An Post's price application:

Response to Consultation and ComReg's consent to change the charges of certain postal services within the scope of the universal postal service relating to postal packets weighing less than 50 grams

Response to Consultation and Consent

Reference: ComReg 13/21, D05/13

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1 Introduction

1 The Commission for Communications Regulation ("ComReg") in Document 12/138 consulted on changes proposed by An Post to its charges for certain of its postal services within the scope of universal postal service relating to postal packets weighing less than 50 grams.

2 Under section 30(12) of the Communications Regulation (Postal Services) Act 2011 ("2011 Act") the price increases proposed by An Post require the prior consent in writing of ComReg, pending the making of a future price cap decision by ComReg.

3 ComReg, in considering whether to consent to An Post's proposed price increases, must take into account the potential effect of the proposed increases on the availability of a universal postal service within, to and from the State, at an affordable price for the benefit of all postal service users. ComReg must also assess whether the increased prices for the universal postal services, if introduced, would comply with the tariff requirements set out in section 28 of the 2011 Act, which include that tariffs for a universal postal service must be affordable, cost-oriented, uniform, transparent, and non-discriminatory.

4 There were nine responses to Consultation 12/138. They are as follows:

- An Post
- Communications Workers Union ("CWU")
- Consumer Association of Ireland ("CAI")
- Convenience Stores and Newsagents Association ("CSNA")
- DX
- Mr. Christopher Heavey
- Nightline
- Pitney Bowes
- TICo Mail Works

5 ComReg has considered all of these responses and gratefully acknowledges the time and effort given by all respondents in considering Consultation 12/138 and in preparing their responses.

2 Executive Summary

6 On 19 October 2012, in accordance with section 30(12) of the Communications Regulation (Postal Services Act 2011 ("2011 Act"), An Post submitted an application seeking ComReg's consent to increase its prices for certain postal services within the scope of the universal postal service relating to postal packets weighing less than 50 grams. Section 30(12) of the 2011 Act is a transitory price consent requirement pending the making of a price cap decision by ComReg.

7 An Post has not increased its prices for such services since March 2007 and therefore, as noted in Consultation 12/138, appropriate increases are likely to be warranted. It was the quantum of those increases, and their compliance with relevant provisions of the 2011 Act, which was central to ComReg's Consultation 12/138.

8 An Post does not require ComReg's prior consent to increase prices for its postal services within the scope of the universal postal service for postal packets that weigh *more* than 50 grams and on 1 May 2012 An Post did increase its prices for such services.

9 Consultation 12/138 set out ComReg's preliminary views on An Post's application of 19 October 2012 and in most cases ComReg was of the preliminary view to consent to the price increases sought by An Post. However, for certain universal postal services that are predominately used by postal service users, such as Stamped Domestic Letter, ComReg had concerns that the full price increase sought by An Post may not be appropriate. However, ComReg indicated that it could be minded to consent to lower price increases.

10 Consequently, having considered the concerns expressed by ComReg in Consultation 12/138, An Post, on 29 January 2013, submitted[1] an adjusted price application to match the lower price increases that ComReg had indicated in Consultation 12/138 that it "could be minded to consent to".

11 ComReg welcomes this adjusted application by An Post which addresses most of the concerns raised by ComReg in its Consultation 12/138. As noted in Consultation 12/138, further public consultation is not required on this adjusted application as the views of interested parties have already been sought by Consultation 12/138.

[1] Published as Document No. 13/21a

12 An Post's adjusted application of 29 January 2013 to increase its prices for certain of its postal services within the scope of universal postal service is made in the context of a substantial loss of business in recent years. In common with the postal industry in most other countries, this recent loss of business has much to do with the global economic downturn and the move to replace traditional mail with electronic substitutes such as email or online access to documents, in turn leading to a significant decline in mail volumes. While this loss of business has nothing to do with regulation or market liberalisation, it certainly presents a number of challenges for An Post, if it is to ensure that its business remains financially viable. These key challenges were discussed in chapter 3 of Consultation 12/138.

13 Based on information provided by An Post, ComReg estimates that the price increases will generate an extra c.€19m[2] in revenue in its first full year of implementation. However, this additional revenue will decline year on year, as illustrated by An Post's forecasted decline in mail volumes. While this additional revenue will be very welcome to An Post, it is worth noting that it will cover less than one third of the current financial losses[3] which An Post claims to be incurring annually as a result of providing the universal postal service.

14 It is against this background that An Post seeks ComReg's consent to its price increases. As noted in Consultation 12/138, ComReg is of the view that increased prices, at best, can only form part of an overall solution to An Post's financial challenges and only if such increases do not have a significant detrimental impact on future mail volumes, which would result in reduced revenues and thereby negate the benefit of the price increases.

15 An Post's application can be considered to apply to two separate categories of postal services.

16 The first category is the "universal postal services" which are provided exclusively by An Post, the sole designated universal service postal provider in the State. Section 28(1) of the 2011 Act provides that the "*tariffs for each postal service or part of a postal service provided by a universal postal service provider in the provision of a universal service shall comply*" with requirements as to cost orientation, affordability, uniformity, transparency, and non-discrimination.

[2] c.€8m from price increases made 1 May 2012 and c.€11m from price increases under An Post's adjusted price application of 29 January 2013.
[3] This does not equate to any net cost associated with the provision of the universal postal service. ComReg has yet to determine the methodology for this and will do so in 2013.

17 Having regard to the applicable provisions of the 2011 Act, the views expressed by Frontier Economics in its supporting report[4] to ComReg, and the responses made to Consultation 12/138, this Response to Consultation document sets out ComReg's consent to An Post's proposed prices for certain of its universal postal services as set out in its adjusted price application of 29 January 2012.

18 The second category consists of postal services that are not "universal postal services" but are "within the scope of universal postal service" (i.e. such services may be provided by postal service providers other than An Post). ComReg has consented to An Post's application to increase its prices for its various non-universal postal services that are within the scope of universal postal service. Such services are not subject to the tariff requirements set out in section 28(1) of the 2011 Act (which only apply to the "universal postal services" provided by An Post) while the 2011 Act does not contain any other provisions by which ComReg may specifically assess an application to increase prices for such services and decide whether to give its consent, or not.

19 Table 1 below summarises ComReg's consent to An Post's application of 29 January 2013. ComReg does not expect to rely on section 30(12) of the 2011 Act further given that it intends to have the price cap mechanism provided for by section 30(2) of the 2011 Act implemented by the end of 2013.

Table 1: ComReg's consents for An Post's universal postal services weighing less than 50 grams

Universal postal services: 0 – 50g	Current price	An Post's price application of 29 January 2013
Domestic stamped letter	0.55	0.60
Domestic metered letter	0.54	0.59
Business reply letter	0.54	0.59
Stamped large envelope	0.95	1.05
Metered large envelope	0.95	1.03
Business reply large envelope	0.95	1.03
Stamped packet	2.20	2.40
Metered packet	2.20	2.35
Business reply packet	2.20	2.35

[4] Redacted version published as Document No. 12/138a

Universal postal services: 0 – 50g	Current price	An Post's price application of 29 January 2013
Proof of delivery	n/a	5.50
Insurance	n/a	5.00 plus
"Delivery only" bulk mail letter	(0.44)[5]	0.48
"Delivery only" bulk mail large envelope	(0.82)[5]	0.90
"Delivery only" bulk mail packet	(2.00)[5]	2.19
"Deferred delivery" bulk mail letter	(0.41)[6]	0.45
"Deferred delivery" bulk mail large envelope	(0.76)[6]	0.84
"Deferred delivery" bulk mail packet	n/a	2.25
International	Various	Various
International bulk mail	Various	Various

20 To conclude, given the financial challenges facing An Post, the price increases herein consented to are necessary but they can only be one of a series of measures necessary to ensure the continued financial viability of An Post and to maintain the provision of a universal postal service. These various measures must, of necessity, include cost containment and further growth in other commercial activities. Therefore, it is for An Post management to address these other necessary measures as a matter of urgency in order to ensure the continued provision of the universal postal service at an affordable price for all postal service users.

[5] For information purposes, the current price for Bulk Mail 9. "Delivery only" will be based on current Bulk Mail 9 product.
[6] For information purposes, the current price for Bulk Mail 6. "Deferred delivery" will be based on current Bulk Mail 6 product with amendments made to allow acceptance at all delivery offices for a D+2 delivery and a lower threshold of 200 items for meter customers.

3 Key challenges facing An Post

21 In Chapter 3 of Consultation 12/138, ComReg set out some of the key challenges[7] facing An Post and the relationship of the price increase application to these challenges. ComReg sought the views of interested parties by asking:

Q. 1 Do you agree with the identification of the key challenges facing An Post and the relationship of these to the proposed price increases sought by An Post? Please support your answer with reasons and any supporting material.

Views of respondents

22 General responses to this question were as follows.

23 In his response, **Christopher Heavey** claims that it is not obvious from the material presented with the Consultation that An Post has a realistic plan to adapt its business model as he claims that An Post is not developing new services to meet evolving customer needs. According to Christopher Heavey, although mail volumes have declined by 23%, An Post still employs 8,859 operational staff, only 29 fewer than in 2007. Christopher Heavey states approval for any price increases must therefore be conditional on An Post developing a workable business plan to secure its future.

24 The **Consumers' Association of Ireland** makes a general observation that the measures to be undertaken by An Post must of necessity include cost containment and further growth in other commercial activities.

