



Commission for
Communications Regulation

Consultation Paper

An Post's Application for Interim Price Increase - 2007

Document No:	06/67
Date:	15 December 2006

All responses to this consultation should be clearly marked:-
"Reference: Submission re ComReg 06/67" as indicated above,
and sent by post, facsimile, e-mail or on-line at www.comreg.ie
(current consultations), to arrive on or before 5.00pm, 19 January
2007, to:

Ms. Sinead Devey
Commission for Communications Regulation
Irish Life Centre
Abbey Street
Freepost
Dublin 1
Ireland

Ph: +353-1-8049600 Fax: +353-1-804 9680
Email: postalconsult@comreg.ie

Please note ComReg will publish all respondents submissions
with the Response to this Consultation, subject to the provisions
of ComReg's guidelines on the treatment of confidential
information – ComReg 05/24

Contents

1	Executive Summary	2
2	Introduction	4
2.1	LEGAL BASIS	4
2.2	BACKGROUND	4
3	An Post Interim Price Increase Proposals	6
3.1.1	<i>Single Piece Tariffs</i>	6
3.1.2	<i>Bulk Mail Tariffs</i>	7
3.1.3	<i>Non-Reserved Tariffs</i>	9
3.1.4	<i>Impact</i>	9
4	Key Issues for ComReg	10
4.1	SHOULD COMREG PROCEED WITH AN POST'S APPLICATION?	10
4.2	THE LEVEL OF INCREASE PROPOSED BY AN POST	10
4.3	MODIFICATIONS TO BASIC PRICING STRUCTURE	11
4.3.1	<i>Single price for all "letters" irrespective of weight</i>	11
4.3.2	<i>Reduction for "letters" prepaid by meter franking or Ceadúnas</i>	11
4.3.3	<i>"Discounted" bulk mail services</i>	11
4.4	LINK WITH QUALITY	12
4.5	CONCLUSION	12
5	Submitting Comments	13
	Appendix A – Legislation	14
	Appendix B – Consultation Question	18
	Appendix C – Definition of Terms	19
	Appendix D – Specification for "discounted" services.	20
	Appendix E - Non Reserved Tariffs	21

1 Executive Summary

ComReg is consulting on whether it should concur with An Post's proposals to increase the price of its domestic reserved services from 1 March 2007.

In August 2005, An Post submitted proposals to increase the price of its domestic postal services. Following a public consultation¹, setting *out inter-alia* ComReg's concerns about the processes employed by An Post to identify revenues, measure mail volumes and allocate and apportion costs, ComReg decided it was unable to concur fully with An Post's price increase proposals.

As part of a process of seeking to ensure that in future the information available to ComReg is accurate and reliable and can be used with confidence to assess any applications a revised Accounting Direction was issued to An Post on 8 December 2006².

However, ComReg will not be in a position to assess An Post's compliance or otherwise with Regulation 9 "Tariff Principles"³ until it is in receipt of accounting data based on the new processes and procedures later in 2007.

By 1 March 2007, it will be 3½ years since prices for An Post's reserved "letter" products were increased, and almost 12 months for increases in the reserved "large envelope" and "packet" products. An Post points out that during this period it has absorbed significant cost increases including wage increases of 18.9% under National Wage Agreements, as well as significant increases in fuel and energy costs. As over 70% of An Post's costs are labour related such rises are clearly significant.

It is on this basis that An Post has made an application to ComReg for an interim price increase for implementation on 1 March 2007. An Post has also indicated that it proposes to make a further price increase application later in 2007 once the data arising from implementation of the new Accounting Direction becomes available. Any proposed increase, should ComReg concur, will not be implemented before early 2008.

Details of the application by An Post cover not just proposed price increases but also proposed changes to discounts and an enhanced focus on quality of service. Details of the key elements of the proposal include:

- a tariff of 55 cent for all letters prepaid by postage stamps and 54 cent for all letters prepaid by meter franking, Ceadúnas, Business Reply or Freepost.
- a tariff of 95c and €1.10 for large envelopes and packets respectively.

1 ComReg 05/68r Consultation Paper: "An Post's Proposals to increase the price of Domestic Postal Services 2005".

2 ComReg 06/63 Response to Consultation: "Regulation of Universal Postal Services – Accounting Separation and Costing Methodology – Accounting Direction to an Post"

3 See Appendix A

- bulk mail tariffs for Letters increasing by 2 cent, and for other items by up to 9 cent.
- removal of the current price differentials for the 50g and 100g fully paid letter service (48c versus 60c) and the reversal back to format (rather than format and weight) based pricing.

