



Commission for
Communications Regulation

Response to Consultation & Decision Notice

**An Post's Application for Interim Price
Increase – 2007**

Decision No:	D01/07
Document No:	07/10
Date:	9, February 2007

Contents

1	Executive Summary	3
2	Introduction	5
2.1	LEGAL BASIS	6
2.2	BACKGROUND	7
2.3	CONSULTATION	7
2.4	FORMAT OF DOCUMENT.....	8
3	Summary of Proposals put to Consultation	9
3.1	SINGLE PIECE TARIFFS.....	9
3.2	BULK MAIL TARIFFS	9
3.3	NON-RESERVED TARIFFS	11
3.4	IMPACT OF AN POST'S PRICE INCREASE PROPOSALS	11
3.5	CONSULTATION QUESTION	11
4	General Issues regarding the proposals	12
4.1	PRINCIPLE OF AN "INTERIM" PRICE INCREASE	12
4.1.1	<i>Views of Respondents</i>	12
4.1.2	<i>Commission Position</i>	12
4.2	DOMESTIC USO IS HEAVILY LOSS MAKING	12
4.2.1	<i>Views of Respondents</i>	12
4.2.2	<i>Commission Position</i>	13
4.3	IMPACT ON POSTAL USERS	14
4.3.1	<i>Views of Respondents</i>	14
4.3.2	<i>Commission Position</i>	14
4.4	IMPACT ON MAIL VOLUME	15
4.4.1	<i>Views of Respondents</i>	15
4.4.2	<i>Commission Position</i>	15
4.5	BENCHMARKING OF PROPOSED TARIFFS AGAINST INTERNATIONAL COMPARISONS AND MOVEMENTS IN CPI.....	15
4.5.1	<i>Views of Respondents</i>	15
4.5.2	<i>Commission Position</i>	16
4.6	COMPLIANCE WITH "GEARED TO COST" PRINCIPLE	18
4.6.1	<i>Views of Respondents</i>	18
4.6.2	<i>Commission Position</i>	18
4.7	COMPLIANCE WITH MINISTERIAL POLICY DIRECTION.....	18
4.7.1	<i>Views of Respondents</i>	18
4.7.2	<i>Commission Position</i>	18
5	Issues regarding specific prices	19
5.1	TARIFF RELATIVITIES/DISCRIMINATION BETWEEN POSTAL USER'S.....	19
5.1.1	<i>Views of Respondents</i>	19
5.1.2	<i>Commission Position</i>	19
5.2	LEVEL OF DISCOUNT FOR THE PRE-SORT SERVICE	20
5.2.1	<i>Views of Respondents</i>	20
5.2.2	<i>Commission Position</i>	20
5.3	NEED FOR DISCOUNTED TARIFFS TO BE TRANSPARENT	21
5.3.1	<i>Views of Respondents</i>	21
5.3.2	<i>Commission Position</i>	21

5.4	NEED FOR DISCOUNTED TARIFFS TO REFLECT VOLUME POSTED.....	21
5.4.1	<i>Views of Respondents</i>	21
5.4.2	<i>Commission Position</i>	21
6	Issues regarding Quality of Service and its link with prices	22
6.1	VIEWS OF RESPONDENTS	22
6.2	COMMISSION POSITION.....	22
7	Issues outside the scope of the consultation.....	23
7.1	TARIFF STRUCTURE – ABOLITION OF 50G TO 100G WEIGHT STEP.....	23
7.1.1	<i>Views of Respondents</i>	23
7.1.2	<i>Commission Position</i>	23
7.2	TARIFF STRUCTURE – SUGGESTION TO INTRODUCE TWO WEIGHT STEPS BETWEEN 100G AND 250G	23
7.2.1	<i>Views of Respondents</i>	23
7.2.2	<i>Commission Position</i>	23
7.3	LACK OF "CUSTOMER FOCUS" AT AN POST.....	24
7.3.1	<i>Views of Respondents</i>	24
7.3.2	<i>Commission Position</i>	24
7.4	SUBSIDISATION OF NON-POSTAL ACTIVITIES.....	24
7.4.1	<i>Views of Respondents</i>	24
7.4.2	<i>Commission Position</i>	24
7.5	OTHER ISSUES	24
7.5.1	<i>Views of Respondents</i>	24
7.5.2	<i>Recommended Commission Position</i>	25
8	Decisions	26
	Appendix A – Legislation	27
	Appendix B – List of Decisions.....	31
	Appendix C – Specification for "discounted" services.....	32
	Appendix D – Non Reserved Tariff Proposals.....	33

1 Executive Summary

On the 6 December 2006, ComReg received formal proposals from An Post¹ to increase the price of its domestic reserved services. On the 15 December 2006, ComReg launched a consultation process² in relation to these proposals.

