between priority letters with their next-day delivery and green letters, delivered two days after posting, complies with the expectations expressed by ARCEP in its price-cap provision. In tandem with appropriate information for consumers, (on which ARCEP keeps a watchful eye), this measure enables users to choose the product best suited to their needs.

ARCEP also issued an opinion about changes to the tariffs and operating conditions for universal service products which La Poste was planning for 1 March 2013:

- a favourable opinion on the "Colissimo guichet" product (items for Metropolitan France and between Overseas Départements),
- a favourable opinion on the "Colissimo outre-mer" product provided the average increases are comparable with those of the "Colissimo guichet" product.

In response, La Poste stated it would comply with ARCEP's opinion by altering its "Colissimo outre-mer" project to make the product's average price movements comparable with those of the "Colissimo guichet" product.

All these increases abide by the prescribed price-cap course. This results in an average increase in universal service prices of 2.8% in 2013.

b) The price cap

■ The price cap situation in 2012

ARCEP determines the characteristics of the multi-year price-cap system for universal postal service products. The 2009-2011 price cap was extended by one year for 2012, the last year to which the current cap applies.

This system was supplemented with a specific cap for the "green letter", set at inflation plus 0.3%, so as to integrate this new product into the price cap.

- For all universal service products (overall basket), for which the price cap is set at inflation plus 0.3% for the period 2009-2012, the authorised increase is 2.7%, taking account of the balance from previous years. The actual tariff increase of 1.3% complies with the price cap.
- For the restricted basket of single-piece items used by businesses (sub-basket), for which the price cap is set at inflation, the authorised increase is 1.4%, likewise bearing in mind the balance from previous years. The actual tariff increase of 0.7%, complies with the price cap
- Given the specific green-letter price cap of 2.0%, La Poste did not raise its tariffs for this product in 2012.

Thus, La Poste did not exhaust the room for tariff manœuvre offered by the price-cap mechanism.

■ Review of the 2009-2012 price cap

Over the period covered by the 2009-2012 price cap the average universal service tariff increased at a slightly slower rate than provided for (annual increase of 1.5% compared with 1.7% under the price-cap formula). In contrast, the basket of single-piece items for businesses grew in line with inflation, as provided for in the price cap. The sub-basket compelled La Poste to curb price increases for this type of item, a move that contributed, as ARCEP wished, to letting these users share in the savings they help La Poste to make by preparing and franking their items.

¹⁴ - [Opinion No. 2012-1406 of 13 November 2012 for domestic items and Opinion No. 2012-1499 of 20 November 2012.](#)

Average 2009-2012			
	Expected	Actual	Divergence
Overall basket	IPC + 0.3%	IPC + 0.1%	- 0.2%
Sub-basket of single-piece items for businesses	IPC*	IPC	-

Source: ARCEP.

CPI: Consumer Price Index.

The price-cap system is based on two parameters: inflation and changes in volumes.

Ultimately, inflation was lower than expected, which tends to give La Poste room for tariff manœuvre. In

contrast, when it comes to changes in volumes, the average annual fall in traffic of 4.6 % was much sharper than expected, forcing La Poste to trim its costs more drastically.

Average 2009-2012			
	Expected	Actual	Divergence
Inflation	2.0%	1.4%	- 0.6%
Change in volumes	- 1.3%	- 4.6%	- 3.3%

Source: ARCEP.

■ Definition of the new price cap

As the 2009-2012 price cap had expired, ARCEP adopted¹⁵ the price cap for 2013-2015 in November 2012.

The ceiling set is designed to enable La Poste to secure funding of the universal service by ensuring a stable margin for providing universal service products throughout the period covered by the price cap on condition that La Poste pursues the efforts of recent years to adapt its costs to the economic environment.

For the period 2013-2015, La Poste expects a more substantial decline in traffic (- 4.1% per year) than that allowed for in previous price caps (- 1.3% per year). This expectation is consistent with the latest measurements in France (-5.8%) and in Europe (up to -10% in some countries).

Assuming a 4.1% decline in traffic and 1.8% inflation, ARCEP decided to set the ceiling for tariff movements at inflation plus 1%.

