



Belgian Institute for Postal Services
and Telecommunications

**Decision of the BIPT Council
of 16 april 2024
determining the terms for the notification provided for
by Article 6/1 of the Act of 26 January 2018 on postal
services**

Not confidential

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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 postal parcel delivery services in Belgium.

This decision implements that 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 (hereinafter, the "Act of 17 December 2023") amends the Act of 26 January 2018 (hereinafter, the "Postal Act") 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.

BELparcel	The common electronic platform for facilitating, managing, verifying and enabling the notification referred to in Article 6/1 of the Postal Act.
Delivery	The process from sorting at the distribution centre to delivery of postal items to their addressees (Art. 2, 6°, of the Postal Act).
Direct subcontractor	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).
Ordering party	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).
Parcel/Postal parcel	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).
Parcel deliverer	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).
Postal item	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).

Postal services	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).
Postal service provider	Any undertaking that provides one or more postal services (Art. 2, 2°, of the Postal Act).
Subcontractor	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).

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 legal concept of "delivery", as mentioned in the table above, refers to the distribution centre, which must be understood as the place where parcels are sorted before being sent to the addressees. It results from the statement of reasons of the Act of 17 December 2023 (hereinafter, the "statement of reasons") that the delivery process includes the preparation of the round, the loading of the items into the vehicle, their transport and their delivery to the indicated address.
10. The obligation to notify certain information is imposed on postal service providers delivering a parcel, i.e. a postal item containing authorised goods¹, with or without commercial value, other than an item of correspondence, with a weight not exceeding 31,5 kg.

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

1.2.3. Provision of services in Belgium

11. 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.
12. 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. [Frequently asked questions](#), in the form of concrete cases, are published on the [BELparcel](#) website.

1.3. When should the notification be made?

13. 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.
14. 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 2024².

1.4. What information should be communicated?

15. 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.

1.4.1. Belgian undertakings

16. 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 Pursuant to Article 22, § 6, subparagraph 1, of the Act of 17 December 2023, 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 of 17 December 2023 was published in the Belgian Official Gazette on 28 December 2023.

2° a contact person and their contact details;

3° an estimated launch date for the activity.

17. 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

18. 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:

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

19. 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

20. 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.

21. Each year, the BIPT publishes the amount of the fee indexed to the health index on its website.
22. The [BELparcel](#) platform communicates the information necessary for the payment of the notification fee, which can be made online or by bank transfer.

2. Public consultation

23. Pursuant to Article 19 of the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors (hereinafter, the "Status Act"), the Council offers every person directly and personally involved in a decision the possibility to be heard in advance.
24. A public consultation on the terms of the notifications referred to in Article 6/1 of the Postal Act was held from 8 to 22 March 2024.
25. The following operators responded to this draft decision:
 - Febetra (the Belgian federation of transporters and logistics services providers) on 20 March 2024;
 - PostNL on 21 March 2024;
 - GLS on 22 March 2024;
 - bpost on 22 March 2024;
 - BCA (Belgian Courier Association, the members of which are DHL, DPD, FedEx, GLS, PostNL, and UPS) on 22 March 2024.
26. The input is included below, with an answer to it.

2.1. Febetra (the Belgian federation of transporters and logistics services providers)

2.1.1. Scope of the Postal Act as amended by the Act of 17 December 2023

27. Febetra wonders about the scope of the Act regarding the use of certain terms (on the [BELparcel](#) website or in the BIPT decision) such as "courier", "last mile", "distribution centre". Febetra would like concrete examples to clarify the scope of the Act, particularly for mixed transport, transport of medical equipment and parcel returns.
28. The BIPT recalls that the [BELparcel](#) website aims at popularising information and that *frequently asked questions* are published in order to clarify the scope of the Act. Moreover, the "last mile" delivery refers to the delivery defined in Article 2, 6°, of the Postal Act. This definition refers to the distribution centre that is not legally defined but must be understood as the place where parcels are sorted before being sent to the addressees. Parcel returns are part of this delivery phase.
29. The BIPT specifies that a parcel with a weight not exceeding 31,5 kg falls within the scope of the Postal Act even if the transport is "mixed", i.e. if it concerns postal and non-postal parcels. However, due to the specific rules of transport law, there will be an exemption for the recording of the delivery time of parcels provided for by the Act. Deliveries of medical

equipment to hospitals and laboratories fall within the scope of the Postal Act and are specifically referred to on page 23 of the statement of reasons.