The historic costing information available to ComReg suggests that *overall* the discounts currently offered by An Post may be too great. In addition, the differential between the various “discounted” options appears in some instances to be inconsistent. For example, the discount offered for the pre-sort service intuitively should be larger than that for mail which has to be sorted and processed by An Post. Unfortunately, sufficiently detailed costing information to draw a definitive conclusion on these issues will not be available until later in 2007.

Finally, An Post has made an interesting proposal to link the implementation date of any future application for price increases to measurable improvements in its quality of service during 2007.

The consultation period will run from 15 December 2006 to 19 January 2007 during which time ComReg welcomes written comments on any of the issues raised in this paper.

2 Introduction

The Commission for Communications Regulation (“ComReg”) is responsible for the regulation of Universal Postal Services in Ireland in accordance with National and EC legislation. ComReg is the National Regulatory Authority (“NRA”) for the purposes of this legislation. In carrying out its functions, ComReg must take account of the views of interested parties.

ComReg is now consulting on whether it should concur with An Post's proposals to increase the price of its domestic reserved services from 1 March 2007. ComReg would welcome comments from all interested parties on the proposed price increases and how these may impact on them.

2.1 Legal basis

In relation to the pricing of universal postal services, ComReg has two separate powers:

Firstly in accordance with section 70(2) of the 1983 Act (as amended)⁴ An Post “*shall not increase any charge under a scheme under this section relating to a postal service reserved for the company under Regulation 8 of the European Communities (Postal Services) Regulations 2002 (S.I. No. 616 of 2002) without the concurrence of the Commission for Communications Regulation*”. Since January 2006, only postal services weighing up to 50g⁵ are reserved to An Post.

Secondly, while ComReg's prior approval is not required for services that fall outside the reserved area, An Post has a legal obligation to ensure that such tariffs are geared to cost, affordable, transparent and non-discriminatory⁶, and ComReg has a legal responsibility to monitor An Post's compliance.

In addition under section 12(1) of the Communications Regulation Act, 2002, ComReg has a statutory objective to “*promote 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 users*”.

A summary of the principle legal provisions considered by ComReg is contained at Appendix A to this document.

2.2 Background

In April 2002, the ODTR (ComReg's predecessor) concurred⁷ with An Post's application for an “interim” price increase of 3c per item pending implementation of

4 Postal and Telecommunications Services Act 1983 (No. 24 of 1983) (as amended by S.I. No. 616 of 2002)

5 This weight limit does not apply if the price is equal to or more than two and half times the public tariff for an item of correspondence in the first weight step of the fastest category, currently €1.20 (i.e. 48c * 2.5 times)

6 Regulation 9(1) of S.I. No. 616 of 2002 European Communities (Postal Services) Regulations, 2002

7 ODTR 02/32 Response to Consultation: “Application by An Post to increase the price of Reserved Postal Services”

the new cost accounting systems as required by the Postal Directive.⁸ Subsequently and on receipt of detailed cost accounting information, ComReg in 2003 concurred with revised pricing proposals for the International Outbound⁹ and Domestic¹⁰ reserved services.

In August 2005, An Post submitted proposals to increase the price of its domestic postal services. Following a public consultation¹, setting *out inter-alia* ComReg's concerns about the processes employed by An Post to identify revenues, measure mail volumes and allocate and apportion costs, ComReg concluded that it was unable to concur fully with An Post's price increase proposals. ComReg was however of the view, that even if its concerns were warranted the level of price increases needed for the Large Envelope and Packet products would still be higher than that sought by An Post. Approval was therefore granted for a 50% increase in the Large Envelope, a 108% increase in the Packet product together with proportional increases for the bulk discounted services for these format types.

Given ComReg's concerns with the accuracy and reliability of An Post's cost accounts, the response to consultation document¹¹ outlined its intention to engage consultants to assist in the development of a revised Accounting Direction.

Following a consultation process, ComReg issued a revised Accounting Direction to An Post on 8 December 2006;² it is envisaged that, once implemented by An Post, it will contribute to meeting ComReg's concerns surrounding the accuracy and reliability of its cost accounts.

8 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.

9 ODTR 02/111 Decision Notice & Response to Consultation: "Application by An Post to increase the price of International Outbound reserved Postal Services".

10 ComReg 03/95 Response to Consultation: "An Post's proposals to increase the price of Domestic Postal Services 2003" and ComReg 03/100 Further Response to Consultation & Decision Notice: "An Post's proposals to increase the price of Domestic Postal Services 2003"

11 ComReg 05/94 Response to Consultation & Decision Notice: "An Post Domestic Price Application 2005".

3 An Post Interim Price Increase Proposals

The proposal from An Post received by ComReg on 6 December 2006 is published separately as document 06/67a. The following is a summary of the principal proposals that ComReg must consider.