In addition, this price-cap system has the following three objectives:

- to improve quality of service by means of a guideline bonus, which could be implemented halfway through 2014, subject to achievement of quality of service targets, to take effect in 2015;
- to further uncouple single-piece items for private customers and those for businesses by means of a more restrictive price cap for the latter (this constraint will be confirmed in the light of the mid-term review of the universal service's financial equilibrium);
- to make a clearer distinction between the priority-letter and green-letter product ranges by introducing a 0.05 euro tariff gap for the first weight step (the option of increasing the tariff gap above this level, reached on 1 January 2013 will be the subject of a mid-term price-cap review on achievement of the objective of the universal service's financial soundness).

15 - [Decision No. 2012-1353 of 6 November 2012](#).

2.4 Instruments for monitoring provision of the universal service

a) Updating of the universal-service monitoring system

In addition to the universal service indicator table used by La Poste to publish indicators on this service, two decisions adopted in 2008 and 2009 instituted annual reports by La Poste to ARCEP on provision of the universal service.

Following a public consultation conducted in 2012, ARCEP merged its two decisions into a single, updated one¹⁶ concerning the information which La Poste submits to it annually.

b) La Poste's regulatory accounting

As the universal service provider, La Poste is bound by law to implement regulatory accounting that allows separation of the costs of providing the universal service from those of other products.

To supervise the proper execution of these principles, ARCEP is charged by law to stipulate the cost accounting rules, to draw up specifications for the accounting systems and to have an annual audit carried out on compliance of the provider's accounts with the rules it has established.

Within this context, ARCEP therefore:

- amended¹⁷ the statutory annual reports La Poste must make to it. In particular, these amendments were prompted by the abolition of the reserved area for items weighing less than 50 grams at 1 January 2011 and changes in universal postal service products;
- commissioned the firm Mazars to audit La Poste's regulatory accounting for financial years 2011 and 2012¹⁸ ;

- amended¹⁹ certain cost allocation rules, particularly those concerning tax in connection with La Poste's exemption from VAT on certain services; this exemption – which mainly applies to the universal service – means that the operator has to bear tax costs (non-recoverable VAT and tax on salaries) in the region of one billion euros; ARCEP's decision results in better identification and improved allocation of these costs in La Poste's regulatory accounting. Statutory reporting was altered to identify these costs; these changes will apply from the production of the 2012 accounts.

3. Improvements to legislation suggested by ARCEP

In application of Article L.135 of the CPCE, ARCEP may suggest, in the report on its activities any legislative or regulatory amendments which, in its view, will address changes in the electronic communications and postal sectors and the development of competition.

In the light of ARCEP's work over several years on regulating the postal sector, two legislative amendments struck it as essential for guaranteeing legal certainty for users regardless of the postal provider conveying their items. These legislative proposals concern the evidential value and definition of the postmark and the equal legal weight of registered letters handled by authorised postal operators.

3.1 The postmark

Given the many legal texts which designate the postmark as confirmation of authenticity, the information stamped by postal operators on postal items constitutes a method of proof. Consequently, numerous commercial, administrative and legal procedures are dependent on

¹⁶- Decision No. 2012-1545 of 22 November 2012.

¹⁷- [Decision No. 2012-0207 of 14 February 2012](#).

¹⁸- Decision No. 2012-039 of 27 March 2012.

¹⁹- [Decision No. 2013-0128 of 29 January 2013 which was submitted for prior consultation](#).

the evidential value of the postmark, and this means it must contain certain information necessary for settling any disputes.

While the Universal Postal Convention requires operators to place a datestamp on international postal items, in France there is no legal obligation for postal providers to affix a postmark on the items they convey. Similarly, no legal text defines the concept of the “postmark” or specifies the data it must feature so as to provide adequate legal certainty.

In this context, it seems vital to improve the legal security of the concept of the postmark by making it mandatory for postal providers to affix it and specifying its content in order to:

- permanently establish the practice of affixing the postmark on postal items, thereby guaranteeing the effectiveness of provisions referring to it and legal certainty for users;
- recognize the equal legal weight, in a totally liberalised postal market, of the postmark used by all postal operators.

In 2012, ARCEP therefore conducted a public consultation on the role of the postmark to inform the public of the related issues and to establish the positions of the various stakeholders on:

- the introduction of the obligation for postal service providers to affix a postmark;
- the scope of this obligation's application;
- the information the postmark must contain to be a confirmation of authenticity within the meaning of legal texts.

The summary of this consultation, in which postal operators, consumer associations and users participated, was published by ARCEP in December 2012.