2.1.2. Deadline of 1 May

30. Febetra requests an extended deadline to comply with the notification obligation which will enter into force on 1 May 2024.
31. The BIPT confirms that Article 6/1 of the Postal Act will enter into force on 1 May in accordance with the provisions of Article 22, § 6, subparagraph 1, of the Act of 17 December 2023. The platform for notifying the required information will not be operational before 17 April 2024, leaving indeed little time for the postal service providers concerned. Nevertheless, the BIPT is not entitled to change the rules laid down by the Act. The BIPT recalls that payment can be made online or by transfer and that the first option is almost instantaneous. Moreover, the monitoring of the BIPT is limited to the completeness of the information required and their readability, the additional request for incomplete notification should be exceptional and the BIPT will process it as soon as possible.

2.1.3. List of providers and presumptions of liability

32. Febetra wonders about the frequency of publication of the list and the consequences in terms of liability in view of the presumptions of Article 3, § 2, of the Postal Act. Febetra refers to the case of a provider that would appear in the list published in one quarter but not in the list published in the following quarter.
33. The BIPT specifies that the list will be updated in real time for providers active on the market, taking into account any possible suspension pursuant to Article 6/1, § 6, paragraph 4, of the Postal Act. The providers will be informed of the modification of the list, pursuant to Article 6/1, § 6, subparagraph 5, of the Postal Act, by e-mail to the addresses provided. Providers are responsible for taking the necessary measures regarding subcontractors who can no longer be active in delivery since they will, as the ordering party, be presumed liable – without the possibility of reversing this presumption³ – if a direct subcontractor is the subject of a decision referred to in Article 3, § 2, subparagraph 5, of the Postal Act for services performed on their behalf. The purpose of the quarterly publication is to add to the list the decisions mentioned in Article 3, § 2, subparagraph 5, of the Postal Act pursuant to Article 6/1, § 6, subparagraph 3, of the Postal Act. As a reminder, this concerns, inter alia, decisions taken following the lack of awareness of the notification obligation⁴. The insertion of such decisions, where the responsibility of an ordering party is presumed for a failure by his direct subcontractor, must draw attention to previous failures with the intention, expressed in the statement of reasons, to encourage the sector itself to monitor itself. A fortiori, the ordering party must reinforce its monitoring of its subcontractor's compliance with the essential requirements as soon as it becomes aware of these decisions in order to ensure that the latter henceforth complies with those essential requirements. The Act does not provide for any time limit for taking action against a subcontractor since an ordering party is responsible for the choice of its subcontractor and must ensure that the latter complies with the obligations provided for in Article 3, § 1, of the Postal Act even if no administrative or judicial decision is taken. The quarterly list may include decisions referred to in Article 3, § 2, subparagraph 5, 1°, of the Postal Act related to facts prior to 1 May if those are issued after 1 May. Except in cases where

³ See Article 3, § 2, subparagraph 3, of the Postal Act.

⁴ See Article 3, § 2, subparagraph 5, 3°, of the Postal Act.

the direct subcontractor has not made the notification or has been suspended for such activities, the ordering party will be able to reverse the presumption by demonstrating that it has not been negligent in monitoring compliance with the essential requirements of its direct subcontractor as mentioned in Article 3, § 2, subparagraph 4, of the aforementioned Act.

