

## **Consultation on the draft decision of the BIPT determining the terms for the notification provided for by Article 6/1 of the Act of 26 January 2018 on postal services**

---

### **How to react to this document?**

---

Until 22 march 2024

Responses must only be submitted via email [toconsultation.sg@ibpt.be](mailto:toconsultation.sg@ibpt.be)

With the reference "CONSULT – 2024 – A3"

Contact person: Kevin Schotte, Advisor (Tel.: + 32 2 226 87 74)

Please attach this [cover form](#) to your response.

Your comments should refer to the paragraphs and/or sections they relate to, and confidential parts should be clearly indicated.

## TABLE OF CONTENTS

Introduction .....	3
1. Legal framework .....	4
1.1. Definitions .....	6
1.2. Who is subject to the notification obligation? .....	6
1.2.1. <i>Concept of postal service provider</i> .....	6
1.2.2. <i>Concept of parcel delivery</i> .....	7
1.2.3. <i>Provision of services in Belgium</i> .....	7
1.3. When should the notification be made? .....	7
1.4. What information should be communicated? .....	7
1.4.1. <i>Belgian undertakings</i> .....	8
1.4.2. <i>Foreign undertakings</i> .....	8
1.4.3. <i>Confidentiality of information</i> .....	9
1.4.4. <i>Notification fee</i> .....	9
2. Public consultation .....	10
3. Terms of communication of information .....	11
3.1. BELparcel website .....	11
3.2. Processing of the notification by the BIPT .....	11
3.2.1. <i>Notification of the information</i> .....	11
3.2.2. <i>Acknowledgement of receipt</i> .....	11
3.2.3. <i>Review of the notification</i> .....	12
3.2.4. <i>Incomplete notification</i> .....	12
3.2.5. <i>Standardised declaration of notification</i> .....	12
4. List of providers .....	13
4.1. Publication .....	13
4.2. Update of the notified data .....	13
5. Penalties .....	15
5.1.1. <i>Administrative sanctions</i> .....	15
5.1.2. <i>Action for injunctions</i> .....	15
5.1.3. <i>Presumption of liability</i> .....	15
6. Decision .....	17
7. Appeal procedures .....	18

## **Introduction**

1. Article 6/1, § 1, of the Act of 26 January 2018 on postal services, inserted by Article 11 of the Act of 17 December 2023 pertaining to various provisions in order to improve the working conditions of postal parcel deliverers requires any provider to notify information to the BIPT, in accordance with the terms it determines, prior to any provision of parcel delivery services in Belgium.

This decision implements this Article which entitles the BIPT to lay down the terms of notification.

2. Article 6/1, § 6, of the Act of 26 January 2018 on postal services, inserted by Article 11 of the Act of 17 December 2023 pertaining to various provisions in order to improve the working conditions of postal parcel deliverers provides that the BIPT publishes on its website, in accordance with the terms it determines, the list of postal service providers that have made the notification pursuant to Article 6/1, § 1, of the same Act.

This decision implements this Article which entitles the BIPT to lay down the terms of publication on its website.

## 1. Legal framework

3. The Act of 17 December 2023 pertaining to various provisions in order to improve the working conditions of postal parcel deliverers amends the Act of 26 January 2018 on postal services by inserting a new Article 6/1 which reads as follows:

"Art. 6/1. § 1. The provision of a parcel delivery service in Belgium may be initiated only after the notification of the following to the Institute, pursuant to the terms laid down by the latter:

1° the name and company number of the postal service provider;

2° a contact person and their contact details;

3° an estimated launch date for the activity.

§ 2. Postal service providers that must be registered with the Crossroads Bank for Enterprises pursuant to Article III.16, § 1, 6°, of the Code of Economic Law shall communicate the data referred to in Article III.18 of the Code of Economic Law to the Institute.

§ 3. The following documents shall be attached to the notification referred to in paragraph 1:

1° if the postal service provider holds a valid national or Community road transport licence pursuant to Regulation No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC, a copy of that licence;

2° the proof of payment of the fee requested for the notification.