Following the work done in connection with this publication, ARCEP proposed introducing a legislative provision in the Post and Electronic Communications Code, clarifying the legal status of the postmark affixed by postal service providers.

Legislative proposal concerning the postmark

ARCEP proposes that article L. 3-2 of the Post and Electronic Communications Code (CPCE) be supplemented by the following provisions:

A postmark shall be affixed to single-piece items of correspondence for which there is no formal record of posting and delivery. Besides the identity of the forwarding postal-service provider, it shall feature the date on which the sender dispatched the item, which shall be the date of posting. When the item is posted by the sender after the latest posting time stipulated and published by the provider or on a non-working day, the date on the postmark must be that of the working day following the day of posting.

For bulk items, postal service providers shall be contractually obliged to comply with the wish of senders requesting that a postmark stating the forwarding postal-service provider's identity and the date of posting be affixed to their bulk items.

3.2 The registered letter

Numerous legislative and regulatory provisions call for mandatory use of a registered letter service, in particular in the context of legal proceedings or disputes and in relations between private individuals. The use in these provisions of the expression “registered letter with advice of receipt”, which is the name under which La Poste markets this product, may lead to the assumption that similar services provided by alternative operators do not have the same legal weight as the service provided by the incumbent operator.

However, in application of Postal Directive 97/67/EC as amended and of the CPCE, the registered service is one that may be provided by any postal operator. In compliance with this Directive, the French postal market

was totally liberalised on 1 January 2011. Thus, the registered letter service, like all other postal services, may be operated by any postal-service provider authorised by ARCEP.

Given the importance of registered letters in business and in administrative and judicial procedures, it is necessary to provide legal security about recourse to the registered-letter services offered by alternative operators.

ARCEP therefore suggests introducing a legislative provision in the Civil Code to set out the registered letter's characteristics and to explicitly state that recourse to the registered services offered by alternative postal operators provides the same legal certainty as those offered by La Poste.

Legislative proposal concerning the registered letter

ARCEP proposes the insertion in the Civil Code of an article 1316-5 worded as follows:

The term “registered letter” or equivalent terms shall be understood as postal items for which there is a formal record of posting and delivery with a flat-rate guarantee covering the risk of loss or damage and including an optional advice-of-receipt service. This service may be provided by any authorised postal-service operator.

The procedures characterising postal items for which there is a formal record of posting and delivery shall be laid down by regulation.

4. Consumers

4.1 Handling of complaints

In accordance with the Law of 9 February 2010, postal-service users have, since 1 January 2011, been able to submit to ARCEP complaints that have not been satisfactorily resolved using the procedures put in place by postal-service providers. ARCEP's Executive Board delivers an opinion on admissible submissions.

In April 2012, ARCEP published [a review](#) at the end of its first year of exercising this new power. Study of the

dossiers submitted to ARCEP in 2011 led to the identification of a certain number of positive, practical improvements to the postal service which ARCEP asked La Poste to implement.

These included giving recipients of parcels the option of expressing reservations at the time of their receipt to facilitate proof of the existence of damage before receipt. This improvement was introduced by La Poste and the specific terms of sale for “Colissimo emballage” and “Colissimo recommandé” were altered accordingly as from 31 March 2012.

Complaints received in 2012 gave rise to nine Executive Board opinions, all of them concerning La Poste. They brought out several new topics where La Poste could make improvements, such as informing users of delivery-service suspension in certain "sensitive" areas as a result of attacks on postmen, the delivery without signature of parcels exceeding letter-box size or the location of post boxes.

In the light of its first two years of experience with this function, ARCEP also undertook to cooperate with users on obtaining changes to the complaint-processing system, particularly regarding complaint-processing times or information to users who had submitted dossiers that were dismissed.

4.2 The Postal Consumers Committee

In particular, the consumer associations recalled the importance they attach to efficient complaint handling by La Poste, stressing that, quite apart from the specific

dispute presented, these complaints should make it possible to improve the structure and functioning of services for consumers. In addition to faster processing of La Poste responses to user complaints, the consumer associations also expressed concern about the quality of these responses. Lastly, they emphasised the importance, in their view, of La Poste follow-up on ARCEP opinions concerning the complaints submitted to it.

In addition, the consumer associations stressed the need for ARCEP to keep an extremely watchful eye on preserving access to the priority letter, a service by which consumers set particular store.

The consumer associations also attach considerable importance to postal-service accessibility and especially to street post boxes. Finally, the CSF in particular underlined the need for thought about organising contact-point opening times so as to avoid overcrowding on Saturday mornings.