25 **DX** claims that the universal service obligation makes it difficult for An Post to reduce its costs in response to falling demand and therefore price increases are necessary. DX notes that the need to be able to increase prices in response to falling volumes has recently been identified in a report by Copenhagen Economics[8] for the European Commission.

26 In its response, **Nightline** agrees that the postal market is subject to all the constraints identified by ComReg in its Consultation. Nightline states that it is not clear how An Post has sought to encourage Down Stream Access ("DSA").

[7] Further details on the general environment for the universal postal service provider can be found in ComReg's Postal Strategy Statement 2012 – 2014 (Document No. 12/116 dated 30 October 2012).
[8] http://ec.europa.eu/internal_market/post/doc/studies/2012-pricing-behaviour-study_en.pdf

ComReg's position

27 In response to the views expressed by Christopher Heavey, ComReg notes that its consent or otherwise can only be based on the requirements of the 2011 Act. At this time, under the transitory obligation of section 30(12) of the 2011 Act, ComReg is not required to provide incentives for efficient universal postal service provision. In making any price cap decision later this year, ComReg, as required by the 2011 Act, will provide incentives for efficient universal postal service provision.

28 With regard to the observation made by the Consumers' Association of Ireland, ComReg notes that An Post, in its application and response to consultation, remarks that the measures to be undertaken by it must include cost containment and growth in other commercial activities.

29 In response to the points made by DX, ComReg will conduct a review as to whether the universal postal service is being provided efficiently; that is, whether there is scope for cost reduction. This review is required by the 2011 Act, for the purposes of introducing the required price cap mechanism and for any application which An Post may care to make for funding in respect of the net cost of its Universal Service Obligation. ComReg further notes that the price cap mechanism will have to be based upon estimates of future mail volumes, which are expected to continue to fall for some time to come, as the 2011 Act requires the price cap to be in place for a period of 5 years.

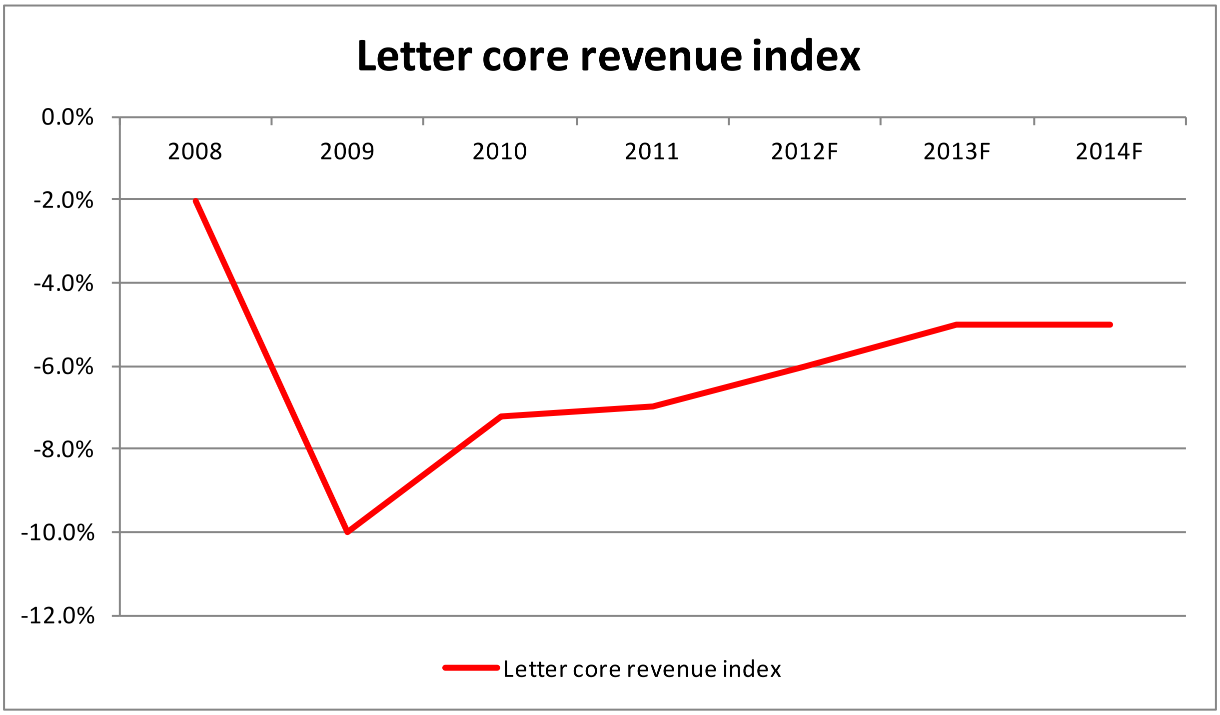
30 In response to Nightline, ComReg notes that DSA is to be commercially negotiated and does not form part of this price application process.

31 Specific responses to each of the challenges were as follows.

Challenge 1: Significant declines in mail volumes – proposed price increases could result in further mail volume declines

32 In Consultation 12/138, ComReg noted the significant decline in mail volumes for An Post's core letters business which can be seen in the graph below[9]. The graph shows actual declines for the period 2008 – 2011 inclusive and forecast declines for 2012 - 2014 inclusive (assuming the proposed price increases are made). In both cases the data is as provided by An Post.

[9] Based on An Post's "letter core revenue index" published in its audited annual reports.



Source: An Post's price application (Figure 11)

33 In Consultation 12/138, ComReg noted that it is of the view that a further significant decline in An Post's mail volumes, absent any commensurate reduction in its costs, would significantly increase An Post's costs per unit, thereby possibly placing the financial viability of the universal postal service provider at risk. It is questionable whether further price increases could compensate for such increased per unit costs as significant price increases may drive postal service users to switch to substitutable electronic services. This cycle of fewer customers leading to higher prices, leading to fewer customers still, could rapidly result in an irreversible downward spiral in mail volumes.

Views of respondents

34 In its response, **An Post** notes that it faces the same challenges as other postal operators worldwide which arise from the significant decline in mail volumes resulting in a loss of revenue of a similar magnitude. An Post maintains that despite this decline in mail volumes and the continuing erosion of the core business through electronic substitution and economic factors, the Universal Service Obligation remains largely unchanged. An Post claims that the cost of providing the universal service requires significant elements of fixed costs and the decline in mail volumes has, therefore, caused unit costs to rise. An Post further notes that although price increases are a necessary component to ensure a financially sustainable universal service, it was never the case that this was the only component as An Post plans significant cost reductions and the introduction of new revenue streams.

35 In its response, **CWU** states that at this point in time e-substitution represents the greatest threat to An Post's business. CWU further states that whilst the economy is stabilising mail volumes continue to decline. Against this background, CWU notes An Post has undertaken a comprehensive cost reduction programme which it claims has already yielded savings in the cost base, forecast to be 15.4% by the end of 2012. In addition to this, CWU further notes that An Post's current five year plan outlines that 2,600 Full Time Equivalent posts (FTEs[10]) will be shed by 2016. In conjunction with this, CWU states that An Post continues to pursue operational efficiencies alongside investments in mail processing technologies. CWU thus considers that An Post is taking a pro-active approach to cost reduction in the face of declining mail volumes.

36 CWU notes that ComReg has a statutory objective to ensure that there is an affordable universal postal service for all. According to CWU, central to this is a properly financed postal operator. Therefore, according to CWU, it is clear that doing nothing is simply not an option at this time.

37 CWU notes that since the last price increase in 2007, the financial position of An Post has deteriorated. According to CWU, the KPMG audit of An Post's accounts shows that An Post incurred losses of €50.2 million in 2011 in providing the Universal Service and that its forecast losses for 2012 are likely to increase to €65 million. CWU states that while An Post has committed to funding the Universal Service from its own resources, there is a limit to the extent to which this can be achieved without adequate flexibility and pricing. By way of comparison, CWU notes that in the UK, the approach of the postal regulator, Ofcom, is to allow the Royal Mail more freedom in setting its own prices. According to CWU, this reflects recent reports from the European Commission which observed that as volumes continued to decline, that operators should be allowed greater pricing flexibility.

38 **DX** states that the postal market is declining due to electronic substitution. DX suspects that there are many factors influencing the substitution of mail by electronic media and that price is very often relatively unimportant, particularly, as DX believes, the marginal cost of electronic media is close to zero in many cases. Therefore, DX doubts whether the changes in the prices of the scale sought by An Post would have a significant effect on mail usage.

[10] Full Time Equivalents (FTEs) is total hours worked divided by annual hours requirement of a full-time job. Therefore, an employee working half the hours of a full-time job would be a 0.5 FTE and an employee working overtime in addition to the required hours of a full-time job would be a FTE greater than 1. Consequently, the reporting of FTEs should not to be confused with actual posts or staff employed.

ComReg's position

39 In response to An Post's comments, ComReg notes An Post's plans for significant cost reductions and new revenue streams to ensure a financially sustainable universal postal service. Further, in July 2012 ComReg set a minimum specification as to what constituted the "universal postal service" and part of ComReg's rationale in doing so was to curtail the regulatory burden on An Post and allow it maximum commercial flexibility where appropriate.[11]

40 In relation to the statement by An Post and the CWU that providing the universal postal service requires significant elements of fixed costs, ComReg will shortly conduct a review as to whether the universal postal service is being conducted efficiently, that is, whether there is scope for cost reduction. Such a review is required by the 2011 Act for the purposes of introducing the required price cap mechanism and for any application which An Post may care to make for funding in respect of the net cost of its Universal Service Obligation.