§ 4. The Institute shall verify whether the notification referred to in paragraph 1 has been made pursuant to the requirements of §§ 1, 2 and 3. If this is not the case, the Institute shall request without delay the undertaking that has made the notification to complete the missing information.

Within one week following the receipt of the complete notification, the Institute shall issue a standardised declaration to the postal service provider confirming that it has made such notification.

This standardised declaration shall be without prejudice to the competence of the Institute to consider that the postal service provider concerned has made a notification without being obliged to do so.

§ 5. Any postal service provider subject to the notification obligation referred to in paragraph 1 shall inform the Institute of:

1° any modification of the elements mentioned in paragraphs 1 and 2;

2° the planned cessation of its activities relating to the provision of postal services related to the parcel delivery.

The communication referred to in subparagraph 1, 1°, shall be made without delay and in any case within 14 days from the day on which the modification took place. The communication referred to in subparagraph 1, 2°, shall be made no later than the day on which the activities concerned are effectively stopped.

§ 6. According to the terms it determines, the Institute shall publish on its website and maintain a list of postal service providers that have made a notification pursuant to paragraph 1.

The Institute shall remove from that list postal service providers that have ceased their activities.

The Institute shall indicate in this list the existence of a final administrative or judicial decision referred to in Article 3, § 2, subparagraph 5, of which it is aware. This indication shall be withdrawn after a period of five years from the date of the final administrative or judicial decision.

Where, pursuant to Article 21, § 7, 2°, of the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors, the Institute imposes a total or partial suspension of the activities of the postal service provider, it shall be immediately mentioned in the list, together with the start date and duration of the suspension.

The Institute shall inform the notified providers individually of any modification to the list.

§ 7. Personal data communicated to the Institute on the basis of this Article shall be transmitted to it for contact purposes. This data is no longer kept as soon as the data subject no longer carries out a contact mission. ". (free translation)

## 1.1. Definitions

4. The terms in the table below should be understood pursuant to the definition given when used in this decision.

<b>BELparcel</b>	The common electronic platform responsible for facilitating, managing, verifying and enabling the notification referred to in Article 6/1 of the Act of 26 January 2018 on postal services (hereinafter, "the Postal Act").
<b>Parcel/Postal parcel</b>	A postal item containing goods with or without commercial value, other than an item of correspondence, with a weight not exceeding 31,5 kg (Art. 2, 28°, of the Postal Act).
<b>Delivery</b>	The process from sorting at the distribution centre to delivery of postal items to their addressees (Art. 2, 6°, of the Postal Act).
<b>Ordering party</b>	Any postal service provider who gives an order to another postal service provider to perform postal services or have them performed for payment or free of charge (Art. 2, 33°, of the Postal Act).
<b>Postal item</b>	An item addressed in the final form in which it is to be carried by a postal service provider and weighing less than 31,5 kg. In addition to items of correspondence, such items also include for instance books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without commercial value (Art. 2, 7°, of the Postal Act).
<b>Parcel deliverer</b>	Natural person assigned to the provision of parcel delivery services on behalf of a postal service provider, a direct subcontractor or a subcontractor (Art. 2, 34°, of the Postal Act).
<b>Postal service provider</b>	Any undertaking that provides one or more postal services (Art. 2, 2°, of the Postal Act).
<b>Postal services</b>	Services involving the clearance, sorting, transport and delivery of postal items, except for the provision of postal services by the natural or legal person who originated of the postal item. (Art. 2, 1°, of the Postal Act).
<b>Subcontractor</b>	Any postal service provider performing one or more postal services for one or more other postal service providers, directly or indirectly, at any stage (Art. 2, 29°, of the Postal Act).
<b>Direct subcontractor</b>	Any postal service provider performing one or more postal services directly for one or more other postal service providers (Art. 2, 30°, of the Postal Act).

