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Text No. 22

Decrees, orders, circulars
General texts
Ministry of the Economy, Finance and Industry
Industry

Decree No. 2006-507 of 3 May 2006 on regulation of postal activities,
amending the Post and Electronic Communications Code

NOR: INDI0607198D

The Prime Minister,

Acting upon a report from the Minister of the Economy, Finance and Industry and the
Minister Delegate for Industry

Having regard to Directive 97/67/EC of the European Parliament and of the Council of
15 December 1997 on common rules for the development of the internal market of
Community postal services and the improvement of quality of service, amended by
Directive 2002/39/EC of the Parliament and of the Council of 10 June 2002;

Having regard to the Post and Electronic Communications Code;

Having regard to Law No. 2000-321 of 12 April 2000 on the rights of citizens in their
relations with the authorities, in particular Section 22;

Having regard to the opinion of the Central Joint Technical Committee of the Ministry of
the Economy, Finance and Industry dated 7 June 2005;

Having regard to the opinion of the Postal Services and Electronic Communications
Regulatory Authority dated 17 November 2005;

Having regard to the opinion of the Commission for the Public Service of Postal and
Electronic Communications dated 7 December 2005;

Having heard the Conseil d'Etat (Public Works Division),

Decrees:

Article 1

Book I, Title I, Chapter 2 of the second part (Conseil d'Etat decrees) of the Post and
Electronic Communications Code shall be replaced by the following provisions:

“Chapter 2

“Regulation of postal activities

“Section I

“Licences

“Subsection 1

“Licensing procedures

“Article R. 1-2-1. - The providers of the following non-reserved postal services must hold a licence:

“a) Domestic correspondence, including delivery;

“b) Cross-border correspondence.

“The licence shall specify, where appropriate, that its holder is licensed to provide a service for registered mail used in judicial and administrative procedures.

“Article R. 1-2-2. - Licence applications shall be drawn up in French and sent to the Postal Services and Electronic Communications Regulatory Authority by recorded delivery.

“Article R. 1-2-3. - The application shall contain the following information:

“1) Information relating to the applicant:

“a) Identity of applicant (name, registered office, registration in the Commercial and Company Register or the Trades Register, memorandum and articles of association);

“b) Capital structure;

“c) Annual corporate financial statements for the past two financial years;

“d) Description of industrial and commercial activities, particularly in the field of postal services;

“e) Information on industrial, commercial and financial partnership agreements concluded in the field of postal activities and a description of the agreements envisaged for the activity covered by the application;

“f) Licences already held by the applicant.

“2) Technical data for the proposal covered by the application:

“a) Nature, characteristics and geographical coverage of the service;

“b) Measures to guarantee performance, reliability and quality of the postal service in accordance with the tender;

“c) Tools used to measure service quality or tools to be put in place if the licence application concerns an activity new to the operator;

“d) Commissioning timetable for the activity;

“e) Implementation and subcontracting procedures.

“3) Commercial data for the proposal, including market and operating forecasts covering a period of at least three years from issue of the licence;

“4) Information establishing technical capacity to implement the proposal;

“5) Information establishing financial capacity to implement the proposal, covering a period of at least three years from issue of the licence and indicating planned investment and financing.

“Article R. 1-2-4. - Upon receiving a licence application, the chairman of the Postal Services and Electronic Communications Regulatory Authority shall acknowledge its receipt. Within 20 working days he shall inform the applicant by recorded delivery that the application is complete, that it is not complete, or that it contains documents which the applicant must have translated.

“The chairman of the Postal Services and Electronic Communications Regulatory Authority may order on-the-spot checks before a ruling is made on the application.

“Article R. 1-2-5. - A licence shall be granted by formal decision of the Postal Services and Electronic Communications Regulatory Authority.

“However, for applications solely concerning services relating to items of cross-border correspondence, as well as services relating to items of domestic correspondence including delivery and provided by newspaper deliverers and sellers/hawkers, failure by the Postal Services and Electronic Communications Regulatory Authority to reply within two months shall be treated as acceptance. This period shall commence with the applicant’s receipt of the letter referred to in Article R. 1-2-4 notifying the applicant by recorded delivery that the dossier is complete, or, failing this, with expiry of the period of 20 working days specified in the same article.

“The Postal Services and Electronic Communications Regulatory Authority shall publish and place at the public’s disposal a list of the licences which it has issued, together with their objects.

“Subsection 2

“Obligations on licensed providers

“Article R. 1-2-6. - Licence holders shall comply with the following obligations:

- “1) Guaranteeing safety of users, staff and service provider’s equipment;
- “2) Guaranteeing confidentiality of items of correspondence and the integrity of their contents;
- “3) Providing users with access to a free, simple and transparent complaints procedure;
- “4) Protecting personal data and privacy;
- “5) Ensuring that the technical requirements for service provision are environmentally friendly.

“An order of the Minister for Postal Services, acting on a proposal from the Postal Services and Electronic Communications Regulatory Authority, shall specify the content of the obligations that may be imposed on licence holders pursuant to this article.