41 ComReg agrees with the CWU and DX that e-substitution represents a very significant threat. As noted in Consultation 12/138, significant price increases may drive postal service users to switch to substitutable electronic services and once a portion of mail business has been lost to an electronic substitute it would seem relatively unlikely that business will return as such business customers would most likely invest significant resources in order to implement the switch. Therefore, e-substitution, once it occurs, is likely to be permanent.

42 Given the challenges facing An Post, ComReg agrees with the CWU that doing nothing is simply not an option at this time. However, ComReg can only act within its statutory remit as set by the 2011 Act. It is for An Post management to address the challenges facing An Post to ensure the continued provision of a universal postal service at an affordable price for all postal service users.

43 In relation to the significant past and ongoing financial losses which An Post states that it is incurring in its provision of the universal postal service, ComReg noted in Consultation 12/138, and previously, such losses do not necessarily equate to a *net cost* of providing a universal postal service. Under the 2011 Act and EC Directive, the net cost of providing a universal postal service is calculated based on the *efficient* provision of such a service. In this regard, ComReg would refer readers to Schedule 4 of the 2011 Act.

[11] ComReg Document No. 12/81

44 In relation to the issue of mail volume decline and pricing flexibility, ComReg again notes that it can only act within the remit set for it by the 2011 Act. For pricing purposes, section 30 of the 2011 Act requires ComReg to implement a price cap mechanism to apply for a period of 5 years. Consequently, this price cap mechanism will, by necessity, have to consider falling mail volumes over that 5-year period, in order to ensure, insofar as possible, that An Post is in a position to recover efficiently incurred costs associated with providing the universal postal service.

Challenge 2: Claimed significant financial losses associated with the provision of the universal postal service – these claimed financial losses will not be fully remedied by the proposed price increases

45 In Consultation 12/138, ComReg noted that An Post estimates that its incurred financial loss[12] from providing the universal postal service will be c.€65m in 2012. This means that the estimated additional revenues from the price increases, even if generated, would only cover approximately one third of these forecast losses. Moreover, estimated additional revenues in the amount of c.€19m[13] would be generated in the first year only and would then decline year on year, as mail volumes continue to decline as forecast by An Post. Therefore, as noted in Consultation 12/138, price increases alone will not be sufficient and An Post must also address the problem of its annual incurred losses in providing the universal postal service through other measures.

[12] This is financial loss forecast by An Post. It does not equate to any net cost associated with the provision of the universal postal service. This is because the 2011 Act and the EC Postal Directive are clear that this must relate to the efficient provision of the universal postal service. Furthermore, the 2011 Act and the Postal Directive are clear that the net cost is to be calculated by reference to the difference between the net costs of a designated universal service provider operating under a universal service obligation and not operating under such a requirement.

ComReg will consult on the form and manner that any request for the funding of net costs associated with the provision of the universal service. As set out by ComReg in its Postal Strategy Statement, ComReg will consult on this in Quarter 1, 2013. Furthermore, as set out by ComReg in its Postal Strategy Statement, any net cost submission by An Post is not expected until Quarter 2, 2013 given that the net cost submission should be informed by audited cost data. Absent a decision by ComReg on this methodology, a net cost (if any) associated with the provision of the universal service obligation cannot be established.

[13] c.€8m from price increases made 1 May 2012 and c.€11m from price increases under An Post's adjusted price application of 29 January 2013.

46 Consultation 12/138 further noted that the 2011 Act provides a mechanism for An Post, the sole designated universal postal service provider, to seek funding of the net cost associated with the provision of the universal postal service, if that net cost is found to be an unfair burden. However, if a net cost is found, and if in turn ComReg determines it to be an unfair burden, then it would be An Post itself, in the main, that would fund any such net cost (in its capacity as a postal service provider offering postal services within the scope of universal postal service). The reason for this is that there are currently few postal service providers other than An Post that provide postal services within the scope of universal postal service[14], and those few are likely to be so small in size that their contributions to the net cost of the universal service could be minimal.

Views of respondents

47 In response, **An Post** notes that it does not and has never expected to cover the financial losses of the Universal Service through price increases alone. An Post states that its strategy has always been a combination of cost reductions, new revenue streams, and appropriate price increases.

48 In its response, the **CWU** states that An Post is already pursuing a comprehensive cost reduction programme comprising of head count reduction, realignment of the work force, operational and supply chain efficiencies, automation and route optimisation design. However, the CWU states that the fact remains that payroll costs in An Post are 74.1% of its total costs. The CWU claims that whilst An Post intends to reduce the number of employee FTEs[10] by 2,600 in the period up to 2016, it maintains that the labour cost is essentially a fixed cost that is essential to delivering the Universal Service Obligation as well as maintaining quality of service standards.

49 The CWU notes that An Post has operated to date without any state subvention or tax payer support. The CWU believes that this is unlikely to remain the case in light of the fact that the provision of the Universal Service is leading to serious losses in the organisation. The CWU further notes that the 2011 Act does provide a mechanism whereby the Universal Postal Service provider can seek funding of the net costs if it is found to be an unfair burden, though the CWU also notes that if the net cost is an unfair burden then An Post itself who will be the main contributor to any fund that may be set up to cover such costs. According to the CWU, this is because the anticipated new market entrants have not materialised to the extent that they are in a position to contribute to such a fund. The CWU further suggests that some may consider this to be a damning indictment of the liberalisation agenda itself.

[14] See http://www.comreg.ie/postal/regulation_of_authorised_providers.545.html. An Post currently provides 35 postal services within the scope of universal postal service, DX 1 postal service within the scope of universal postal service, and Nightline has 1 prospective postal service within the scope of universal postal service.

50 The CWU submits that it is justifiable to grant the full price increase sought by An Post at this time, on the claim by the CWU that An Post is considered by international standards to be a very efficient postal operator and that An Post continues to pursue improved efficiencies and cost reductions. The CWU contends that the fact that the increases being sought do not fully meet the anticipated losses serves to underline just how critical this price review is and that anything short of the full amount being sought will exacerbate the financial challenges for An Post. The CWU states that this would not be in the best interest of the postal market and would threaten the provision of the Universal Service Obligation. Furthermore, the CWU believes that not granting the full price increases would also run contrary to the statutory obligations imposed on ComReg under the 2011 Act.

ComReg's position

51 ComReg notes An Post's stated intention to meet the estimated financial losses of the universal postal service through a combination of cost reductions, new revenue streams, and appropriate price increases.

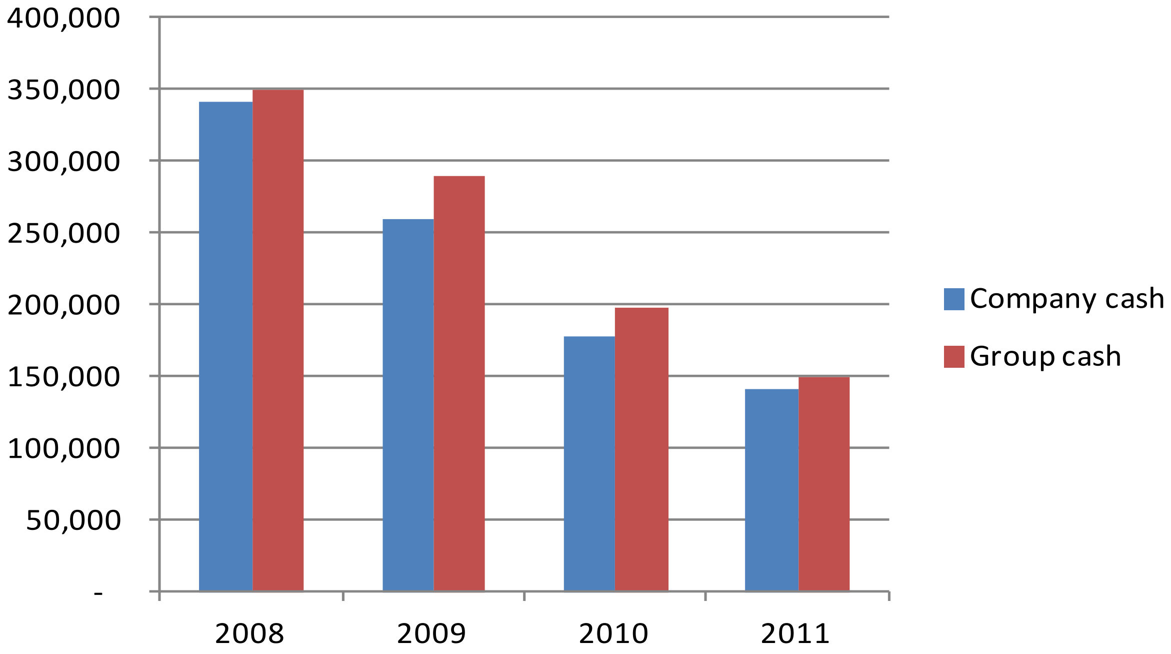
52 ComReg would not agree that the lack of market entry is a damning indictment of postal liberalisation. As noted by the CWU earlier in its response, e-substitution has and will continue to pose a significant threat to the postal sector and in particular certain classes of letter mail. ComReg considers that it is against that factual background that market entry has been limited, rather than as a result of the statutory framework created by the 2011 Act. ComReg does however note the findings of its 2010 commissioned research (Document 10/102) that pointed to the fact that there is now considerable competition in the packets, parcels and, to some degree, bulk mail sectors arising from the gradual liberalisation of the postal market that commenced with the enactment of the first Postal Directive, in 1997.[15]

53 In relation to the CWU's comments on the price increases, ComReg notes that one of its core functions, set out in section 10 of the Communications Regulation Act 2002 as amended by the 2011 Act, is "*to ensure the provision of a universal postal service that meets the reasonable needs of postal service users*". Therefore, in giving its consent to the proposed prices increases, ComReg must ensure that the price increases are appropriate and that their introduction would not pointlessly accelerate the current decline in mail volumes due to price elasticity of demand and thereby threaten the very future of the universal postal service.