## 1.2. Who is subject to the notification obligation?

5. The obligation applies to all postal service providers delivering parcels in Belgium.

### 1.2.1. Concept of postal service provider

6. The delivery of postal items is a postal service unless the person who carries out the service originates the postal item.
7. An undertaking distributing postal items is a postal service provider because it provides a postal service.

8. The exception for the provision of postal services by the natural or legal person who originated the postal item is specified on the [BELparcel](#) website, in the frequently asked questions (FAQs).

#### **1.2.2. Concept of parcel delivery**

9. The obligation to notify certain information is imposed on postal service providers delivering a parcel, i.e. a postal item containing authorised goods<sup>1</sup>, with or without commercial value, other than an item of correspondence, with a weight not exceeding 31,5 kg.

#### **1.2.3. Provision of services in Belgium**

10. The scope of the Postal Act extends to all postal service providers active in parcel delivery in Belgium, whether these providers are established in Belgium or abroad. It is not essential that they have a place of business in Belgium to be subject to this obligation.
11. In other words, any delivery service originating from a distribution centre established in Belgium and destined for abroad makes the notification applicable, as does any delivery service destined for Belgium originating from a distribution centre abroad or even a delivery service originating from a distribution centre abroad destined for a foreign country other than Belgium but with part of the distribution process taking place in Belgium.

### **1.3. When should the notification be made?**

12. Pursuant to Article 6/1, § 1, of the Postal Act, the notification to the BIPT must be made, processed and finalised before any postal parcel delivery service is provided in Belgium. Any notification subsequent to the provision of services therefore constitutes a failure to comply with the Postal Act which may give rise to penalties as detailed in point 5 of this decision. Postal service providers already distributing parcels in Belgium must notify the BIPT in order to continue this service.
13. This Article enters into force on the first day of the fourth month following the expiration of a period of ten days beginning on the day after the publication of the Act in the Belgian Official Gazette, i.e. on 1 May 2024<sup>2</sup>.

### **1.4. What information should be communicated?**

14. The provider of postal parcel delivery services in Belgium fills in the form available online on [BELparcel](#) and attaches, where applicable, all the required documents, ensuring that they are legible, authentic and valid. It indicates, among the information communicated, which information is considered confidential.

---

<sup>1</sup> Article 24 of the Royal Decree of 14 March 2022 on postal services specifies the forbidden items.

<sup>2</sup> Pursuant to Article 22, § 6, subparagraph 1, of the Act of 17 December 2023 pertaining to various provisions in order to improve the working conditions of postal parcel deliverers, Article 6/1 of the Postal Act enters into force on the first day of the fourth month following the expiry of a period of ten days beginning on the day after publication in the Belgian Official Gazette. The Act was published in the Belgian Official Gazette on 28 December 2023.

#### 1.4.1. Belgian undertakings

15. Article 6/1, § 1, of the Postal Act lays down that the provision of a parcel delivery service in Belgium may only be initiated after the notification of the following elements to the BIPT:

1° the name and company number of the postal service provider;

2° a contact person and their contact details;

3° an estimated launch date for the activity.

16. Article 6/1, § 3, of the Postal Act provides that the following documents are attached to the notification:

1° if the postal service provider holds a valid national or Community road transport licence pursuant to Regulation No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator, a copy of that licence;

2° the proof of payment of the fee.

#### 1.4.2. Foreign undertakings

17. Foreign persons that must be registered with the Crossroads Bank for Enterprises pursuant to Article III.16, § 1, 6°, of the Code of Economic Law shall communicate the data referred to in Article III.18 of the Code of Economic Law to the BIPT, i.e. the following data:

*1° the name, denomination or company name;*

*2° the precise designation of the various addresses, where applicable, of the registered entity's registered office and of the various units of the establishment in Belgium;*

*3° the legal form;*

*4° the legal situation;*

*5° the creation date and the cessation date of the registered entity or unit of the establishment;*

*6° the identification data of the founders, representative and proxies;*

*7° the economic activities carried out by the registered entity;*

*8° the other basic identification data that must be provided at the time of the creation of the legal person or pursuant to Chapter 2;*

*9° the reference to the authorisations, licences or approvals held by the registered entity or the qualities for which the latter is known to the various authorities, administrations and services and, where applicable, the follow-up of the requests relating thereto;*

*10° where applicable, the reference to the website of the registered entity, its telephone and fax number and its e-mail address;*

*11° the data relating to the bank account(s) of the registered entity.*

#### **1.4.3. Confidentiality of information**

18. The information communicated is made available free of charge and permanently to the BIPT, which treats it confidentially and only keeps it for the time necessary for the contact mission pursuant to Article 6/1, § 7, of the Postal Act.