34. In addition, Febetra wonders if a provider may be active in parcel delivery if it does not appear on the list.
35. Within one week following the full notification, the BIPT will issue a standardised and dated declaration confirming to the provider that it has made the notification required by Article 6/1 of the Postal Act. Upon receipt of this declaration, the delivery activity may be undertaken.

2.2. Post NL

2.2.1. Scope of the Postal Act as amended by the Act of 17 December 2023

36. PostNL recalls, based on the opinion submitted the by BIPT⁵, that the Act creates a heavy administrative burden and wonders about the reasonable proportionality ratio between the rules laid down to combat social dumping, and the infringement of market access and freedom to provide services by pointing out possible discrimination in terms of market access, since all providers are subject to a single fee.

2.2.2. Deadline of 1 May

37. PostNL (as well as Febetra, bpost and GLS) requests an extended deadline to comply with the notification obligation which will enter into force on 1 May 2024.
38. The BIPT refers to point 31.

2.2.3. Delivery time of parcels

39. PostNL points out that the draft decision submitted for consultation mentions observance of working time, whereas the Act only concerns the delivery time of parcels.
40. The BIPT corrected this inaccuracy since it indeed concerns the compliance with delivery time of parcels as mentioned in Articles 5/3, 5/4 and 5/5 of the Postal Act.

2.2.4. Monitoring by the BIPT

41. PostNL asked for details on the monitoring carried out by the BIPT and the moment when the activity could be started, recalling that a long wait would cause a loss of income.
42. The BIPT refers to point 35 and points out that it has no margin of appreciation as stipulated on page 32 of the statement of reasons. The monitoring carried out by the BIPT is limited to verifying the completeness of the information requested in Article 6/1, § 1, of the Postal Act

⁵ [Opinion of 13 September 2023 on the economic aspects of the draft act amending the Act of 26 January 2018 on postal services | BIPT.](#)

as well as the presence of the documents that may be required if necessary pursuant to Article 6/1, § 3, of the Postal Act.

2.2.5. Sanctions imposed by the BIPT and sanctions included in the list of providers

43. PostNL, like other contributors, wonders about the sanctions that may be imposed by the BIPT when a provider has carried out its parcel delivery activity without notifying the BIPT.
44. Pursuant Article 14, § 1, 3, c, of the Status Act, it is the task of the BIPT to monitor compliance with the notification. Article 21 of the Status Act details the procedure that the BIPT can apply when a series of indications could point out a failure to comply with a standard monitored by the BIPT or a decision taken under such a standard. The sanction may first be limited to an order to put an end to the failure immediately or within a reasonable period. More information has been added to section (5.1.1.). An appeal before the Market Court does not suspend the BIPT decisions, pursuant to Article 2, § 4, subparagraph 1, 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. The BIPT refers to the above-mentioned Article 2, § 4. Furthermore, the list mentions the existence of a final administrative or judicial decision referred to in Article 3, § 2, subparagraph 5, of the Postal Act as well as any suspension of activities imposed by the BIPT on the basis of Article 21, § 7, 2°, of the Status Act.
45. PostNL wonders about the time limit for terminating any collaboration with a subcontractor who is no longer in good standing and whether it must wait for a possible appeal by the subcontractor.
46. The BIPT refers to point 33, stating that the final decisions referred to in Article 3, § 2, subparagraph 5, of the Postal Act - where the responsibility of the ordering party is presumed - are subject to the force of res judicata and can no longer be appealed. However, action may be taken as soon as the ordering party considers it necessary.

2.2.6. e-Box Enterprise

47. PostNL wonders about becoming aware of a sanction against a subcontractor, recalling that the list is only officially published quarterly and that the e-Box Enterprise is not accessible to all employees.
48. During the notification, the contact details must be communicated but it will be possible to communicate another e-mail address that the BIPT will use for communications within the framework of the notification. Information such as the modification of the list will be sent, individually, via e-mail to the persons mentioned in order to avoid frequent visits of the BIPT website.