The Postal Consumers Committee meeting on 12 December 2012

20 - The following consumer associations participated in the discussions: ADEIC (Associations de Défense et d'Information des Consommateurs), AFOC (Associations Force Ouvrière Consommateurs), ALLDC (Associations Léo Lagrange pour la Défense des Consommateurs), AssEco CFDT (Association Etude et Consommation de la Confédération française démocratique du travail), CGT Indecosa (Confédération générale du travail-Association pour l'information et la défense des consommateurs salariés), CNAFAL (Conseil national des associations familiales laïques), CNAFC (Confédération nationale des associations familiales catholiques), CSF (Confédération syndicale des familles), Familles Rurales and UFC-Que Choisir (Union Fédérale des Consommateurs—Que choisir). DGCCRF (Direction générale de la concurrence, de la consommation et de la répression des fraudes/ General Directorate for Fair Trading, Consumer Affairs and Fraud Control), DGCIIS (Direction générale de la compétitivité, de l'industrie et des services/ General Directorate for Competitiveness, Industry and Services) and INC (Institut national de la consommation/National Consumers Institute) also took part.

5. Evaluating the cost of the national planning and development mission

Through its network of contact points, La Poste contributes to the planning and development of the national territory, in addition to its universal service obligations. The Law of 9 February 2010 charges ARCEP with evaluating the net cost of this mission, and ARCEP carried out a second evaluation in 2012²¹, after that conducted in 2011²², arriving at a cost of 247 million euros for 2011.

5.1 ARCEP's calculation of net cost

The cost of this national planning and development mission is calculated in accordance with the method specified in the Decree of 18 July 2011. Without its national planning and development mission, La Poste would operate a smaller network of post offices. This hypothetical reduction in network size would result in avoided costs (the overheads for closed contact points) but also potentially in loss of revenue (due to customer demand not transferred to the contact points that were retained). In all, the net cost borne by La Poste corresponds to the avoided cost minus revenue loss without the additional network.

Under Law No. 90-568 of 2 July 1990, the network operated by La Poste in fulfilment of its national planning and development mission comprises 17,000 contact points. Without this mission, it is assumed La Poste would have operated a network with 7,600 points. The net-cost method calls for the determination and comparison of the changes in demand and costs for these two networks:

- regarding demand, as for the previous financial year, it was assumed that demand remained the same following the transition to the hypothetical network, i.e. that all demand was transferred to the 7,600 points that were retained because of the continuing

high density of the corresponding network. According to this hypothesis, there is therefore no loss of revenue. ARCEP did not take account of the existence of intangible benefits for this financial year either.

- regarding costs, the modelling developed by ARCEP arrived at an estimated 247 million euros for the cost avoided by operating a network of 7,600 points instead of the current network of 17,000 contact points.

Taken overall, the net cost of the national planning and development mission is the same as the avoided cost, namely 247 million euros, for financial year 2011. This cost is 22 million euros lower than the net cost in 2010, largely due to improvements made by ARCEP to the evaluation; with the same modelling rules (2010) and network, this cost remains relatively stable.

The law also provides that ARCEP report on the net cost to the Government and Parliament after consulting the *Commission supérieure du service public des postes et des communications électroniques* (CSSPCE). In particular, this report transmitted one 14 December 2012 addresses the comparative economics of the various types of contact points and the impact on network costs of changing post offices into agencies operated on a partnership basis.

La Poste's network currently comprises just over 6,600 contact points operated on this basis, either with municipal authorities (local-council-run postal agencies), or with retailers (sub post offices in shops). These solutions enable La Poste to perform its territorial presence mission by mutualising use of the necessary resources.

It thus transpires that this change-over process accounts for the bulk of mission-cost savings between 2006 and 2011 (cf. section 5.2), while other operative changes to the network over the period explain the residual difference.

²¹ - [Decision No. 2012-1311 of 23 October 2012](#).

²² - [Decision No. 2011-1081 of 22 September 2011](#).

In addition, in 2012, ARCEP began work on demand in post offices and on intangible benefits:

- on the one hand, from 12 June to 13 July, it held a public consultation on the intangible benefits likely to accrue to La Poste under its obligation to maintain territorial presence. This enabled it to collect stakeholder comments on the planned method for calculating these intangible benefits;
- on the other hand, it commissioned two consultancy firms, Progressus and Inbox, to conduct a study on the effects of the size of La Poste's network of contact points on demand and La Poste's brand image ,with the aim of quantifying the effects considered in the public consultation.

