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**Changes to legislation:** *There are currently no known outstanding effects for the Commission Implementing Decision of 2 April 2014 exempting certain services in the postal sector in Austria from the application of Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (notified under document C(2014) 2093) (Only the German text is authentic) (Text with EEA relevance) (2014/184/EU). (See end of Document for details)*

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Commission Implementing Decision of 2 April 2014 exempting certain services in the postal sector in Austria from the application of Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (notified under document C(2014) 2093) (Only the German text is authentic) (Text with EEA relevance) (2014/184/EU)

- Article 1 Directive 2004/17/EC shall not apply to contracts awarded by contracting...
- Article 2 This Decision is addressed to the Republic of Austria.

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- (1) [OJ L 134, 30.4.2004, p. 1.](#)
- (2) 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 ([OJ L 15, 21.1.1998, p. 14.](#))
- (3) Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services ([OJ L 176, 5.7.2002, p. 21.](#))
- (4) Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services ([OJ L 52, 27.2.2008, p. 3.](#))
- (5) Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) ([OJ L 24, 29.1.2004, p. 1.](#))
- (6) Case No COMP/M.6503 — La Poste/Swiss Post/JV.
- (7) Case COMP/M.3971 — DeutschePost/Excel.
- (8) Case COMP/M.5152 — Posten AB/Post DanmarkA/S.
- (9) See footnote 8.
- (10) See footnote 8.
- (11) Request, p. 8.
- (12) Commission letter MARKT/C4/MMT/id (2013)3891034 of 5 December 2013 to the Austrian Permanent Representation.
- (13) E-mail of Austrian Federal Ministry of Economy, Family and Youth of 18 December 2013 enclosing the replies from the relevant authorities: the Federal Ministry of Transport, Innovation and Technology and the national regulator (Rundfunk und Telekom Regulierungs-GmbH).
- (14) According to Annex 1 to the request, p. 54.
- (15) According to Annex 1 to the request, p. 60.
- (16) [\*\*\*\*] confidential information.
- (17) According to Annex 1 to the request, p. 32.
- (18) E-mail of Austrian Post of 2 December 2013.
- (19) In demand analysis, the price is usually regarded as an endogenous variable. That endogeneity needs to be controlled for the associated sensitivity of quantities to prices to be considered an unbiased estimation of elasticity. The applicant did not perform that type of control of endogeneity and did not properly justify the exogeneity of prices, assuming without justification that prices were exogenous.
- (20) See footnote 18.
- (21) An increased tariff has been introduced in May 2011, following approval by the relevant national authorities, of a request by Austrian Post.
- (22) Inbound cross-border mail are services offered by a postal operator in Austria to another postal operator abroad (e.g. a postal operator distributes in Austria the mail received from a postal operator abroad).
- (23) See footnote 18.
- (24) See footnote 12.
- (25) See footnote 13.
- (26) *Main developments in the postal sector (2010-2013)*, WIK Consult, August 2013, p. 174.
- (27) See footnote 18.
- (28) See footnote 6.
- (29) See footnote 6.
- (30) E-mail of Austrian Post of 14 January 2014.

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- (31) Commission Decision 2007/564/EC of 6 August 2007 exempting certain services in the postal sector in Finland, excluding the Åland Islands, from the application of Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors ([OJ L 215, 18.8.2007, p. 21](#)).
- (32) See footnote 18.
- (33) OLG Wien, 26 Kt. 8,9/0-44, 43.
- (34) See point 11 of Commission Decision SG-Greffe(2005) D/201691 of 8 April 2005 (Case No COMP/M.3648 — Gruner + Jahr/MPS), and point 15 of Commission Decision SG-Greffe(2005) D/200313 of 24 January 2005 (Case No COMP/M.3579 — WPP/GREY).
- (35) See footnote 12.
- (36) See footnote 13.
- (37) See footnote 18.
- (38) See footnote 30.
- (39) See footnote 18.
- (40) Request, p. 22.
- (41) See footnote 40.
- (42) Request, p. 14.
- (43) See footnote 18.
- (44) Decision 2007/564/EC.
- (45) Request, p. 25.
- (46) Commission Implementing Decision 2011/875/EU of 16 December 2011 exempting certain financial services in the postal sector in Hungary from the application of Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sector ([OJ L 343, 23.12.2011, p. 77](#)).
- (47) See footnote 30.

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