2.3. GLS

2.3.1. Scope of the Postal Act as amended by the Act of 17 December 2023

49. GLS considers that the scope of the Act is unclear and that the concepts of delivery, postal item and parcels are open for interpretation. GLS wonders about a shipment of several parcels, some of which would be greater than 31,5 kg and others not, or a shipment of several parcels weighing less than 31,5 kg but whose total weight would be greater than 31,5 kg.
50. These questions echo those of Febetra and the answer given in point 29 applies.
51. [Confidential]
52. [Confidential]

2.3.2. Deadline of 1 May

53. GLS (as well as Febetra, PostNL and bpost) requests an extended deadline to comply with the notification obligation which will enter into force on 1 May 2024.
54. The BIPT refers to point 31.

2.3.3. Delivery time of parcels

55. GLS points out that the draft decision submitted for consultation mentions "observance of working time", whereas the Act only concerns the delivery time of parcels.
56. The BIPT corrected this imprecision since it indeed concerns the compliance with delivery time of parcels as mentioned in Articles 5/3, 5/4 and 5/5 of the Postal Act.

2.3.4. Sanctions imposed by the BIPT

57. GLS calls for clarification of the sanctions that can be imposed by the BIPT and wonders whether they are preceded by a warning.
58. The BIPT refers to point 44.

2.3.5. List of providers and presumptions of liability

59. GLS requested that the notion of "constituting a failure" be clarified and that the documents that must be verified by the ordering party be clarified. GLS wonders about the time it has to take action with respect to a subcontractor that it has learned has failed to comply with its obligations.

60. The BIPT refers to point 33, stating that these are breaches of the essential requirements by a subcontractor referred to in Article 3, § 2, subparagraph 5, of the Postal Act. Regarding the verification, these vary according to the failures listed in the above Article and the BIPT is not responsible for monitoring all the obligations included in the Postal Act.

2.4. bpost

2.4.1. Scope of the Postal Act as amended by the Act of 17 December 2023

61. bpost notes that the concept of parcel delivery is not defined in section 1.2.2. of the decision submitted for consultation, yet called "parcel delivery".
62. The BIPT refers to point 28.
63. bpost points out that, according to point 11 of the decision submitted for consultation, any delivery service originating from a distribution centre established in Belgium and destined for abroad or even a distribution service originating from a distribution centre abroad and destined for a foreign country, other than Belgium, but part of the delivery process of which takes place in Belgium makes the notification applicable. Since the Act does not make it clear, bpost requests further explanation by means of concrete cases.
64. The BIPT recalls that it results page 16 of the statement of reasons that postal services, including the delivery process, which are carried out in Belgium and destined for abroad are also subject to the obligations of the Postal Act. It results from page 4 of the statement of reasons that the delivery process includes the preparation of the round, the loading of the items into the vehicle, their transport and their delivery to the indicated address. Depending on the location of the distribution centre, the Act may apply to a delivery beginning at a distribution centre abroad and ending with the delivery to the addressee in a country other than Belgium after passing through Belgium.

2.4.2. Deadline of 1 May

65. bpost (as well as Febetra, PostNL and GLS) requests an extended deadline to comply with the notification obligation which will enter into force on 1 May 2024.
66. The BIPT refers to point 31.
67. bpost wonders about the starting point of the 30-day time limit that the BIPT has to send an additional request and its compatibility with the deadline of 1 May.
68. The BIPT points out that its monitoring is limited to the completeness of the required information and its readability. This maximum 30-day time limit starts to run as soon as the notification can be processed, i.e. upon receipt of the payment and mandatory information. The BIPT wishes to maintain this maximum time limit since it cannot foresee the functioning of the platform and the number of notifications that will be processed in the first weeks.