[15] 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.

Challenge 3: The deteriorating cash position of An Post – the proposed price increases will not fully remedy this

54 An Post is the current sole designated universal postal service provider while ComReg's statutory remit is to ensure the provision of a universal postal service that meets the reasonable needs of postal service users. ComReg is consequently concerned by An Post's deteriorating cash position. The following graph was set out in Consultation 12/138 (based upon data from An Post's audited and published annual reports):



Source: An Post's annual reports

55 Consultation 12/138 noted that An Post's cash reserves have been declining at a rate of c.€50-90m per annum. This outflow includes certain one-off costs such as investment in new automated machines and provisions made for voluntary severance schemes. However, the general trend of An Post's cash balance is unquestionably downwards. Therefore, given a cash balance of c.€150m at the end of 2011, and absent any other changes and the fact that the proposed price increases, even when implemented, will not address the year on year losses being incurred, it is quite clear that An Post faces a very challenging financial situation which will not be redressed by price increases alone.

Views of respondents

56 In its response, **An Post** states that ComReg's analysis of this issue does not reflect the realities of the cash management position within An Post. According to An Post, cash has been strategically invested by An Post over the last number of years in voluntary staff exit schemes and in significant capital investment which has resulted in lower operating costs which, in turn, have facilitated improved and more efficient services to An Post's customers. An Post states that these investments were funded by a once off receipt from the sale of certain surplus assets.

57 An Post notes that it operates, in addition to the mails business, the post office network and some significant subsidiaries including the National Lottery Company. Therefore, An Post states that managing cashflow is a critical component of its business and it is managed on a daily basis by a dedicated team of experts.

58 In its response, the **CWU** claims that Consultation 12/138 presents a skewed picture of An Post's so-called "cash burn" problem. The CWU states that ComReg, in describing the situation regarding An Post's cash reserves, presented just four years based upon An Post's Annual Reports, from 2008 to 2011. During this 4-year period, the CWU notes that An Post's cash reserves did decline at a rate of €50m to €90m per annum. However, the CWU submits that it should be noted that An Post's cash reserves were in very good condition in 2008, after the sale of SDS, and that since then the outflow of cash has been due to the wholly appropriate mix of one-off items such as investment in new machinery and provisions for voluntary severance schemes. According to the CWU, both of these expenditures are directly related to An Post's pursuit of greater efficiency and cost containment. The CWU thus contends that it is disingenuous of ComReg to describe An Post's declining cash reserves as a "cash burn problem".

ComReg's position

59 The analysis presented by ComReg examined the movement of cash within An Post since the last price increase sought by and granted to An Post, in 2007. ComReg notes that the cash spend in the period 2008 – 2011 was c.€200 million, of which c.76%[16] was capital expenditure such as purchase of new automated sorting machines while c.24% was cash paid for voluntary staff exit[17]. In relation to voluntary staff exits, ComReg notes Christopher Heavey's point referenced at paragraph 23 above that although mail volumes have declined by 23%, the headcount reductions to date have been minimal[18].

60 ComReg also notes that An Post's liabilities exceeds its assets by c.€165 million at the end of 2011[19] due to its pension liability deficit[20].

61 ComReg remains of the view that An Post faces a very challenging financial situation and An Post management must address An Post's cash outflow as a matter of utmost urgency, in order to ensure the continued provision of the universal postal service by An Post at an affordable price for all its postal service users.

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[16] Also, for information, according to An Post's audited annual reports, cash expenditure on Tangible Fixed Assets was c.€317m in the period 2002 – 2011 which was mainly expenditure on Operating Equipment and Buildings.

[17] Also, for information, according to An Post's audited annual reports, cash paid for Voluntary Severance / Voluntary Early Retirement was c.€93m in the period 2005 – 2011.

[18] Also, for information, An Post's annual reports show An Post company staff numbers (excluding subsidiaries) at 10,713 in 2011 against company headcount of 9,579 in 2007 – an increase of 1,134 staff headcount (c.12%) over the five year period. Furthermore, according to An Post's annual report, within these company staff numbers, casual (temporary) employees decreased from 1,398 in 2007 to 1,160 in 2011 – a decrease of 238 (c.17%) casual/temporary posts.

[19] As noted by An Post's auditor, KPMG in its Report to the Members of An Post:
"*The balance sheet of the Company … reports an excess of liabilities over assets and, in our opinion, on that basis there did exist at 31 December 2011 a financial situation which under section 40(1) of the Companies (Amendment) Act, 1983 may require the convening of an extraordinary general meeting of the Company*." At page 45 of An Post's annual report 2011.

[20] According to An Post's audited annual report, its pension liability is c.€484m at the end of 2011.

Challenge 4: Efficient provision of the universal postal service commensurate with the volume decline – the proposed price increases could accelerate volume declines requiring further cost adjustments

62 Consultation 12/138 noted that the 'Report of the Review Group on State Assets and Liabilities'[21] stated that An Post is facing an "*… industrial relations challenge of aligning the company's fixed cost base to declining revenues particularly in the postal business.*" Consultation 12/138 noted that staff costs account for around three-quarters of total operating costs in An Post's mails business and it is essential for An Post management to ensure that staffing is appropriate for its mail volumes so as to ensure the future financial viability of the business.

Views of respondents

63 In response, **An Post** claims that in the period to the end of 2012 it has reduced its operating costs by c. €100m (which it states equates to 15% of the operating base) and that further substantial savings are planned for the coming years.

64 In its response, the **CWU** claims that An Post already operates a very efficient mail processing and delivery organisation and is doing so without any state subvention and currently with one of the lowest stamp prices in Europe. The CWU believes that An Post remains committed to cost reductions and improved efficiencies but there is a limit to the extent that these measures can mitigate against a decline in mail volumes.

65 The CWU claims that staff costs are fixed costs which are essential to the provision of the Universal Service Obligation ("USO") and hence there is a limit to the extent to which those costs can be reduced. Therefore, the CWU submits that the price increases being sought are critical to the continued provision of the USO and the future financial viability of An Post. The CWU also cites Policy Direction 12[22] issued to ComReg by the Minister in February 2003, in accordance with section 13 of the Communications Regulation Act 2002, which includes the following: "*The Commission shall ensure that in making regulatory decisions in relation to the Postal Universal Service obligation, it considers the impact of such decisions on the cost of sustaining the universal service, which cost includes per employee costs arising from National Pay Policy*".

[21] April 2011
[22] Published at http://www.irisoifigiuil.ie/archive/2003/february/2003%2002%2028%20IO%20Issue.pdf

66 The CWU further notes that An Post has implemented a pay freeze since August 2008 and it claims that the actual average pay per full time employee decreased by 9.4% in the period from 2008 to 2011. In conjunction with this, the CWU also states that it was noted in the McCarthy Report that An Post had the lowest average annual salary of all commercial semi-state companies listed.

ComReg's position

67 In response, ComReg notes that An Post's claimed operational cost savings[23] are less than the reduction in turnover in the period.

68 Given the significant decline in mail volumes and the current financial position of An Post, ComReg remains of the view that it is essential for An Post management to ensure that the company's cost base is appropriate and is based upon its actual mails business, taking account of declining mail volumes, in order to safeguard the continued provision of a universal postal service at an affordable price.

69 ComReg can only act within its remit set by the 2011 Act. Therefore, as required by the 2011 Act, ComReg will provide incentives for the efficient provision of the universal postal service when it makes its price cap decision, which it expects to do later in 2013. However, while ComReg will provide incentives for the efficient provision of the universal postal service, it is for An Post management to ensure that the company operates efficiently in order to ensure its financial stability.

70 In relation to the CWU's reference to the Ministerial policy direction which issued to ComReg in 2003, ComReg considers that it has properly considered "*the impact [of its decision] on the cost of sustaining the universal service*" as stipulated by the policy direction. Indeed this has been a central issue throughout the consultation. However, ComReg also had to have full and proper regard to its overarching function "*to ensure the provision of a universal postal service that meets the reasonable needs of postal service users*" and to other applicable provisions of the 2011 Act. ComReg gives proper consideration to all Ministerial and Governmental policy direction issued to it but it must do so in the context of the specific duties, obligations and processes prescribed to it by statute. ComReg is of the view that its decision herein, and its reasoning leading to that decision, is consistent with the particular direction cited by the CWU.

[23] Also, for information, according to An Post's audited annual reports, group operating costs have reduced from c.€819m in 2008 to c.€805m in 2011 while group turnover has reduced from c.€850m in 2008 to c.€807m in 2011 resulting in an operational profit of just c.€2m in 2011 against an operating profit of c.€31m in 2011.

3.1 Conclusion

71 An Post seeks ComReg's required consent to an increase in its prices for certain postal services within the scope of the universal postal service relating to postal packets weighing less than 50 grams, as required by section 30(12) of the 2011 Act, in the context of the significant operational and financial challenges which face An Post.