#### **1.4.4. Notification fee**

19. Article 8/1 of the Postal Act provides that the King sets, after consulting the BIPT, the amounts of the fee to be paid by the service providers for the notification provided for in Article 6/1 of the Postal Act. This amount is EUR 200 pursuant to the Royal Decree of 7 February 2024 setting the amount of the fee due for the review of the notification referred to in Article 6/1 of the Postal Act.
20. Each year, the BIPT publishes the amount of the fee indexed to the health index on its website.
21. **The [BELparcel](#) platform communicates the information necessary for the payment of the notification fee, which can be done online or by bank transfer.**

## **2. Public consultation**

22. Pursuant to Article 19 of the Act of 17 January 2003, the Council offers every person directly and personally involved in a decision the possibility to be heard in advance.
23. The public consultation took place from **XX** 2024 to **XX** 2024.
24. The following operators responded to this draft decision:

### **3. Terms of communication of information**

#### **3.1. BELparcel website**

25. The notification is made via the [BELparcel](#) electronic platform where any provider enters its identification number with the Crossroads Bank for Enterprises and fills in the requested information.
26. The notification is dated and signed by the legal representative of the parcel delivery provider or their proxy. The person representing them, where applicable, specifies their capacity and justify their mandate.
27. It should be reminded that foreign undertakings must also register and obtain this identification number pursuant to Article III.16, § 1, 6°, of the Code of Economic Law and communicate to the BIPT the data referred to in Article III.18 of the Code of Economic Law as reminded in point 1.4.2. The procedure for obtaining this number and for obtaining access to the online services of the administration is also detailed on [BELparcel](#).

#### **3.2. Processing of the notification by the BIPT**

28. Article 6/1, § 4, of the Postal Act makes the BIPT responsible for verifying that the notification has been carried out pursuant to the requirements of paragraphs 1, 2 and 3. If this is not the case, the BIPT requests without delay the postal service provider to complete the information so that it can provide it, within one week following the receipt of the complete notification, with the standardised declaration confirming that it has made the notification.

##### **3.2.1. Notification of the information**

29. The notification must be submitted by the operator (i.e. the parcel delivery provider) or by its representative. The operator is the person responsible for the service provided.
30. The operator or its representative also undertakes to provide the BIPT with accurate and up-to-date data.
31. The required information must be provided online in a clear and legible manner.

##### **3.2.2. Acknowledgement of receipt**

32. Upon receipt of the payment, the platform will confirm that the information communicated can be processed by the BIPT.

### 3.2.3. Review of the notification

33. The review will only start when the BIPT is in possession of all the information and the proof of payment of the fee.
34. The verification is purely formal and concerns the presence of the required information. The BIPT has no subjective margin of appraisal and does not rule on the notification, which does not constitute an application for accreditation or licence, but must rather be assimilated to a prior declaration that automatically gives a right of access to the parcel delivery activity as soon as the dossier is submitted in full.