“Article R. 1-2-7. - Licence holders shall provide the Postal Services and Electronic Communications Regulatory Authority annually with statistical information on the use, coverage area and access arrangements of their services. This information shall include data relating to the nature and volume of the various mail services covered by their licensed activity. The Postal Services and Electronic Communications Regulatory Authority shall respect professional secrecy when using this information.

“Article R. 1-2-8. - Any modifications that might significantly affect the data set out in Article R. 1-2-3 subsequent to issue of the licence shall be notified to the Postal Services and Electronic Communications Regulatory Authority, which may, in a reasoned decision, inform the party concerned that it is necessary to submit a new licence application.

“Section II

“Conciliation procedure

“Article R. 1-2-9. - When a conciliation request is submitted to the Postal Services and Electronic Communications Regulatory Authority under Article L. 5-7 of this code, a member of the board shall be appointed by the chairman to act as the conciliator.

“Article R. 1-2-10. - In the event of conciliation, even if partial, a record of agreement shall be drawn up and signed by the conciliator and the parties concerned.

“A copy of this document shall be given to each party and a copy shall be kept by the Postal Services and Electronic Communications Regulatory Authority.

“Section III

“Dispute settlement

“Article R. 1-2-11. - To settle the disputes referred to in Articles L. 5-4 and L. 5-5 the Postal Services and Electronic Communications Regulatory Authority shall make available to each of the parties the observations and documents filed by the other parties and shall, if necessary, determine the time-limit for replying. The Postal Services and Electronic Communications Regulatory Authority may hear the parties. It is obliged to hear them if they so request.

“If the Postal Services and Electronic Communications Regulatory Authority decides to hear the parties, the hearing shall be public, barring a joint request from the parties or, if they cannot agree, a decision by the Authority.

“Article R. 1-2-12. - Decisions of the Postal Services and Electronic Communications Regulatory Authority on settlement of disputes shall be notified to the parties.

“The letter of notification shall indicate the period for entering an appeal together with the procedures for doing so.

“Decisions of the Postal Services and Electronic Communications Regulatory Authority regarding dispute settlement shall be made public, subject to legally protected confidentiality, under procedures at the discretion of the Postal Services and Electronic Communications Regulatory Authority.

“Article R. 1-2-13. - In derogation from the provisions of Book II, Title VI of the New Code of Civil Procedure, the appeals against decisions of the Postal Services and Electronic Communications Regulatory Authority specified in the fourth paragraph of Article L. 5-6 shall be brought, heard and decided as provided for in Articles R. 11-3 to R. 11-6, R. 11-8 and R. 11-9 of this code.

“Section IV

“Authorisation of investigating officials

“Article R. 1-2-14. - An order of the Minister for Postal Services shall authorise, among the officials and civil servants with the necessary legal and technical skills in the Ministry for Postal Services and the Postal Services and Electronic Communications Regulatory Authority, and subsequent to an opinion from the head of the prosecution department at the Court of First Instance with jurisdiction for their place of work, the persons to be responsible for undertaking the investigations specified in Article L. 5-9 and investigating and reporting offences falling within the ambit of Article L. 20.

“To this end, the chairman of the Postal Services and Electronic Communications Regulatory Authority shall designate the persons under his authority whom he wishes to have authorised.

“The order cited in the first paragraph shall specify the purpose of the authorisation and the length of time during which the official or civil servant shall have the powers to investigate and report offences.

“Article R. 1-2-15. - Officials and civil servants authorised under Article R. 1-2-14 shall take an oath before the Court of First Instance with jurisdiction for their place of work.

“The form of the oath shall be as follows:

“ ‘I swear and promise to perform my work fairly and honourably and to discharge in every way the duties that it entails. I also swear not to disclose or make use of any information brought to my attention in the course of my work.’

“Article R. 1-2-16. - The authorisation specified in Article R. 1-2-14 shall be revoked by order of the Minister for Postal Services, if necessary at the request of the chairman of the Postal Services and Electronic Communications Regulatory Authority, with regard to persons under his authority if this measure is warranted by operational requirements or by the behaviour of the official or civil servant in the course of his work, once, in the latter case, the party concerned has been given an opportunity to make his observations.

“Article R. 1-2-17. - A certificate stating the authorisation, its purpose and its length shall be issued, or renewed, by the Minister for Postal Services or the chairman of the Postal Services and Electronic Communications Regulatory Authority, with respect to their own spheres, for the officials and civil servants under their authority specified in Article R. 1-2-14.

“The taking of the oath shall be entered on this certificate by the registrar of the Court of First Instance.

“The form of the certificate shall be determined by the above-named authorities with respect to their own spheres.”

Article 2

The Minister of the Economy, Finance and Industry, the Minister of Justice and the Minister Delegate for Industry shall be responsible with respect to their own spheres for the enforcement of this decree, which will be published in the *Journal officiel de la République française*.

Done at Paris, 3 May 2006.

The Prime Minister:

Dominique de Villepin

The Minister Delegate for Industry,
François Loos

The Minister of the Economy,
Finance and Industry,
Thierry Breton

The Minister of Justice,
Pascal Clément