72 ComReg considers that appropriate price increases are necessary but that price increases alone will not fully address the significant challenges facing An Post and that price increases, if they are too high, could even accelerate the current decline in mail volume and thus exacerbate, rather than address, those challenges. This is discussed further in the next chapter,

73 Price increases are therefore only one of a series of measures necessary to ensure the continued financial viability of An Post and to maintain the provision of the universal postal service. ComReg considers that these various other measures to be taken by An Post must, of necessity, include cost containment and further growth in other commercial activities. It is for An Post management to identify and take these various other measures urgently in order to ensure the continued provision of the universal postal service at an affordable price for postal service users.

4 An Post's volume forecasts

74 Consultation 12/138 noted that An Post has suffered a significant decline in its letter mail volumes in recent years. According to An Post, this decline has been mainly due to the downturn in the economy and e-substitution.

Table 2: Letters Core Revenue Index (source: An Post)

%	2008	2009	2010	2011	2012F	2013F	2014F
Volumes	-2%	-10%	-7%	-7%	-6%	-5%	-5%
Cumulative	-2.0%	-11.8%	-17.8%	-23.5%	-28.1%	-31.7%	-35.1%

75 As noted in Consultation 12/138, in preparing its forecasts for 2012 – 2014, An Post forecast growth rates for its postal services as set out in the table below, which it derived from international benchmarking, economic forecasts and the analysis of the An Post customer base by the An Post sales team.

Table 3: Forecast growth rates 2012 – 2014 (source: An Post)

% Growth Rates	2012F	2013F	2014F
Stamp (Domestic)			
- Letter	-4%	-5%	-5%
- Large Envelope	-6%	-6%	-6%
- Packet	0%	0%	0%
Meter (Domestic)			
- Letter	-9%	-5%	-5%
- Large Envelope	-11%	-6%	-6%
- Packet	0%	0%	0%
Bulk (Domestic)			
- Letter	-5%	-5%	-5%
- Large Envelope	-7%	-6%	-6%
- Packet	0%	0%	0%
Parcels	9.5%	8%	5%
OVERALL	**-6%**	**-5%**	**-5%**

76 In Consultation 12/138, ComReg expressed its concern that An Post's proposed price increases could accelerate the rate of mail volume decline so that any further price increases may be unaffordable for postal service users, and therefore counter-productive. For this reason ComReg sought the views of interested parties on An Post's forecast mail volumes by asking:

Q. 2 Do you agree with ComReg's comments / concerns in relation to the mail volume forecasts made by An Post in its application? Please support your answer with reasons and any supporting material.

Views of respondents

77 **An Post** in its response states that it does not share the concerns that ComReg has expressed in relation to volume forecasting. An Post notes that there are three key payment methods; stamps, meter franks, and Ceadunas (bulk mail). An Post states that these payment methods are interchangeable for many customers. For example, many SMEs use stamps, others use meter franking machines and some use Ceadunas (Bulk). According to An Post, many customers have changed payment method over the last number of years as they looked for the option that best suited them. An Post claims that this has made forecasting more difficult.

78 An Post notes that it has forecast significant growth in the parcels service arising from e-fulfillment. However, according to An Post, this is offset by the underlying decline in mail.

79 Historically, An Post claims that it has been accurate with its mail forecasts; for example, An Post states it forecast a 5% decline in 2012 and actual decline has been slightly less than 6%.

80 **Christopher Heavey** shares ComReg's concerns. He believes that An Post are looking at the issues as a mathematical exercise rather than a business forecast by looking at how it will meet customer needs.

81 The **CWU** states that predicting mail volumes is not an exact science and that An Post cannot definitively state where mail volumes will be in the coming years and ComReg cannot definitively say what effect any price increase might have on the rate of mail volume decline. The CWU states that the decline in mail volumes in not unique to Ireland and mail volumes are declining across Europe and further afield as a result of either stagnant economies or e-substitution or, in the case of Ireland, both.

82 **Nightline** notes ComReg's concern about the lack of packet growth at An Post claiming that it has itself seen a huge take-up in its business for packet delivery.

ComReg's position

83 ComReg remains of the view that increased prices, at best, can only form part of an overall solution to An Post's financial challenges and only if such increases do not have a significant detrimental impact on future mail volumes, which would result in reduced revenues and thereby negate the benefit of the price increases. As noted in Consultation 12/138, ComReg's concern remains that inappropriate price increases could accelerate the rate of mail volume decline so that any further price increases may be unaffordable for postal service users, and therefore counter-productive.

84 In relation to volume forecasting, ComReg is of the view that An Post must develop a more robust forecasting methodology to provide more granular forecasts which, as noted in Consultation 12/138, An Post has committed to do. Robust volume forecasts will be required from An Post for the future price cap mechanism which, once implemented, will be in place for 5 years in accordance with section 30 of the 2011 Act. In making these mail volume forecasts, ComReg considers it would be useful for An Post to survey its Top 30 customers (e.g. utilities, banks, Government) as these customers account for most of its mail volumes and understanding their future use of mail over the next 5 years will be critical to making a robust volume forecast.

5 An Post's price application

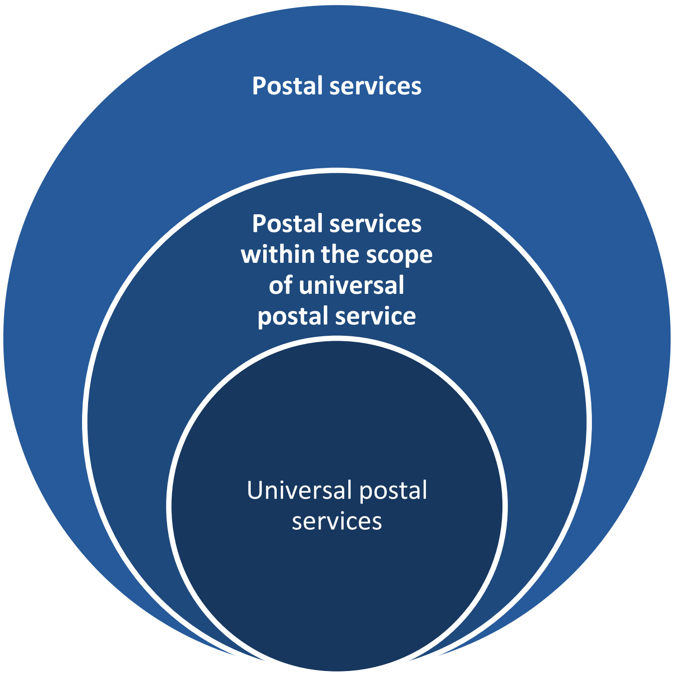
85 As noted in Consultation 12/138, An Post's postal services "within the scope of the universal postal services" fall into two categories:

(1) the universal postal services specified by ComReg in its Communications Regulation (Universal Postal Service) Regulations, 2012 (S.I. 280 of 2012)[24]; and

(2) non-universal postal services notified by An Post as being within the scope of the universal postal service.

86 Therefore, for An Post as the designated universal postal service provider, its universal postal services represent a subset of its postal services that fall within the scope of universal postal service.

87 This can be illustrated[25] as follows:



[24] http://www.comreg.ie/_fileupload/publications/SI_280_of_2012.pdf
[25] The illustration does not represent the number of An Post's postal services within the scope of universal postal service. It is to illustrate that, for An Post, as the current universal postal service provider, its universal postal services are a subset of postal services within the scope of universal postal service.

5.1 Price increases sought for postal services (not universal postal services) within the scope of the universal postal service that weigh up to 50 grams

88 In Consultation 12/138, ComReg noted that it will consent to all the price increases proposed by An Post for its non-universal postal services within the scope of universal postal service, for the following reasons:

- There are no applicable provisions in the 2011 Act to inform ComReg's consent or otherwise;
- Such services are not subject to the tariff requirements set out in section 28 of the 2011 Act;
- The increases do not appear to threaten the provision of the universal postal service; and
- ComReg should not unduly limit the commercial freedom of An Post in relation to these non-universal postal services (just as ComReg is not involved in overseeing pricing of other providers of postal services within the scope of universal postal service). Ultimately, this is best addressed through competition.

Views of respondents

89 Other than a comment by Christopher Heavey, there were no responses regarding ComReg's indication that it would consent to all the price increases proposed by An Post for its non-universal postal services within the scope of universal postal service consent. Christopher Heavey states that ComReg indicates that it will approve prices for non-universal postal services within the scope of the universal postal service without any investigation despite the fact that, according to Christopher Heavey, these services are to be subject to the future price cap.

90 An Post's adjusted application of 29 January 2013 did not affect any of the price increases sought for its non-universal postal services within the scope of universal postal service.

ComReg position

91 In response, for the reasons set out in Consultation 12/138 and summarised above, ComReg has made the decision to consent to all the price increases sought by An Post for certain of its non-universal postal services within the scope of universal postal service, as set out in An Post's adjusted price application of 29 January 2013[26].

92 In response to Christopher Heavey's comment on the future price cap, ComReg is currently acting under the transitory provision of section 30(12) of the 2011 Act pending the making of a price cap. When ComReg makes a price cap decision under section 30 of the Act it will set the postal services within the scope of universal postal service that the price cap applies to. Furthermore, as required by the 2011 Act, the price cap will also set the efficient costs of An Post over the required 5 year period of the price cap in order to provide incentives for An Post to achieve these.