As the Accounting Direction will be applicable to accounting periods commencing on and after 1 January 2007, ComReg will not be in a position to fully assess An Post's compliance or otherwise with Regulation 9 "Tariff Principles" until it is in receipt of accounting data based on the new processes and procedures (as outlined in the Accounting Direction) later in 2007.

By the time any proposed increases would be implemented in March 2007 it will be 3½ years since the last increases were granted in respect of An Post's reserved "letter" products, and almost 12 months in the case of reserved "large envelope" and "packet" products.

During the period of August 2003 to May 2007, An Post will have absorbed significant cost increases, including wage increases of 18.9% under National Wage Agreements, while in the 12 months ending November 2006 the CPI increased by 4.4%¹².

It is on this basis that An Post has now made an application to ComReg for an interim price increase for implementation on 1 March 2007. As the 2007 data becomes available arising from the application of the revised Accounting Direction, An Post proposes to submit a more detailed and fully justified "geared to cost" price proposal for implementation early in 2008.

3.1.1 Single Piece Tariffs

As outlined in section 2.1 above, the reserved area only includes postal services weighing up to 50g. Currently there are three separate prices for such items depending on the format type¹³ i.e. Letter, Large Envelope and Packets.

An Post is proposing to introduce a price differential by payment method¹⁴ for its Letter product, and has indicated that the expansion of the initiative to cover flat and packet formats will be dealt with in the context of the more detailed pricing application (together with more detailed costing information in accordance with the Accounting Direction²) to be submitted to ComReg later in 2007.

Table 1 summarises An Post's interim price proposals.

¹² In the 42 months ending November 2006 the CPI increased by 10.3%. ESRI forecast that CPI could "peak" at 5% by the end of the year: "On inflation, we expect increases in the CPI to average 4 per cent for the year, implying rates could peak at 5 per cent by the end of the year. Inflation in 2007 is expected to average 3.6 per cent." Source: ESRI Quarterly Economic Commentary Autumn 2006

¹³ See Appendix C – Definition of Terms

¹⁴ i.e. stamped, counter automation labels, metered, Ceadúnas, business reply and freepost.

Table 1

	Current Tariff	Proposed Tariff – Stamped ¹⁵	Proposed Tariff – Metered ¹⁶	Increase %
Letter	48c	55c	54c	13.7% ¹⁷
Large Envelope	90c	95c		5.6%
Packet	200c	210c		5.0%

3.1.2 Bulk Mail Tariffs

Bulk Mail services include “discounted” services and a special service called “*Postaim*” which are offered to large volume posters of mail. The tariffs of such services in accordance with Regulation 9(3) of S.I. No. 616 of 2002 “*shall take account of the avoided costs, as compared to the standard service covering the complete range of features offered for the clearance, transport, sorting and delivery of individual postal items, and together with the associated conditions, shall apply equally both as between different third parties and as between third parties and universal service providers supplying equivalent services...* ”.

These tariffs can be divided into two groups.

1. Discounts

The first group comprises the “discounted” services. The range of these were extended significantly in 2003. An Post proposes to increase these discounts by:

- 5c for the “Letter” products, resulting in a “net” increase in the tariff of 2c per item¹⁸
- 1c or 2c for the “Large Envelope” and “Packet” products, resulting in a “net” increase in the tariffs of 3c or 4c for “Large Envelopes” and 8c for “Packets” respectively.¹⁹

Table 2 summarises the price increase proposals for the reserved area.

15 Including Counter Automation Labels

16 Including Ceadúnas, Business Reply and Freepost

17 This is a best estimated of the weighted percentage increase based on 2003 mail volumes as An Post has not provided up to date volume figures by product or payment method.

18 For example the Early Presentation before noon auto processing service discount is proposed to increase by 5c (i.e. current tariff 48c less 6c discount = 42c compared with proposed 55c less 11c discount = 44c). This will result in a net increase in tariff of 2c (i.e. 42c compared with 44c).

19 For example the Early Presentation before noon auto processing service discount is proposed to increase by 1c (i.e. current tariff 90c less 11c discount = 79c compared with proposed 95c less 12c discount = 83c). This will result in a net increase in tariff of 4c (i.e. 79c compared with 83c).