### 3.2.4. Incomplete notification

35. Where the BIPT considers that the notification is incomplete and wants to obtain additional information or explanations, it informs the undertaking within thirty working days at the latest.
36. **Where a notification is considered incomplete, the missing information is reported on the e-Box Enterprise.**
37. **At the end of a period of thirty days, starting from the notification of the additional request of the BIPT to the postal service provider, any incomplete notification is rejected.**

### 3.2.5. Standardised declaration of notification

38. Within one week following the receipt of the complete notification, the BIPT issues a standardised and dated declaration to the postal service provider confirming that it has made such notification.
39. The uniform notification declaration is only issued when the notification is declared complete by the BIPT, i.e. the required data and documents have been communicated to the BIPT and the notification fee has been paid.
40. **The outcome of the BIPT review and the standardised declaration are communicated to the operator via the e-Box Enterprise.**
41. The BIPT may still consider that the service provider has made a notification without being obliged to do so.
42. The provided data are transferred to the law enforcement authorities.
43. The declaration attests that a complete notification has been made to the BIPT. It does not attest to compliance with legal obligations or the qualification of activities. The BIPT does not verify the accuracy of the information provided within the framework of the notification. The declaration does not prejudice subsequent prosecution in the event of a failure to comply with the legislation.

## 4. List of providers

### 4.1. Publication

44. Pursuant to Article 6/1, § 6, of the Postal Act, the BIPT publishes on its website a list of postal service providers that have made a complete notification. This list will be updated quarterly.
45. Publication only takes place when the standardised notification declaration has been submitted.
46. The information on postal service providers published in this list will be:
- the name;
  - the company number;
  - legal form ;
  - the date;
  - the potential sanctions (final administrative or judicial decision referred to in Article 3, § 2, subparagraph 5, of the Postal Act<sup>3</sup> as well as any total or partial suspension<sup>4</sup> of the activities imposed by the BIPT).
47. The postal service providers in this list must comply with the obligations imposed on them by the Postal Act, in particular with regard to the working conditions of parcel deliverers such as the limitation of working time, the recording of working time and the biannual reporting.

### 4.2. Update of the notified data

48. Pursuant to Article 6/1, § 5, of the Postal Act, the provider must inform the BIPT of:
- 1° any modification of the elements mentioned in paragraphs 1 and 2, i.e. the information listed in points 1.4.1 and 1.4.2 of this decision;
- 2° the scheduled cessation of its activities relating to the provision of postal services.
49. This communication must be made via the electronic platform [BELparcel](#) within 14 days from the day of the modification, and at the latest the day of the effective cessation of the activities concerned in the event of cessation.
50. The BIPT examines the modifications and includes them in the list which is published and updated quarterly.

---

<sup>3</sup>This indication is withdrawn after a period of five years from the date of the final administrative or judicial decision pursuant to Article 6/1, § 6, subparagraph 3, of the Postal Act.

<sup>4</sup> The duration of the suspension will be clearly indicated in the list.

51. The BIPT withdraws from the list postal service providers that have ceased their activities and mentions the existence of a final administrative or judicial decision referred to in Article 3, § 2, subparagraph 5, of the Postal Act of which it is aware that affects the postal service providers included in the list, in particular as regards notification, recording of driving time and minimum compensation as well as any total or partial suspension of the activities of the postal service provider, pursuant to Article 21, § 7, 2°, the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors (hereinafter, "the Status Act").
  
52. The providers who have made the notification via the e-Box Enterprise will be informed of any modification to the list.

## 5. Penalties

53. Pursuant to Article 6/1, § 1, of the Postal Act, any offer or provision of a postal parcel delivery service in Belgium without prior notification constitutes a violation of the Postal Act which may give rise to penalties and involve in certain cases the liability of the ordering party for a failure of its direct subcontractor.

### 5.1.1. Administrative sanctions

54. The BIPT monitors the compliance with Article 6/1 of the Act of 26 January 2018 on the notification obligation and is therefore entitled to impose sanctions in the event of lack of awareness of this obligation.
55. Article 21 of the Status Act, provides that in the event of a failure to comply with the regulation monitored by the BIPT<sup>5</sup>, or a BIPT decision adopted in implementation of this regulation, the BIPT may adopt penalties, including fines and periodic penalty payments, or a total or partial suspension of the activities of the postal service provider.

### 5.1.2. Action for injunctions

56. Under Article XVII.2, 18°, of the Code of Economic Law, the President of the company court establishes the existence and orders the cessation of the infringement arising from the non-compliance with the notification obligation laid down in Article 6/1 of the Postal Act, i.e. the cessation of an activity carried out without prior notification.