5.2 Price increases sought for universal postal services within the scope of the universal postal service that weigh less than 50 grams

93 As noted in Consultation 12/138, in relation to the pricing of the "universal postal services" ComReg must take account of, and balance, the five tariff requirements set out in section 28(1) of the 2011 Act. For example, the requirement that prices shall be affordable for all users must be balanced against the separate requirement that prices shall be cost-orientated. Furthermore, ComReg has the statutory *function*, set out in section 10 of the Communications Regulation Act 2002 as amended by the 2011 Act, "*to ensure the provision of a universal postal service that meets the reasonable needs of postal service users"* and ComReg must also have regard to its various *objectives* to be met in the performance of that function, as set out in Section 12 of the 2002 Act, which objectives include "*to promote … the availability of a universal postal service within, to and from the State at an affordable price for the benefit of all postal service users*". Accordingly, in order to be compliant with the applicable provisions of the 2011 Act, prices that are lower than actual cost may be required in order to ensure that an affordable universal postal service is made available, for the benefit of all postal service users.

[26] Published as Document No. 13/21a

94 Consultation 12/138 set out, for each universal postal service, ComReg's preliminary view as to whether it could consent to the price increase sought by An Post. These preliminary views were informed by ComReg's preliminary assessment of the proposed price increase against the tariff requirements of the 2011 Act. For most universal postal services, ComReg's preliminary views were that it was minded to consent to the price increases sought by An Post. However, for particular universal postal services, which account for the majority of universal service mail volumes, ComReg expressed its concerns in relation to the affordability of the proposed price increases and whether the prices could be discriminatory. Consequently, in relation to these particular universal postal services, ComReg expressed the preliminary view that it was minded to consent to lower price increases than An Post had sought, if An Post wished to adjust its application. ComReg sought views on its preliminary views by asking:

Q. 3 Do you agree with ComReg's preliminary views on its consents for the universal postal services? If you disagree, please indicate what particular consents you disagree with. Please support your answer with reasons and any supporting material.

Views of respondents

95 In its response, **An Post** notes that it submitted what it believed to be required changes to its prices in order to ensure a sustainable Universal Service. However, further to ComReg's preliminary assessment as set out in Consultation 12/138 and in order to expedite the required increases, An Post notes that it did submit an adjusted price application which reflects the lower price increases which ComReg had indicated in Consultation 12/138 that it "could be minded to consent to."

96 In relation to how discounted services are displayed in the schedule of charges, An Post notes that it has shown its discount prices in promotional literature with both the discount amount and the price payable being displayed. An Post contends that displaying the rates in this manner is sufficiently transparent.

97 In his response, **Christopher Heavey** claims that it appears that ComReg is ignoring its legal obligations. According to Christopher Heavey, the intention of section 30 of the 2011 Act is quite clear; the price of any postal service within the scope of the universal postal service must not increase by more than the rate of increase in the CPI, less an adjustment to provide incentives for the efficient provision of the services concerned. Christopher Heavey also states that the Court of Justice of the European Union decision in Ahmed Saeed prohibits ComReg from approving price increases that conflict with competition law. Christopher Heavey concludes that he trusts ComReg will restrict its approval, as a maximum, to the rate of increase in CPI as mandated by the Oireachtas.

98 In considering the affordability of An Post's proposed price increases the **CWU** states that in the last 21 years the headline tariffs for the domestic letter has increased only 3 times. In April 2002, the price increased by only 3c and in August 2003 it was increased by 7c. The CWU notes that in March 2007, the price increased from 48c to 55c and has remained at that level since. The CWU states that this represents an increase of 26% in the headline tariff for that period compared to CPI increase of 52.3% in the same period.

99 The CWU further submits that, adjusting for inflation, the current and proposed prices for An Post headline services are less than the prices which applied in 1990. According to the CWU, it is clear therefore that postage rates in Ireland have been kept at a very modest level for a very long time. In addition, the CWU claims that the cost of postal services in Ireland compare very favourably with other European countries and when prices are adjusted for Purchasing Power Parity (PPP) Ireland has the second cheapest headline tariff of the EU 15[27]. Furthermore, the CWU claims that even if ComReg gave its consent to the full price increases the Irish tariff would still be below the average for the EU 15 which is 68c.

100 The CWU states that other postal operators across Europe are dealing with a similarly challenging economic and financial context and have increased their charges by as much as 45% (Denmark) or in the case of the UK, by 30% in April 2012. Therefore, the CWU contends that it is clear that regulators in other developed economies in the EU have accepted the importance of adequate pricing and appropriate increases in order to maintain the universal postal service.

101 Also the CWU notes that An Post has observed that affordability issues for residential postal service users will be minimal in light of the fact that for the lowest income group, the proposed price increases would result in a decline of disposable l income of only 0.1%.

102 The CWU states that the question of affordability as it relates to the SMEs and larger businesses is more nuanced and it is important to note that business customers account for around 80% of the total mail volumes. The CWU states that it does not expect business users to welcome the idea of an increase in the price of the stamp. However, the CWU claims that Irish postal costs have been maintained at a very modest level and compare very favourably with their EU counterparts as highlighted in the Deutsche Post Report last year, 'Letter Prices in Europe', whereby it places Ireland as the fourth most affordable country in terms of "working minutes per letter price" out of 29 countries that were surveyed.

[27] Member countries in the European Union prior to 1 May 2004

103 In relation to costs, the CWU states that An Post is engaged in a comprehensive cost reduction and increased efficiency programme across the business and this is reflected in the fact that the predicted cost changes in the USO for 2012 and 2013, as per the An Post application, shows that pay costs will be reduced by 3% and 4.2% respectively while non-pay costs in 2012 will have reduced by 5%.

104 The CWU states that it is strongly of the view that the full price increase should be granted to An Post, on the grounds that mail volumes are declining and per unit costs are rising; An Post is aggressively pursuing a cost reduction programme; the financial loss on USO services will run to €65m; according to the CWU, Ireland has the second lowest stamp prices in Europe; An Post is viewed internationally as one of the most efficient operators in the EU; and the universal postal service is a vital public service in Ireland.

105 According to the CWU, if the full price application is granted Irish postage rates will still remain below the European average and in real terms would only be at 1998 levels. The CWU states that this application, which is anticipated to be the last one before the price cap model is introduced, represents a vital juncture for the development and long term viability of An Post and the Universal Service Obligation itself. The CWU further states that this is not a time for what it describes as "*short term economics*". The CWU contends that what might seem like sensible restraint from a regulatory point of view in terms of pricing could lead to a very heavy cost being paid by An Post and the all of the postal users it serves into the future.

106 In its response, **Nightline** states that it is unhappy to see that the universal bulk mail services proposed are no more than a 'repackaging' of essentially the current Discounts 6 and 9.

ComReg's position

107 ComReg welcomes the adjusted price application of An Post and ComReg examines the adjusted application further in the next section.

108 In relation to the transparency of An Post's pricing for its universal postal services, ComReg remains of the view that the net prices must be clearly and unambiguously conveyed to postal service users at all times as it is these prices that will ultimately be paid. ComReg looks forward to An Post appropriately addressing this matter.

109 In relation to Christopher Heavey's response, ComReg is currently acting under the transitory provision of section 30(12) of the 2011 Act pending the implementation of a price cap. When ComReg makes a price cap decision under section 30 of the Act it will establish the scope of the postal services within the scope of universal postal service that the price cap will apply to. Furthermore, as required by the 2011 Act, the price cap will be set with respect to the efficient costs of An Post over the required 5 year price control period in order to provide incentives for An Post to achieve these efficient costs for its operations.

110 In response to Christopher Heavey, ComReg has no competition law powers in relation the postal sector but ComReg notes that all pricing decisions do have to comply with general competition law.

111 In response to points raised by the CWU, ComReg notes that An Post did not seek a price increase until 2012 and that this is the application currently under review. ComReg agrees that appropriate price increases are one measure to maintain the universal postal service. ComReg's functions and objectives under the 2011 Act include promoting the development of the postal sector and, in particular, ensuring the availability of a universal postal service at an affordable price for the benefit of all postal service users. Against this overarching statutory remit and the tariff requirements set out in section 28 of the 2011 Act, ComReg had serious concerns in relation to the price increases sought by An Post for certain of its universal postal services and, for this reason, ComReg noted that lower price increases seemed appropriate. An Post has considered the concerns expressed by ComReg and has, with its adjusted price application, sought lower price increases for the particular universal postal services.

112 ComReg agrees with the CWU that this is not the time for short term economics. ComReg has concerns in relation to the future financial stability of An Post but can only act within its remit set by the 2011 Act. It is for An Post management and its shareholders, given the financial challenges facing An Post, to act urgently to develop appropriate long term economic plans to ensure the financial stability of An Post and in turn the continued universal postal service provision by An Post.

113 In response to Nightline, ComReg notes that the specifications of the universal bulk mail services meet the requirements of SI 280 of 2012[28].

[28] http://www.comreg.ie/_fileupload/publications/SI_280_of_2012.pdf

5.3 Adjusted price application by An Post for certain of its universal postal services

114 In Consultation 12/138, ComReg set out in detail its preliminary assessment for each price increase proposed by An Post for certain of its universal postal services. This assessment included ComReg's preliminary views on which price increase it could be minded to consent to. In most cases, ComReg noted it could consent to the price increases sought by An Post. However, for certain universal postal services that account for the majority of postal volumes, ComReg expressed concerns that the price increases sought may not be appropriate and therefore noted that it could be minded to consent to lower price increases for these certain universal postal services.

115 Having considered ComReg's preliminary assessment, An Post has adjusted its price application to seek lower price increases for these certain universal postal services[29].

116 ComReg, having considered the views of respondents and other relevant evidence, sets out its position on this adjusted price application for these certain universal postal services.