Table 2 – Net Tariffs for “discounted” Bulk Mail products

Option ²⁰	Letter			Large Envelope			Packet		
	Current	Proposed	% Inc	Current	Proposed	% Inc	Current	Proposed	% Inc
Early Presentation Options									
Early Presentation 1	41	43	4.9%	76	79	3.9%			
Early Presentation 2	42	44	4.8%	79	83	5.1%			
Early Presentation 3	42	44	4.8%	78	81	3.8%			
Early Presentation 4	43	45	4.7%	81	85	4.9%			
Early Presentation 5	44	46	4.5%	82	86	4.9%	185	193	4.3%
Deferred Bulk Options									
Deferred Bulk 1	39	41	5.1%	72	75	4.2%			
Deferred Bulk 2	40	42	5.0%	76	79	3.9%			
Deferred Bulk 3	42	44	4.8%	78	81	3.8%	179	187	4.5%
Deferred Meter Options									
Deferred Meter 1	46	48	4.3%	84	88	4.8%	187	195	4.3%
Deferred Meter 2	43	45	4.7%	81	85	4.9%			
Pre-sort options									
Pre-sort Noon	41	43	4.9%	75	78	4.0%	177	185	4.5%
Pre-sort 17:30	42	44	4.8%	78	81	3.8%	181	189	4.4%

2. Postaim²¹

The second group is the specialised service called *Postaim* for the Direct Mail Industry. An Post proposes to increase all Letter prices by 2c, Large Envelope prices by 3c and Packet prices by 9c per item. Current and proposed tariffs are set out in Table 3.

Table 3: Postaim Tariffs

Weight	2k-75k		75k-250k		250k-500k		500k +	
	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed
POP Letter Format								
<10g (Lite)	0.32	0.34	0.30	0.32	0.29	0.31	0.28	0.30
<50g	0.34	0.36	0.32	0.34	0.30	0.32	0.29	0.31
Large Envelope Format								
0-50g	0.60	0.63	0.58	0.61	0.56	0.59	0.56	0.59
Packet Format								
0-50g	1.77	1.86	1.77	1.86	1.77	1.86	1.77	1.86

20 See Appendix D for detailed explanations of options

21 A service offering a combination of 'delivery only' and an extended delivery cycle – See ComReg 05/85 Response to Consultation: “The Universal Postal Service – A working Definition”

3.1.3 Non-Reserved Tariffs

An Post's submission includes full details of its price increase proposals for the non reserved area. Such proposals are broadly in line with CPI increases¹².

In February 2005, An Post increased the single piece tariff for a 50-100g Letter by 25% (48c to 60c). At the time ComReg challenged An Post's justification for this increase as it did not appear to be consistent with previously supplied information that the costs associated with 50g or 100g were not materially different from one another nor did it appear to be compliant with the Tariff Principles. An Post in its new proposal has addressed ComReg's concerns and proposes that the 50-100g letter tariff be reduced to the same level as that proposed for a single piece Letter weighing less than 50g.

A table summarising the proposed non reserved price increases is at Appendix E.

3.1.4 Impact

An Post estimate that the proposals will increase revenue by about €20m in a full year. Postage rates have a minimal impact on the calculation of CPI.

4 Key Issues for ComReg

4.1 Should ComReg proceed with An Post's application?

As outlined above, the ODTR in April 2002 concurred with An Post's application for an "interim" price increase of 3c per item pending implementation of the new cost accounting systems as required by the Postal Directive. The current situation is not dissimilar:

- An Post states that it is committed to undertaking a detailed review of costs and prices once accounting information compiled using the principles set out in ComReg's new Accounting Direction² is available; and
- Costs have risen significantly since the last price increase was approved.

Despite cost increases, the headline letter tariff has not seen any tariff increase in over three and a half years. These increases together with forecast increases in wages, CPI etc in 2006 and 2007 indicates a requirement for a review of all tariffs. To wait until full implementation of the Accounting Direction and the production by An Post of a full set of Regulatory Accounts is neither a realistic or reasonable option.

4.2 The Level of Increase proposed by An Post

ComReg estimates that the weighted price increase proposed for all "Letter" products is 9.6%²² based on the prices concurred with in August 2003. This is lower than increases in the period of CPI at 10.3% over the last 3½ years.

ComReg's estimate of the weighted price increase proposed for "Large Envelopes" is 5.0% and for "Packets" 4.4%, based on the prices concurred with in December 2005²³. This compares satisfactorily with a movement in CPI of 4.4% over the 12 months ending November 2006 and against the backdrop that ESRI forecast CPI could "peak" at 5% by the end of the year¹².

An Post has not to date made significant progress in implementing its "change programmes" aimed at improving efficiency and quality of service. However recent progress on this issue seems to indicate that major improvements are likely now to be implemented during 2007 as part of an agreed programme²⁴.

22 The increases range from 4.3% for the Deferred Meter Option 1 to 14.6% for single piece letters prepaid by means of postage stamps. In general the Bulk Mail services are the most price sensitive and have therefore attracted the lowest percentage increase in order to minimise volume loss.

