Briefing

The European Commission's investigation of Royal Mail State Aid

- **The UK government has notified the European Commission of its intention to buy out the Royal Mail's pension deficit**
- **This is part of the UK government's plans to implement the Postal Services Bill**
- **The European Commission will now investigate whether this move meets EU state aid laws.**

Background

The 'public assistance' clause, under EU state aid rules, currently allows the UK Government through Post Office Ltd, to fund the network of post offices each year. The last deal started on 1st April 2011.

The European Commission has authorised the continuation, over the same period, of existing loan facilities funding the provision of cash services at post office counters.

Current EU state aid laws allow for Member States to compensate for the provision of a public service, as long as the Royal Mail in this case is responsible for meeting the public service obligations set out in the Postal Services Directive and that the aid given merely covers costs and a reasonable profit.

In the UK the Royal Mail is being primed for privatisation under the Postal Services Bill, but the UK government confirmed that the Post Office will remain a public company using state aid to fulfill its public service obligations.

Pension Takeover

However, the UK government now intends to take on the Royal Mail's historic pension deficit with effect from March 2012 as part of the preparations for a sale of the company (outlined in the Postal Services Bill). It also intends to restructure the company's balance sheet in due course as part of this process.

The pension deficit relief is estimated by the UK authorities at up to £8bn (around €9 billion). As a condition to being given permission to buy out the deficit, the UK has promised to introduce measures to strengthen Royal Mail's balance sheet, including restructuring of the company's £1.7 billion debt (around €1.9 billion).

This plan will need approval from the European Commission and after submitting a formal state aid notification (July 2011) the Commission has now begun an in-depth investigation looking at whether or not this action breaks state aid rules.

There are fears that in order to grant the takeover the European Commission may ask the Royal Mail to sell off GLS (its profitable parcels arm) as part of a deal to compensate the

Royal Mail's competitors in the UK. This could eventuality make it difficult for the Royal Mail to continue as a commercially viable business.

Current European Commission Position

Having received the notification the European Commission released a statement stating that there were "doubts" about the bid.

Although the European Commission's current view is that Royal Mail is a company in difficulty within the meaning of the RR Guidelines, they have also refuted the UK's claims that the proposed measures would have minimal effects on competition and that compensation measures don't need to be given to competitors may not apply with state aid rules.

The Commission have also said that the grant of aid must be conditional upon the implementation of the restructuring plan.

In regards to the argument of a precedent being set by the 2007 La Poste, the Commission have rejected this argument saying the diverse nature of pension schemes in the UK makes it difficult to compare between the two Member States and that they will take each case on an individual basis.

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