Domestic Stamped Letter

117 For its Domestic Stamped Letter weighing less than 50 grams, An Post's adjusted application proposes a 9.1% increase in the current price, from 55 cents to 60 cents[30]. This is half of the original price increase sought by An Post and the percentage price increase of c.9% is more consistent with the price increases sought for other universal postal services.

118 An Post will also revise its current price for its Domestic Stamped Letter weighing 51 – 100 grams downwards from 65 cents to 60 cents so that there are no price discrimination issues. An Post is making these adjustments having considered ComReg's preliminary assessment made in Consultation 12/138.

ComReg's position

119 For the reasons set out in ComReg's preliminary assessment, and having considered the views of respondents on the affordability of the price, ComReg consents to the adjusted price proposed by An Post for Domestic Stamped Letter. ComReg welcomes An Post's revised lower price for its Domestic Stamped Letter weighing 51 – 100 grams as this ensures there is no discrimination in the pricing of Domestic Stamped Letter services.

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[29] See Document 13/21a at www.comreg.ie

[30] An Post originally sought a price increase to 65 cents, this has now been reduced to 60 cents in the adjusted price application.

Metered Universal Postal Services and on-line purchases of stamps

120 Consultation 12/138 set out some of ComReg's preliminary concerns in relation to the pricing proposed by An Post for its meter services and whether these were discriminatory, on the basis that:

(a) the discount was not supported by the cost avoided by the meter payment method; and

(b) the discount was not offered to all meter services.

121 Consultation 12/138 also noted that the proposed discount for stamps purchased online in a quantity greater than 300, in order to be non-discriminatory, should be broadly the same as the discount for metered mail.

Views of respondents:

122 **An Post's** adjusted application now addresses ComReg's concerns by offering the meter discount to all meter services[31] and basing the meter discount on the costs avoided by that meter payment method. An Post has also adjusted its proposed discount for on-line stamp purchases to 2% so that it is broadly the same percentage discount as the discount for metered mail.

123 In its response, **CSNA** refers to legal proceedings against An Post. CSNA seeks assurances that all CSNA members wishing to purchase stamps online will be treated equally to any other online purchaser, and that An Post will not attempt to hinder or prevent the purchase of stamps, even though they may be used for resale at face value.

124 **DX** states that ComReg has rightly identified an issue of discriminatory treatment of some products which differ in price without there being an objective basis. According to DX, this behaviour is potentially anti-competitive and therefore DX encourages ComReg to bring clarity to the situation by insisting on the consistent application of the avoided cost methodology.

125 **Pitney Bowes,** in its response, sets out the economic case for metered mail discounts and presents current payment channel pricing data from around the world focussed on the nature and scope of discounts and other incentives offered to metered mailers.

[31] An Post currently only offers a meter payment discount on letters

ComReg's position

126 ComReg welcomes An Post's move to offer the meter payment discount to all universal postal services that use meter payment. This consistent application of the avoided cost methodology for the meter payment method addresses ComReg's expressed concern in relation to there being possible discrimination on the payment method discount when it was not being offered to all services that use the meter payment and therefore have costs avoided by that use of the meter payment method. Similarly, ComReg welcomes An Post's adjustment so that the discount for online payment is broadly similar to the discount for meter payment as, for the most part, the same costs are avoided in both payment methods.

127 In response to CSNA, ComReg again notes that it has no competition law powers in the postal sector.

128 In response to Pitney Bowes, as noted in Consultation 12/138 and previous ComReg document in relation to pricing, ComReg remains of the view that the meter payment discount must be supported by the costs An Post avoids by selling through this payment channel in order to demonstrate that no discrimination is occurring. This is required as one of the tariff requirements set by the 2011 Act is that universal postal service pricing should not be discriminatory.

"Deferred delivery" bulk mail universal postal service

129 The "Deferred delivery" bulk mail service is one of the two universal bulk mail services required by the Regulations[32]. "Deferred delivery" bulk mail means mail deposited at a delivery office for delivery within the State one day later than would otherwise be the case, again applying the "D+n" formula. The Regulations further stipulate that "delivery office" means an office managed by An Post for the purposes of processing postal packets immediately prior to the activity of delivery to the addressee. Therefore, the Regulations state that mail can be deposited in bulk at any An Post delivery office for delivery within the state within two working days.

130 This universal bulk mail service is similar to the existing Bulk Mail 6 service except mail can now be deposited at all delivery offices for delivery within D+2 and the mail volume threshold is lowered to 200 items for meter customers while remaining at 2,000 items for Ceadunas customers.

[32] SI 280 of 2012

131 As the “Deferred delivery” bulk mail service is based on Bulk Mail 6 it is likely that the current users of Bulk Mail 6 will avail of this universal postal service. Customers on Bulk Mail 6 are typically An Post’s largest customers (e.g. Banks, Government, Utilities etc.). As noted in Consultation 12/138, given that these large customers are potentially most at risk of substituting away and given that price elasticity research conducted for An Post indicates a possible high elasticity for these customers, careful consideration must be given to the proposed prices of the “Deferred delivery” bulk mail universal postal service as the proposed price increases may result in a revenue lower than the revenue that would have been the case if the price increases had not been made.

Views of respondents:

132 In its response, **An Post** notes that it has carefully considered the proposed tariffs for the ‘Deferred Delivery’ service in the context of Frontier Economics’ comments and the tariff requirements set out in the 2011 Act. An Post remains of the view that the proposed rates are appropriate and strongly believes that this rate continues to represent real value for money for its business customers.

133 In its response, **TICo** contends that the ‘deferred delivery’ bulk mail product should be split into two products as follows:

- Product 1: Discounted rate of 45 cents applicable to mailings of 200 or more franked items delivery to one delivery office (of which TICo believes there are about 200) for delivery only in that delivery office’s area
- Product 2: Discounted rate of 45 cents applicable to mailings of 2000 or more items, franked or Ceadunas, and delivered to one of the designated acceptance offices (of which TICo believes there are about 20) for delivery in the State.

ComReg’s position

134 In response, ComReg notes An Post’s contention that the proposed rates are appropriate and represent real value to its business customers. Also, ComReg did not receive any responses in relation to the proposed pricing of the Deferred Delivery universal service. Therefore, ComReg will consent to the proposed prices for Deferred Delivery.

135 In response to TICo's advice that the Deferred Delivery service should be split, ComReg notes that a split service would not meet the specification required by SI 280 of 2012. ComReg also notes that for discount services, the delivery offices are currently the 4 Mail Centres and the 39 Designated Acceptance Offices of An Post[33].

[33] See http://www.anpost.ie/NR/rdonlyres/B5774F94-F37B-429C-8ED0-8583E63DB288/5515/BulkMailBlueA4WWW1.pdf

6 Consent to An Post's adjusted price application of 29 January 2013

136 In accordance with section 30(12) of the 2011 Act, ComReg consents to the changes in charges for certain postal services within the scope of universal postal service relating to postal packets weighing less than 50 grams which were set out in An Post's adjusted application of 29 January 2013[34]. An Post has been notified of this consent in writing today by separate correspondence[35]. As noted in Consultation 12/138, further public consultation is not required on this adjusted application as the views of interested parties have already been sought through Consultation 12/138.

137 This consent is made following consideration of:

- Information and data provided by An Post as part of the price application process up to its adjusted price application of 29 January 2013
- The preliminary assessment made by ComReg in Consultation 12/138 and the further assessment made in this document
- The views of expressed by Frontier Economics in its supporting report[36]
- The views of respondents to Consultation 12/138
- Other relevant evidence.

138 The tables below summarises the price increases for the certain universal postal services An Post sought price increases for which ComReg has consented to.

[34] Published as 13/21a
[35] Published as 13/21b
[36] Redacted version published as Document No. 12/138a

Table 4: Consents to universal postal services weighing less than 50 grams

Universal postal services: 0 – 50g	Current price	An Post's price application of 29 January 2013
Domestic stamped letter	0.55	0.60
Domestic metered letter	0.54	0.59
Business reply letter	0.54	0.59
Stamped large envelope	0.95	1.05
Metered large envelope	0.95	1.03
Business reply large envelope	0.95	1.03
Stamped packet	2.20	2.40
Metered packet	2.20	2.35
Business reply packet	2.20	2.35
Proof of delivery	n/a (5.25)[37]	5.50
Insurance	n/a	5.00 plus
"Delivery only" bulk mail letter	(0.44)[38]	0.48
"Delivery only" bulk mail large envelope	(0.82)[38]	0.90
"Delivery only" bulk mail packet	(2.00)[38]	2.19
"Deferred delivery" bulk mail letter	(0.41)[39]	0.45
"Deferred delivery" bulk mail large envelope	(0.76)[39]	0.84
"Deferred delivery" bulk mail packet	n/a	2.25
International	Various	Table 5
International bulk mail	Various	Table 6

[37] This is the price of the old "registered" service which included the cost of insurance. As a result of the 2011 Act, ComReg Decision D08/12 and SI 280 of 2012, the registered service is now a separate "Proof of delivery" service and a separate "Insurance" service where insurance in addition to proof of delivery is required.

[38] For information purposes, the current price for Bulk Mail 9. "Delivery only" will be based on current Bulk Mail 9 product.

[39] For information purposes, the current price for Bulk Mail 6. "Deferred delivery" will be based on current Bulk Mail 6 product with amendments made to allow acceptance at all delivery offices for a D+2 delivery and a lower threshold of 200 items for meter customers.