23 Implemented 20 March 2006

24 It should be noted that the draft amendments to the Postal Directive recently published by the European Commission would, if adopted, require ComReg's price control regime to "stimulate efficiency gains".

4.3 Modifications to Basic Pricing Structure

4.3.1 Single price for all "letters" irrespective of weight

ComReg welcomes An Post's proposal to remove the current price differentials for the 50g and 100g fully paid letter service (48c versus 60c) and the reversal back to format (rather than format and weight) based pricing, particularly as An Post had previously argued that the cost of handling these two streams were substantially the same. ComReg is of the opinion that this pricing structure makes sense as it is format rather than weight which drives cost.

4.3.2 Reduction for "letters" prepaid by meter franking or Ceadúnas

The 1c price differential proposed by An Post for a metered and Ceadúnas letter compared with a stamped letter is to be welcomed. Intuitively the transactional costs associated with these payment methods are less than the cost of printing, distributing and selling postage stamps. This is confirmed by other postal operators who offer discounts for these payment methods. For example, in Britain Royal Mail offer a 2p (3c) reduction on the price of both first and second class "letters", with larger reductions for "large envelopes" and "packets". The information currently available to ComReg suggests that a reduction of at least 1c would be justified in this country. It would therefore seem appropriate to introduce this small discount now both for the benefit it will bring to the business community as well as a signal to postal consumers that further increases in the level of discount may be warranted when full costing information becomes available later in 2007.

4.3.3 "Discounted" bulk mail services

As an interim measure, An Post has also applied to increase the net price of all "discounted" bulk letter services by between 2 cent ("Letters") and 8 cent ("Packets"). An Post has stated in its application that it is its intention *"to examine comprehensively in 2007 the discount offerings, including the number and type of bulk discounts, and discount levels and relativities"*.

The historic costing information available to ComReg suggests that **overall** the discounts currently offered by An Post may be too great. Some discounted bulk mail services may be appropriately priced, but in other instances the discounts offered may not adequately reflect the costs avoided by An Post for work sharing by its customers²⁵. For example, intuitively ComReg would expect that the discount offered for the pre-sort service should be higher than that for mail which has to be sorted and processed by An Post.

ComReg must therefore consider whether the proposed "net" prices comply with the "geared to cost" and "avoided cost" tariff principles. Unfortunately sufficiently

25 According to Regulation 9(3) of S.I. 616 of 2002 *"the tariffs shall take account of the avoided costs, as compared to the standard service covering the complete range of features offered for the clearance, transport, sorting and delivery of individual postal items, and together with the associated conditions, shall apply equally both as between different third parties and as between third parties and universal service providers supplying equivalent services."*

detailed costing information to draw a definitive conclusion on this issue will not be available until later in 2007.

An Post's current proposal is for relatively small increases in the net tariffs for these "discounted" services at this stage. Even so, some "net" tariffs may still be below the minimum required to comply with the "geared to cost" and "avoided cost" tariff principles.

In this regard the avoided costs associated with the deferred delivery options for standard "letters", and the 85%+ auto sort discounts for "large envelopes", will be critical areas for investigation when full costing information becomes available.

The issue for ComReg therefore is whether it should direct An Post to comply with the Tariff Principles now based on estimated costing data, or wait until more accurate and reliable costing data becomes available. On balance it is more realistic to concur with An Post's approach pending sufficiently detailed costing information later in 2007.

4.4 Link with Quality

An Post has made a proposal to link the implementation date of the next price increase to measurable improvements in its quality of service during 2007.

An Post proposes an achievement level of 80% for 2007 overall for D+1 mail, as per the TNS mrbi monitor. For each 2 percentage point shortfall, relative to this threshold, the implementation of the proposed 2008 price increase will be delayed by one month, up to a total of three months delay. A further one month's delay would also be imposed if An Post fails to achieve a D+3 threshold of 98% for 2007 overall.

Generally, this is to be welcomed, given the potential for moving An Post toward a greater customer focus.

4.5 Conclusion

Given that 42 months will have elapsed since the last increase in the letter tariffs, it is proposed that any approved increases should be implemented on 1 March 2007. Following the receipt of more detailed and accurate costing data²⁶, any further tariff adjustment, following a public consultation, would not be introduced before January 2008.

Q. 1. What in your opinion are the pros and cons of ComReg concurring with An Post's proposal for an "interim" price increase to be implemented on 1 March 2007?

²⁶ together with compliance with the new Accounting Direction

5 Submitting Comments

All comments are welcome.

The consultation period will run from 15 December 2006 to 19 January 2007 during which time ComReg welcomes written comments on any of the issues raised in this paper.