### 5.1.3. Presumption of liability

57. Any failure to comply with the essential requirements of a direct subcontractor is presumed to have been committed by the ordering party insofar as such failure occurred in the course of the provision of postal services on its behalf.

---

<sup>5</sup> Article 14, § 1, 3°, c, of the Status Act aims at monitoring the compliance with the Act of 26 January 2018 on postal services, except Articles 3, § 2, subparagraph 5, 5, § 1, 5/2, 5/3, 5/4, 5/5 and 10/1.

58. Pursuant to Article 3, § 2, subparagraph 3, of the Postal Act, the presumption of liability of the ordering party, defined by Article 3, § 2, subparagraph 2, of the Postal Act, applies, without proof to the contrary being provided, if, during the period concerned, its direct subcontractor has not validly notified the BIPT in accordance with Article 6/1 of the Postal Act or has been, with regard to the activities concerned, subject to a suspension measure imposed pursuant to Article 21, § 7, 2°, of the Status Act.

## 6. Decision

59. This decision lays down, pursuant to Article 6/1, § 1, of the Postal Act, the terms for the notification of the information that postal service providers must provide to the BIPT before they can deliver parcels in Belgium.
60. This decision also lays down, pursuant to Article 6/1, § 6, of the Postal Act, the terms for the publication on the BIPT website of the list of postal service providers that have made the notification in accordance with Article 6/1, § 1, of the same Act.
61. The information referred to in point 1.4 shall be notified by the platform accessible via the **BELparcel** website.
62. The notification is dated and signed by the legal representative of the parcel delivery provider or their proxy. The person representing them, where applicable, specifies their capacity and justify their mandate.
- 63.** Foreign undertakings that must obtain a number from the Crossroads Bank for Enterprises pursuant to Article III.16, § 1, 6°, of the Code of Economic Law communicates the data referred to in Article III.18 of the Code of Economic Law to the BIPT. The procedure for obtaining this number and for obtaining access to the online services of the administration is also detailed on **BELparcel**.
64. The information necessary for payment of the fee required for the notification is communicated on **BELparcel**. This payment can be made online or by bank transfer.
65. Additional requests from the BIPT and the submission of the standardised declaration are made via the e-Box Enterprise.
66. Any incomplete notification is rejected at the end of a period of thirty days, starting from the notification of the additional request of the BIPT to the postal service provider. If the notification is rejected, any new application will again entail the payment of the fee provided for in Article 8/1 of the Postal Act.
67. The list of postal service providers that have made the notification is published on the BIPT website and on the **BELparcel** website in real time but will be verified quarterly for any sanctions imposed on the providers.
68. This decision enters into force on the day following its publication.

## 7. Appeal procedures

69. Pursuant to Article 2, § 1, of the Act of 17 January 2003 on the appeals and the settling of lawsuits arising from the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors you have the possibility to lodge an appeal against this decision before the Market Court, Place Poelaert 1, B-1000 Brussels. The appeals shall be lodged, on penalty of inadmissibility pronounced automatically, by filing a signed request, with the contested decision attached, with the court registry of the Brussels Court of Appeal within a period of sixty days starting from the notification of the decision, or in the absence of such notification, from the publication of the decision, or in the absence of such publication, after becoming aware of the decision.
70. On penalty of nullity, the request shall contain all required indications referred to in Article 2, § 2, of the Act of 17 January 2003 on the appeals and the settling of lawsuits following the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors. If the request contains elements that you consider to be confidential, you have to explicitly mention it and submit, on penalty of nullity, a non-confidential version of it. The Institute publishes the request notified by the court registry on its website. Any interested party may intervene in the case within 30 days following such publication.

Bernardo Herman  
Member of the Council

Peggy Valcke  
Member of the Council

Stefaan Vyverman  
Member of the Council

Michel Van Bellinghen  
Chairman of the Council