Table 5: Consents to International universal postal services:

Universal Postal Service: 0 – 50g	Current price	An Post's price application of 29 January 2013
Letter UK¸ Europe, and Rest of World	0.82	0.90
Large Envelope UK, Europe, and Rest of World	1.50	1.65
Packet UK, Europe, and Rest of World	2.70	3.00
Parcel UK	18.25	20.00
Parcel Europe and Rest of World	22.00	25.00
Sending Books UK and Europe	9.00	15.00
Sending Books Rest of World	14.00	17.00
Letter proof of delivery UK, Europe, Rest of World	n/a (5.17[37])	5.50
Large Envelope proof of delivery UK, Europe, Rest of World	n/a (5.85[37])	6.25
Packet proof of delivery UK, Europe, Rest of World	n/a (7.05[37])	7.60

Table 6: Consents to International Bulk Mail universal postal services

	Priority Letters						Priority Flats			Priority Packets		
	25g			50g			50g			50g		
Country	Proposed	Current	% Inc.	Proposed	Current	% Inc.	Proposed	Current	% Inc.	Proposed	Current	% Inc.
UK	€0.52	€0.50	4%	€0.59	€0.57	4%	€0.60	€0.58	3%	€1.50	€1.50	0%
Austria	€0.68	€0.65	5%	€0.82	€0.82	0%	€1.17	€0.91	28%	€2.12	€1.29	63%
Belgium	€0.65	€0.64	2%	€0.75	€0.73	2%	€1.40	€1.40	0%	€1.88	€1.88	0%
Denmark	€0.82	€0.78	5%	€0.82	€0.82	0%	€1.30	€1.20	8%	€2.56	€2.56	0%
Finland	€0.75	€0.64	16%	€0.82	€0.72	15%	€0.90	€0.78	16%	€1.54	€1.34	15%
France	€0.70	€0.68	2%	€0.82	€0.82	0%	€0.99	€0.98	2%	€1.67	€1.64	2%
Greece	€0.71	€0.67	7%	€0.82	€0.82	0%	€1.14	€1.01	13%	€1.70	€1.58	7%
Iceland	€0.66	€0.57	16%	€0.82	€0.67	22%	€0.93	€0.71	30%	€1.50	€1.50	0%
Norway	€0.82	€0.82	0%	€0.82	€0.82	0%	€1.34	€1.27	5%	€2.43	€2.29	6%
Spain	€0.42	€0.41	2%	€0.57	€0.55	4%	€0.73	€0.61	20%	€1.44	€1.44	0%
Switzerland	€0.76	€0.72	6%	€0.79	€0.75	6%	€1.50	€1.43	5%	€6.17	€6.17	0%
Hungary	€0.51	€0.45	12%	€0.66	€0.59	12%	€0.71	€0.64	11%	€0.88	€0.88	0%
Poland	€0.47	€0.45	5%	€0.52	€0.50	5%	€0.55	€0.53	5%	€0.76	€0.76	0%
Slovenia	€0.39	€0.37	7%	€0.48	€0.48	1%	€0.50	€0.49	2%	€0.70	€0.70	0%
Estonia	€0.46	€0.38	20%	€0.51	€0.43	19%	€0.53	€0.45	20%	€0.94	€0.78	21%
U.S.A.	€0.41	€0.41	0%	€0.51	€0.51	0%	€0.53	€0.52	1%	€0.67	€0.67	0%
New Zealand	€0.66	€0.63	6%	€0.82	€0.78	5%	€0.87	€0.79	10%	€0.91	€0.88	3%

7 Regulatory Impact Assessment (RIA)

139 ComReg's published RIA Guidelines[40] (Doc 07/56a), in accordance with a policy direction to ComReg[41], state that ComReg will conduct a RIA in any process that may result in the imposition of a regulatory obligation, or the amendment of an existing obligation to a significant degree, or which may otherwise significantly impact on any relevant market or any stakeholders or consumers. However, the Guidelines also note that in certain instances it may not be appropriate to conduct a RIA and, in particular, that a RIA is only considered mandatory or necessary in advance of a decision that could result in the imposition of an actual regulatory measure or obligation, and that where ComReg is merely charged with implementing a statutory obligation then it will assess each case individually and will determine whether a RIA is necessary and justified.

140 As noted in Consultation 12/138, ComReg considers that it is not imposing a discretionary regulatory obligation but is acting under a statutory obligation imposed on it by section 30 (12) of the 2011 Act which requires that, pending the making of a price cap decision, ComReg must determine whether to give its prior consent to any application by An Post to change its charges for any its postal services within the scope of the universal postal service relating to postal packets weighing less than 50 grams. Therefore, a RIA is not being undertaken on this occasion. No respondents to Consultation 12/138 disagreed with this approach.

141 However, as required by the 2011 Act, ComReg has assessed An Post's adjusted price application against the applicable determinative criteria which are set out in the 2011 Act. These criteria include the tariff requirements set out in section 28 of the 2011 Act, which are that the prices for An Post's universal postal services be cost-oriented, affordable, uniform, transparent, and non-discriminatory.

[40] Which have regard to the RIA Guidelines issued by the Department of An Taoiseach in June 2009.
[41] Ministerial Policy Direction made by Dermot Ahern T.D. Minister for Communications, Marine and Natural Resources on 21 February, 2003.

8 Move to price cap mechanism

142 ComReg's consents to changes in the charges of postal services within the scope of universal postal service that weigh less than 50 grams is a transitory requirement of the 2011 Act pending the making of a price cap decision by ComReg.

143 Section 30 of the 2011 Act requires that where ComReg is of the opinion that there is no effective competition in the market for the supply of An Post's postal services within the scope of universal service, ComReg, following a public consultation, must specify a price cap in the form CPI-X% to apply for a period of 5 years. The 2011 Act requires that this price cap must provide incentives for efficient provision of universal postal services. ComReg has commenced the project to implement a price cap mechanism which accords with the provisions of the 2011 Act. This price cap mechanism to be implemented will be the future process by which An Post can update its pricing for certain postal services within the scope of universal postal service as and when required, subject to any updated pricing complying with the price cap.

144 In its response to Consultation 12/138, DX expresses the view that CPI-X price cap methods are inappropriate in the postal market at present. In response, ComReg notes that the 2011 Act requires ComReg to implement a price cap mechanism in the form CPI-X%. As a result of the 2011 Act, ComReg has been afforded no discretion in this regard.

145 An Post, in its response to Consultation 12/138, notes that ComReg has set out its indicative work programme in its Postal Strategy Statement for 2012 – 2014[42] and a consultation on a price cap mechanism is signalled for Quarter 3, 2013. An Post welcomes this and is keen to ensure it is concluded within the timeframe set out which will provide more certainty to An Post in achieving the financial targets set out in its Five Year Plan. In response, ComReg notes that it does not expect its consent under 30(12) of the 2011 Act to be applied again as ComReg plans to have the price cap mechanism implemented by the end of 2013. Achieving this target for the implementation of the price cap will be challenging and will require extensive engagement with An Post and the provision by it of detailed information. ComReg notes An Post's willingness to work to this challenging timeline.

[42] Document No. 12/116

9 Conclusion

146 An Post is currently facing some notable financial challenges. It is against this background that ComReg has consented to all the price increases sought by An Post in its adjusted price application of 29 January 2013. Taking into account the additional revenue of c.€8m that An Post claims it has received from its May 2012 price increases, this means, that An Post should obtain a total additional revenue of c.€19m as a result of price increases in a full year.

147 The consented to price increases are necessary but only as one of a series of measures necessary to ensure the continued financial viability of An Post and to maintain the provision of a universal postal service. These measures must of necessity include cost containment and further growth in other commercial activities. It is for An Post management to address these urgently in order to ensure the continued provision of the universal postal service by An Post at an affordable price for all postal service users. ComReg notes An Post's commitment in its response to Consultation 12/138 that it will address the key challenges facing its business.

148 ComReg in making its consent to An Post's adjusted price application has balanced the financial needs of the universal postal service provider to ensure it can continue to offer a universal postal service and the needs of postal service users to ensure that the prices of universal postal services remain affordable.

Annex: 1 Legal basis

A 1.1 The following sets out ComReg's legal basis for its consent to the price increases sought by An Post in its adjusted price application of 29 January 2013.

A 1.2 In accordance with the 2011 Act, ComReg's statutory functions are:

- To ensure the provision of a universal postal service that meets the reasonable needs of postal service users
- To monitor and ensure compliance by postal service providers with the obligations imposed on them.

A 1.3 Arising from the 2011 Act, ComReg's statutory objectives include promoting the development of the postal sector and, in particular, the availability of a universal postal service within, to and from the State at an affordable price for the benefit of all postal service users.

A 1.4 As required by section 30(12) of the 2011 Act, pending the making of a price cap decision by ComReg, no change can be made by An Post to any charge that applies immediately before the passing of the 2011 Act for postal services within the scope of the universal postal service relating to postal packets weighing less than 50 grams without the prior consent in writing of ComReg.

A 1.5 According to section 28 of the 2011 Act, the tariff for each postal service or part of a postal service provided by An Post as universal postal service provider in the provision of a universal postal service must comply with the following tariff requirements:

- Prices must be affordable and be such that all postal service users may avail of the services provided
- Prices must be cost-oriented, that is to say, the prices must take account of, and reflect the costs of, providing the postal service or part of the postal service concerned
- Tariffs shall be transparent and non-discriminatory
- A uniform tariff shall apply throughout the State to any postal service provided at single piece tariff.