Having analysed and considered the comments received, ComReg will review whether it should concur with An Post's "interim" pricing proposals for services reserved to An Post and publish a report in January or early February 2007 on the consultation which will, inter alia summarise the responses to the consultation.

In order to promote further openness and transparency ComReg will publish all respondents submissions to this consultation, subject to the provisions of ComReg's guidelines on the treatment of confidential information – ComReg 05/24. We would request that electronic submissions be submitted in an-unprotected format so that they can be appended into the ComReg submissions document for publishing electronically.

Please note

ComReg appreciates that many of the issues raised in this paper may require respondents to provide confidential information if their comments are to be meaningful.

As it is ComReg's policy to make all responses available on its web-site and for inspection generally, respondents to consultations are requested to clearly identify confidential material and place confidential material in a separate annex to their response

Such Information will be treated subject to the provisions of ComReg's guidelines on the treatment of confidential information – ComReg 05/24

Appendix A – Legislation

The European Communities (Postal Services) Regulations 2002 (S.I. No. 616/2002)

The EC “Postal Directive”²⁷ establishes a harmonised regulatory framework for postal services throughout the European Union and for securing improvements in the Quality of Service provided, and defines a decision-making process regarding further opening of the postal market to competition. It was transposed into national law by the European Communities (Postal Services) Regulations, 2000, S.I. No.310 of 2000, which have now been revoked and replaced by the European Communities (Postal Services) Regulations, 2002, S.I. No.616 of 2002 (“the Postal Regulations”),

These Regulations set out a very broad framework of the universal service requirement. A function of ComReg is to put flesh on the bones of these Regulations; taking cognisance of the modern needs of business and domestic consumers in tandem with ensuring that the Universal Postal Service remains a protected and viable service nationwide.

Under Regulation 9 (1) the tariffs for each of the services provided by a universal service provider which forms part of its universal service must comply with the tariff principles set out therein. Under Regulation 9(6), where ComReg is of the opinion that a universal service provider is not complying with the principles ComReg may, after consultation with the Minister, issue directions to ensure compliance with the principles.

The Postal & Telecommunications Services Act 1983 (“The 1983 Act”)

Under section 70 of the Postal & Telecommunications Services Act 1983 An Post may make, as respects any of the postal services provided by it, a Scheme providing all charges which are to be made by it and the other terms and conditions which are to be applicable to those services. The Postal Regulations 8 (4) amends the Act to provide that An Post shall not increase any charge under such a Scheme relating to postal services reserved to An Post without the concurrence of ComReg (this role had previously been given to the Minister).

The regulatory objectives for the postal sector are very different from those for the telecommunications and broadcasting sectors. While the European Treaties require that there should be freedom to provide postal services, there is a fear amongst legislators that market liberalisation might impact on the availability of traditional postal services at “affordable” prices.

27 Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service. OJ L 15 21.1.1998, p. 14, as amended by Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services OJ L 176 5.7.2002, p. 21.

Communications Regulation Act 2002

Under Section 12 (1) of the Communications Regulation Act one of the statutory objectives of the Commission in exercising its functions shall be to promote 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 users.

DISTINCTION BETWEEN THE TWO LEGAL PROVISIONS

ComReg's powers under section 70 of the 1983 Act is of a different nature to that arising from the Postal Directive requirement to ensure that An Post complies with the Tariff Principles, and covers different (albeit overlapping) areas of An Post's business. Section 70 of the 1983 Act applies to pricing in the reserved area, while the Postal Directive requirement applies to all elements in the universal service. It can be the case that a heavier packet is in the part of the market open to full competition, yet is also in the scope of the universal service since such packets must be delivered to all addresses in the State if presented to An Post.

Section 70 of the 1983 Act

The responsibility only relates to those services defined under Regulation 8 as reserved services ie items of correspondence weighing up to 100 grams and charged less than three times the standard tariff for an item in the first weight step (€1.23). It creates a mechanism by which An Post must seek ComReg's approval before implementing any price increase.

CRITERIA AGAINST WHICH COMREG WILL MAKE ITS DECISION UNDER SECTION 70 OF THE 1983 ACT

As indicated in the Report on Consultation ODTR 02/32, in addition to the Tariff Principles ComReg will take into account the following factors when considering, under Section 70(2) of the 1983 Act, as amended, whether to approve proposals to increase prices for services within the Reserved Area:

- 1 Observations made to ComReg under Regulation 17(1) of the Postal Regulations about the adequacy of An Post's justification for the proposals.
- 2 The obligations which are placed on An Post by EC competition law, by statute (e.g. Section 13 of the 1983 Act which requires prices to be kept at the minimum rates consistent with meeting approved financial targets) and by its own memorandum and articles of association

Tariff Principles

It would be inappropriate for ComReg to concur with any proposals that did not take into account the tariff principles (particularly "affordability" and "geared to costs") as these Principles apply to all of the universal services. The onus is on An Post to comply with these principles and under Regulation 9(1) of the Postal Regulations

ComReg's responsibility is to monitor compliance, but without any requirement to approve prices in advance.