2.4.3. Access to the platform

69. bpost wonders about the concept of operator used in point 28 of the decision submitted for consultation and the terms for the authentication to e-government. bpost expresses its concern regarding the communication by e-Box Enterprise given the limited access to it, which could waste valuable time given the deadline of 1 May 2024.
70. The reference to the concept of operator has been deleted. During the notification, the contact person's details including their e-mail must be communicated. It will be possible to communicate another e-mail address that the BIPT will use for the information that will be sent to the persons informed.

2.4.4. List of providers

71. bpost requests maximum accessibility to the list and constant updating of it. bpost points out that centralisation of information on the [BELparcel](#) website would be appropriate.
72. The BIPT indicates that it will refer to the [BELparcel](#) website, which is intended to centralise all information, and will publish quarterly a list complemented by the decisions referred to in Article 3, § 2, subparagraph 5, of the Postal Act.
73. bpost wants the list to be updated at least once a month considering the presumptions of responsibility that weigh on the ordering party who would call on an irregular subcontractor. It is also requested that the list can be downloaded in xls and csv format.
74. The BIPT recalls that the list is updated in real time with regard to providers active on the market and those who are suspended⁶ and that the quarterly publication – downloadable in xls and csv format – adds administrative or judicial decisions to this list referred to in Article 3, § 2, subparagraph 5, of the Postal Act. The BIPT refers to point 33.

2.5. BCA (Belgian Courier Association)

2.5.1. List of providers and presumptions of liability

75. The BCA wonders about the time limit an ordering party has to terminate the collaboration with a direct subcontractor when it is removed from the list, in order to avoid falling under a strengthened liability presumption. It also asked whether a continuous consultation of the list was expected.
76. The BIPT refers to point 33.
77. The BCA asks whether the ordering party must wait for a possible appeal from the subcontractor before taking action regarding it.
78. The ordering party is presumed responsible for the failure of its subcontractor when the latter is the subject of a final administrative and judicial decision referred to in Article 3, § 2,

⁶ Suspension imposed by the BIPT on the basis of Article 21, § 2, 7^o, of the Status Act.

subparagraph 5, of the Postal Act, which is no longer subject to appeal. The BIPT points out that action may be taken as soon as the ordering party considers it necessary.

2.5.2. Sanctions imposed by the BIPT

- 79. The BCA wonders about the sanctions that can be imposed by the BIPT.
- 80. The BIPT refers to point 44.

2.5.3. Delivery time of parcels

- 81. The BCA points out that the draft decision submitted for consultation mentions "observance of working time", whereas the Act only concerns the delivery time of parcels.
- 82. The BIPT corrected this inaccuracy since it indeed concerns the compliance with delivery time of parcels as mentioned in Articles 5/3, 5/4 and 5/5 of the Postal Act.

2.5.4. Role of the coordinator

- 83. The BCA wonders whether the contact person is also the coordinator referred to in Article 5/2 of the Act.
- 84. The function of coordinator is provided for in Article 5/2 of the Act and a Royal Decree, pending publication in the Belgian Official Gazette, will specify the prerequisites of this function. As results from page 33 of the statement of reasons, the coordinator may be internal or external to the provider and may be common to several providers.

2.5.5. Access to the platform

- 85. The BCA wonders who the postal services officer (or their proxy) authorised to sign the notification is.
- 86. The BIPT points out that the notification must be carried out by the legal representative of the provider or their proxy.

3. Terms of communication of information

3.1. BELparcel website

87. 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.
88. The notification is dated and signed by the legal representative of the provider of parcel delivery services or their proxy. The person representing them, where applicable, specifies their capacity and justify their mandate.
89. 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

90. 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

91. The notification is sent by the legal representative of the parcel delivery provider or their proxy.
92. The legal representative or their proxy also undertakes to provide the BIPT with accurate and up-to-date data.
93. The required information must be provided online in a clear and legible manner.

3.2.2. Acknowledgement of receipt

94. 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

95. The review will only start when the BIPT is in possession of all the information and the proof of payment of the fee.

