

General Administrative Order in accordance with section 10(2) PostG on providing information related to fixed-location facilities

1. Providers of postal services within the meaning of section 3 of the Postal Act (PostG) of 15 July 2024 (Federal Law Gazette 2024 I No 236) that operate postal outlets or automated stations or have them operated by others are required to submit the following information on their fixed-location facilities to the Bundesnetzagentur by 1 January and 1 July of each year:

- a) the type and address of the facility (street, number, postcode, place);
- b) the surname, first name, telephone number and email address of the operator of the facility.

A legal person (eg a public limited company, a limited partnership or a corporation) that operates fixed-location facilities must provide the Bundesnetzagentur with the following information:

- a) the type and address of the facility (street, number, postcode, place);
- b) name, address and legal form of the undertaking;
- c) surname, first name, telephone number and email address of a contact person.

If providers operate fixed-location facilities under contract for another provider, the contracting entity is solely responsible for submitting the information.

2. The information in point 1 about fixed-location facilities must be submitted electronically to the Bundesnetzagentur in the form of xlsx or csv files using a closed user group made available by the Bundesnetzagentur. The submission deadline of 31 January 2025 applies to anyone submitting data for the first time.

3. The parties subject to the obligation under point 1 must contact the Bundesnetzagentur by email at anbieterverzeichnis-post@bnetza.de and designate one or more persons who will have access to the closed user group.

4. In accordance with section 97 sentence 4 PostG in conjunction with section 41(4) sentence 4 of the Administrative Procedure Act (VwVfG), this General Administrative Order is deemed to have been made public on 9 January 2025, the day following its publication on the website of the Bundesnetzagentur and its publication in the Bundesnetzagentur Official Gazette.

Reasoning

I.

Major changes to the Postal Act (PostG) entered into force on 19 July 2024. For example, persons and undertakings that operate fixed-location facilities, or have fixed-location facilities operated by others, including postal outlets, parcel shops or automated stations intended for the conclusion of contracts for postal services or for the use of such services, are now required under section 10(1) PostG in the version currently in force to notify the Bundesnetzagentur of the fixed-location facilities currently operated by 1 January and 1 July of each year. Providers operating fixed-location facilities under contract for another provider are not required to submit a notification. In these cases the notification requirement only applies to the contracting entity.

II.

The orders in points 1 to 3 of this General Administrative Order are issued on the legal basis of section 10 subsection 2 in conjunction with subsection 1 PostG. In accordance with section 10(2) PostG the Bundesnetzagentur sets out in a General Administrative Order the form and technical format by which the information under section 10(1) PostG is to be submitted.

1.

In point 1 of this notification the Bundesnetzagentur clarifies the wording of section 10(1) PostG, which already sets out the fixed-location facility data to be transmitted to the Bundesnetzagentur. Point 1 of this General Administrative Order thus does not contain any arrangement not already outlined in

section 10(1) PostG. It serves merely to ensure better understanding of this General Administrative Order and therefore does not require any further reasoning.

2.

The order in point 2 is issued following due consideration of the exercise of discretion. In point 2 of this General Administrative Order the Bundesnetzagentur requires providers of postal services that operate fixed-location facilities or have fixed-location facilities operated by others to provide the data to be submitted in the form of documents in xlsx or csv format using a closed user group. With this order the Bundesnetzagentur ensures that the data can be read and processed quickly and reliably. At the same time, by requiring that the data is made available using a closed user group, the Bundesnetzagentur ensures that the data is not transmitted in a way that allows unauthorised persons access to the data.

The order in point 2 is suitable for ensuring that the data referred to therein is transmitted to the Bundesnetzagentur in a way that enables it to be processed and also prevents the data from possibly being viewed by unauthorised persons intercepting unencrypted transmission channels.

The order in point 2 is also necessary. Only providers of postal services that operate fixed-location facilities or have fixed-location facilities operated by others are in a position to provide the Bundesnetzagentur with full information within the meaning of point 1 of this General Administrative Order. The use of a closed user group is also necessary to ensure the secure transmission of data as described. There is no less restrictive means of transmitting this data than by means of encrypted emails. Here the parties subject to the obligation would also have to ensure that the documents transmitted or the messages containing them were encrypted at least in such a way that allowed the Bundesnetzagentur to decrypt them after they were transmitted.

The order in point 2 is also reasonable. The Bundesnetzagentur is aware of the time required of the parties and undertakings obliged to provide and submit the information listed in point 1 of this General Administrative Order. However, to complete its tasks as required under the Postal Act the Bundesnetzagentur must have knowledge of all fixed-location facilities, including the address and contact details of business managers or at least of contact persons. The order is also proportionate since it gives obligated undertakings a deadline of 31 January 2025 if they are providing the information under point 1 for the first time.

3.

The order in point 3 is also issued following due consideration of the exercise of discretion. By requiring obligated parties to notify the Bundesnetzagentur by email of one or more persons to be given access to the Bundesnetzagentur's closed user group, the Bundesnetzagentur ensures that obligated parties have access to the closed user group as necessary to comply with the order in point 2. There does not appear to be a less restrictive, equally suitable means to achieve this purpose.

III.

The entry into force of the General Administrative Order is urgent because until it becomes effective for providers of postal services that operate fixed-location facilities or have fixed-location facilities operated by others it remains unclear how they have to fulfil their obligations under section 10(1) PostG and as set out in point 1 of this General Administrative Order. For this reason point 4 states the day after publication in the Official Gazette pursuant to section 97 sentence 4 PostG in conjunction with section 41(4) sentence 4 VwVfG as the date of the public announcement.

Notification of appellate remedies:

An appeal against this administrative order may be lodged within one month of its issue. The appeal must be lodged with the Bundesnetzagentur, Tulpenfeld 4, 53113 Bonn or any other Bundesnetzagentur office. Under section 103(2) PostG objections and action against the decision above do not have suspensory effect.