If a service falls within the universal service area, the same tariff principles apply to all aspects of the service whether or not a particular item falls within the reserved area. In other words it is not possible for the prices of a service to be compliant in the reserved area and non-compliant in the competitive area or vice versa.

Extract from S.I. No. 616 of 2002: Regulation 9 - Tariff Principles and Transparency of Accounts

9.(1) The tariffs for each of the services provided by a universal service provider which form part of its universal service shall comply with the following principles:

- (a) prices must be affordable and must be such that all users have access to the services provided;
- (b) prices must be geared to costs;
- (c) comply with any uniform tariff decided by the Regulator under paragraph (2),
- (d) the application of a uniform tariff shall not exclude the right of An Post to conclude individual agreements on prices with customers, and
- (e) tariffs must be transparent and non-discriminatory.

(2) The Regulator may, with the consent of the Minister, decide that a uniform tariff for a service provided by a universal service provider shall be applied throughout the State.

(3) Whenever a universal service provider applies special tariffs, for example for services for businesses, bulk mailers or consolidators of mail from different customers, the provider shall apply the principles of transparency and non-discrimination with regard both to the tariffs and to the associated conditions. The tariffs shall take account of the avoided costs, as compared to the standard service covering the complete range of features offered for the clearance, transport, sorting and delivery of individual postal items, and together with the associated conditions, shall apply equally both as between different third parties and as between third parties and universal service providers supplying equivalent services. Any such tariffs shall also be available to private customers who post under similar conditions.

(4) The terminal dues arrangements entered into by An Post do not constitute special tariffs.

(5) Cross subsidisation of universal services outside the reserved sector out of revenues from services in the reserved sector is permitted only to the extent to which it is shown to be strictly necessary to fulfil specific universal service obligations imposed in the competitive area, in accordance with rules adopted to this effect by the Regulator. The Regulator shall inform the Commission of any such rules adopted by it.

(6) Where the Regulator is of the opinion that a universal service provider is not complying with the principles laid down in this Regulation, the Regulator may, after consultation with the Minister and in the case of paragraph (1)(c) with the consent of the Minister, issue directions to the provider for the purposes of satisfying the requirements specified in this Regulation.

Competition Law

ComReg has a duty to ensure that its decisions do not approve pricing structures in breach of EC competition law. The European Commission has published a Notice on how competition law applies in the postal sector.²⁸ Point 3.4 of this notice provides that monopoly operators such as An Post “should not use the income from the reserved area to cross subsidise activities in areas open to competition. Such a practice could prevent, restrict or distort competition in the non-reserved area.” There is a provision in Regulation 9 (5) of SI No 616 of 2002 that subsidies from the reserved area to the non reserved area may be permissible “only to the extent to which it is shown to be strictly necessary to fulfil specific universal service obligations imposed in the competitive area”.

Section 13 of the 1983 Act

Other legislative requirements must also be taken into account. In this regard section 13 of the 1983 Act sets out in detail the financial objectives for An Post (in summary to “break even”) and specifically provides that “charges for services are kept at the minimum rates consistent with meeting approved financial targets”.

Efficient Operations

The possibility must also be considered that the prices for services in the reserved area are in excess of the price that would be charged in a fully competitive market, not because of the need to ensure the maintenance of the universal service, but because the protection of a monopoly mitigates the consequences of failing to fully eliminate operational inefficiencies.

This is referred to in Recital 26 to the EC Postal Directive in the following justification for establishing the tariff principles:

(26) Whereas, in order to ensure sound management of the universal service and to avoid distortions of competition, the tariffs applied to the universal service should be objective, transparent, non-discriminatory and geared to costs;

²⁸ Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain State measures relating to postal services Official Journal C 39, 6.2.1998, page 2.

Appendix B – Consultation Question

What in your opinion are the pros and cons of ComReg concurring with An Post's proposal for an "interim" price increase to be implemented on 1 March 2007?...12

Appendix C – Definition of Terms

Definition of Terms	Size / Dimensions
Standard Letter	Up to C5 size 162mm * 235mm * 5mm
Large Envelope	Up to 400mm * 300mm * 25mm
Packets	Maximum size (width + length + thickness) 900mm Maximum length 600mm In roll form (length + twice the diameter) 1040mm, maximum length 900mm
Minimum Size (all formats)	90mm * 140mm

Appendix D – Specification for “discounted” services.