96. 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

97. 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.
98. Where a notification is considered incomplete, the missing information is reported via e-mail to the contact persons mentioned.
99. 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

100. 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.
101. The standardised notification declaration is only issued when the notification is declared complete by the BIPT, i.e. when the required data and documents have been communicated to the BIPT and the notification fee has been paid.
102. The outcome of the BIPT review and the standardised declaration are communicated to the legal representative or their proxies via "e-Box Enterprise" and via e-mail to the contact persons mentioned.
103. The BIPT may still consider that the service provider has made a notification without being obliged to do so.
104. The provided data are transferred to the law enforcement authorities.
105. 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

106. 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 to incorporate the decisions contained in Article 3, § 2, subparagraph 5, of the Postal Act, but the website will refer to the real-time list, on the [BELparcel](#) website, of providers that may be active in delivery.
107. Publication only takes place when the standardised notification declaration has been submitted.
108. The information on postal service providers published in this list will be:
- the name;
 - the company number;
 - the legal form;
 - the date;
 - the potential sanctions (final administrative or judicial decision referred to in Article 3, § 2, subparagraph 5, of the Postal Act⁷ as well as any total or partial suspension⁸ of the activities imposed by the BIPT).
109. 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 delivery time of parcels, the recording of delivery time of parcels and the half-yearly reporting.

4.2. Update of the notified data

110. 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.
111. 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.
112. The BIPT examines the modifications and includes them in the list which is published and updated quarterly.

⁷ 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.

⁸ The duration of the suspension will be clearly indicated in the list.

113. 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°, of the Status Act.

114. The providers who have made the notification will be informed of any modification to the list via e-mail to the contact persons mentioned.

5. Penalties

115. 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

116. The BIPT monitors compliance with Article 6/1 of the Postal Act on the notification obligation and is therefore entitled to impose sanctions in the event of lack of awareness of this obligation. This will also apply to the reporting provided for in Article 6/2 of the said Act.

117. Article 21 of the Status Act, provides that in the event of a failure to comply with the regulation monitored by the BIPT⁹, 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.

118. The sanction may first be limited to an order to put an end to the failure immediately or within a reasonable period. However, sanctions become increasingly heavy when the failure persists.

119. Pursuant to Article 21, § 5, 2^o, of the Status Act, fines may be up to a maximum amount of 5,000 EUR for natural persons and up to a maximum of 5% of the consolidated turnover of the offender, before taxes and excluding VAT, for the most recent completed fiscal year in the postal services sector in Belgium.

120. Pursuant to Article 21, § 5, 2/1^o, of the above-mentioned Act, a penalty payment may be up to a maximum amount of 500 EUR per day of delay for natural persons and 5% of daily turnover per day of delay for legal persons¹⁰.

121. If these fines and periodic penalty payments are not sufficient to remedy the failure, the BIPT is entitled, pursuant to Article 21, § 6, of the Act, to impose fines and periodic penalty payments of up to twice the amounts or percentages referred to in the previous point.

122. The BIPT may even order, pursuant to Article 21, § 7, 2^o, of the Act, the suspension of all or part of the operation of the provision of the delivery service if the failure persists and it is considered that there is a serious or repeated failure.

⁹ Article 14, § 1, 3^o, c, of the Status Act aims at monitoring 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.

¹⁰ In the absence of data on the turnover referred to, the BIPT may determine a turnover based on data obtained from third parties or based on the turnover of a comparable person.

5.1.2. Action for injunctions

123. 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

124. 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.
125. 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 pursuant to 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

126. 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.
127. 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.
128. The information referred to in point 1.4 shall be notified by the platform accessible via the **BELparcel** website.
129. 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.
130. 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**.
131. 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.
132. Additional requests from the BIPT and the submission of the standardised declaration are made via e-mail to the contact persons mentioned.
133. 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.
134. 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.
135. This decision enters into force on the day after of its publication.

7. Appeal procedures

136. 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.
137. 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