The study findings and the data collected in the public consultation will be used in subsequent evaluations.

5.2 Compensation received by La Poste

Since 1990, La Poste has been partially compensated for this mission by means of local tax reductions (property tax on developed and undeveloped property, territorial economic contribution), the amount of which is reviewed annually on the basis of ARCEP's evaluation. This compensation totalled 170 million euros in 2012.

		2007	2008	2009	2010	2011	2012
Net cost (In millions of euros)	Evaluation La Poste	382	351	314			
	Evaluation ARCEP			288 ²³	269	247	NA
Fiscal compensation		137	136	133	156	168	170

NA : Not available - Source: ARCEP et La Poste.

6. The European Regulators Group for Postal Services (ERGP)

Created in 2010, the ERGP groups all the postal-sector regulatory bodies of the 27 Member States of the European Union. The regulatory bodies of the EEA Member States and of the countries in the process of joining the EU have observer status. In all but three of the countries, the postal sector is regulated by the regulator who is also in charge of electronic communications. The ERGP's main mission is to study regulators' good practices and to advise and assist the European Commission with a view to consolidating the internal market in postal services.

In 2012, the ERGP's second year of activity, it was chaired by Göran Marby, Director General of PTS, the Swedish regulator, who took over from Joëlle Toledano,

a member of ARCEP's Executive Board, who had chaired the first year of the ERGP's work in 2011.

6.1 Cost of the universal postal service

In 2012, the ERGP held a public consultation on a report concerning the effects of VAT exemption on the cost of the universal service (VAT: a benefit or a burden?) which, inter alia, evaluates the inherent threat of distortion of competition and the consequences for the internal market.

The ERGP also adopted a methodological report on evaluating the reference scenario for calculating the net cost of the universal service, i.e. evaluation of this cost for an operator that provides the universal service compared with one not subject to universal-service constraints.

²³ ARCEP carried out an evaluation for 2009 for guideline purposes

6.2 Regulatory accounting

ARCEP managed work on regulatory accounting: a draft joint position paper on proper cost-allocation practices was submitted for public consultation from 28 November 2012 to 23 January 2013 (for final adoption during the second quarter of 2013). This paper's ambitious aim is to provide regulators with a tool kit for measuring costs in accordance with consistent principles, avoiding comparison with pricing and exclusion practices (cross-subsidisation, discounts resulting in predatory pricing and price scissor effects). This joint position was set out in a [report describing](#) cost allocation adopted in August 2012.

Following completion of this work, it can be said that though differences in cost-allocation practices exist, they correspond to common general principles.

6.3 Consumer protection

The ERGP drew up [a report](#) listing the main quality of service indicators to be followed by NRAs and measuring:

- priority-letter transit times,
- mail losses,
- handling of failure to comply with minimum quality of service requirements,
- customer satisfaction,
- the existence of surveys of consumer requirements,
- the frequency of post-box collection (letters and parcels),
- access points (number of post boxes, presence of postal establishments).

[A report](#) on the evaluation of complaint-handling procedures and consumer protection examines the regulatory framework for handling complaints, in particular implementation of Standard EN 14012. Customer compensation systems are described.

6.4 Market indicators

In 2012, the ERGP also updated [a report](#) on indicators, published in 2011, which takes stock of NRA collection powers and practices and of the scope of these indicators.

Initial statistical data for the postal market should be available during the second quarter of 2013, and should provide information, in particular about letter prices, the number of postal-service providers, the degree of market concentration, traffic volumes, revenue from postal services, investment, employment, and measurement of customer satisfaction.

6.5 L'accès au réseau postal

[A report](#) on access to the postal network and to information about postal infrastructure takes stock of the European regulatory framework in this connection. National case studies are presented, including a description of judgements by various courts concerning several countries (CJEU for Germany, European Commission and Paris Court of Appeal for France, dispute settlement in Belgium by the BIPT, etc.).

This report also examines the conditions of access to special tariffs (Article 12 of the Directive) for which the catalogue of incumbent postal operators must make provision in respect of consolidator/mailing-house customers.

The various discount models are also described along with NRA powers (dispute settlement powers, merely market monitoring, drawing up of a regulatory framework for access, transparency measures).