Option	Minimum Quantity	Latest Posting Time	Delivery Standard	Sorting
Early Presentation Options				
Early Presentation 1	2,000	Noon	Next Day	85%+ auto
Early Presentation 2	2,000	Noon	Next Day	auto
Early Presentation 3	2,000	15:00	Next Day	85%+ auto
Early Presentation 4	2,000	15:00	Next Day	auto
Early Presentation 5	2,000	15:00	Next Day	
Deferred Bulk Options				
Deferred Bulk 1	2,000	Noon	Deferred (two day)	85%+ auto
Deferred Bulk 2	2,000	Noon	Deferred (two day)	auto
Deferred Bulk 3	2,000	Noon	Deferred (two day)	
Deferred Meter Options				
Deferred Meter 1	500	Noon	Deferred (three day)	
Deferred Meter 2	500	Noon	Deferred (three day)	Auto
Pre-sort options				
Pre-sort Noon	2,000	Noon	Next Day	Pre-sort
Pre-sort 17:30	2,000	17:30	Next Day	Pre-sort

Appendix E - Non Reserved Tariffs

Domestic Letters (incl. Business reply)

Weight not over 100g	Current price	Proposed price	% Increase
Stamped	0.60	0.55	-8.3%
Metered	0.55	0.54	-1.8%
Business Reply	0.55	0.54	-1.8%
Bulk	0.50	0.54	8.0%

Domestic Large Envelopes/Flat (incl. Business Reply)

Weight not over (all payment methods)	Current price	Proposed price	% Increase
100g	0.90	0.95	5.6%
100-250g	1.25	1.30	4.0%
250-500g	1.75	1.85	5.7%
500-1kg	2.70	2.85	5.6%

Domestic Packets (incl. Business Reply)

Weight not over (all payment methods)	Current price	Proposed price	% Increase
100g	2.00	2.10	5.0%
100-250g	2.50	2.60	4.0%
250-500g	3.50	3.70	5.7%
500-1kg	5.50	5.70	3.6%
1-2 kg	7.00	7.25	3.6%
Each additional 500g	1.00	1.00	0.0%

Domestic Registered Mail

Weight not over	Current price	Proposed price	% Increase
100g	4.50	5.00	11.1%
250g	5.00	5.50	10.0%
500g	6.00	6.50	8.3%
1kg	8.50	9.00	5.9%
2 kg	10.50	11.50	9.5%

International Outbound

INTERNATIONAL PRIORITY MAIL

Weight Breaks	Current Tariffs			Proposed Tariffs		
	Letter	Flat	Packet	Letter	Flat	Packet
0-100g	0.75	1.40	2.50	0.78	1.45	2.60
101-250g		2.75	3.25		2.85	3.35
251-500g		4.00	4.50		4.15	4.70
BRITAIN & EUROPE						
501-1kg			7.00			7.25
1kg-2kg			10.00			10.40
REST OF WORLD						
501-1kg			10.00			10.40
1kg-2kg			16.00			16.60
INTERNATIONAL REGISTRATION FEE						
In addition to postage	4.00			4.15		

Parcels

Current Standard Tariffs				
	Domestic & Northern Ireland	Britain	Europe	Rest of World
	€	€	€	€
0-1kg	6.00	17.00	24.00	20.00
1kg – 1½kg	7.00	20.00	26.00	27.00
1½kg-2kg	7.00	23.00	28.00	34.00
2kg -2½kg	8.00	26.00	32.00	41.00
2½kg-3kg	9.00	29.00	36.00	48.00
3kg -3½kg	10.00	31.00	40.00	55.00
3½kg-4kg	11.00	33.00	44.00	62.00
4kg -4½kg	12.00	35.00	48.00	69.00
4½kg-5kg	13.00	37.00	51.00	79.00
Each add. Kg. (max 20kg)	1.00	1.00	3.00	10.00

Proposed Standard Tariffs				
	Domestic & Northern Ireland	Britain	Europe	Rest of World
	€	€	€	€
0 – 1kg	6.25	17.50	25.00	21.00
1kg – 1½kg	7.25	21.00	27.00	28.00
1½kg-2kg	7.25	24.00	29.00	35.00
2kg -2½kg	8.30	27.00	33.00	43.00
2½kg-3kg	9.35	30.00	37.00	50.00
3kg -3½kg	10.50	32.00	42.00	57.00
3½kg-4kg	11.50	34.00	46.00	65.00
4kg -4½kg	12.50	36.00	50.00	72.00
4½kg-5kg	13.50	38.00	53.00	83.00
Each add. Kg. (max 20kg)	1.00	1.00	3.00	10.00