In accordance with Section 70(2) of the Postal and Telecommunications Services Act, 1983, as amended, An Post must seek ComReg concurrence before it can increase prices for services reserved to the company. In assessing any price increase application, ComReg has a legal obligation to monitor An Post's compliance with Regulation 9 "Tariff Principles"³.

In addition and when considering whether or not to concur with any price increase proposals, ComReg must act in accordance with law and operate in a transparent manner, giving all interested parties the opportunity to comment on the proposals under consideration.

An Post is seeking an "interim" price increase because during the period of August 2003 to May 2007, it is projected that 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 Consumer Price Index (CPI) increased by 4.4%⁴. While this supports An Post's case to increase the level of its prices, accounting data to support any significant rebalancing of tariffs needs to be based on the new processes and procedures (as outlined in the Accounting Direction issued in December 2006¹⁵) which will not be available until later in 2007. By March this year it would 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.

An Post is therefore seeking an "interim" increase in the price of a standard letter from 48c to 55c, with smaller increases for meter and bulk services. Furthermore, there is a commitment from An Post to produce and submit accounting data based on the new processes and procedures later in 2007, and to review pricing in the light of that detailed information. It is the intention of ComReg to review all universal service tariffs at that time, be it part of a price increase application or not.

Some respondents to the consultation have argued that ComReg should wait until information on foot of the new accounting direction becomes available, or that it should require An Post to amend specific aspects of its proposals now. The difficulty

¹ ComReg 06/67a: "Application by An Post to ComReg for Interim Price Increase".

² ComReg 06/67 Consultation Paper: "An Post's Application for Interim Price Increase - 2007".

³ Regulation 9(1) S.I. No. 616 of 2002 European Communities (Postal Services) Regulations, 2002

⁴ 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.

with the first suggestion is that costs, and particularly wage costs, will have increased further in the meantime. Secondly, there is little evidence at this stage to support any amendment of An Post's proposals. On balance, it is therefore best to concur with the interim price increase pending the detailed accounting information becoming available later in 2007.

In its response to this consultation, An Post claims that "*the domestic portion of the USO is heavily loss-making*" and suggests that ComReg is incorrect in its presentation of An Post's proposals for the discounted services.

Specific information to support this has not been submitted to ComReg although An Post claims to have made it "*available to ComReg on a confidential basis*". If such detailed information was available, there would be no need for an interim price increase as it would be possible for An Post to submit detailed costing information in support of its proposals.

An Post's assertion, in its response to the consultation, that ComReg's presentation of An Post's proposals for the discounted services is incorrect is inconsistent with the details shown in Appendix 1 to An Post's Price Increase Application dated 6 December 2006.

Having considered the views of interested parties, ComReg has decided to concur with An Post's proposal for an interim price increase for services that fall within the domestic reserved area, i.e. the prices for all items up to the weight limit of 50g as shown in Appendix 1 of An Post's Price Increase Application dated 6 December 2006. These price increases are to be implemented on 1 March 2007 or when the relevant scheme(s) under Section 70 of the 1983 Act are countersigned on behalf of ComReg, whichever is the later.

2 Introduction

On the 6 December 2006, ComReg received formal proposals from An Post⁵ to increase the price of its domestic reserved services.

On the 15 December 2006, the Commission for Communications Regulation (ComReg) published a consultation paper outlining An Post's proposals for an interim price increase to be implemented on 1 March 2007.

When considering whether or not to concur with any price increase proposals, ComReg must act in accordance with law and operate in a transparent manner, giving all interested parties the opportunity to comment on the proposals under consideration.

The Commission would like to thank the thirteen respondents⁶ to the consultation paper whose views have been considered in completing this paper.

The basis of An Post's application is that from August 2003 (when the price of posting a standard sized letter was last increased) until May 2007, wage rates will have increased by 18.9% under National Wage Agreements, and the company has had to absorb significant increases in its costs. Such increases are clearly significant given that over 70% of An Post's costs are labour related. Other companies have been faced with similar cost increases, and consequently consumer prices generally have increased by almost 11% over the period from August 2003 to December 2006. The difference between the two figures represents the extent to which businesses generally have been able to absorb some of the costs by improving efficiency. An Post envisages that its price proposals will increase by slightly less than consumer prices generally.

An Post is unable, at this stage, to provide detailed costing information to support the specific prices it proposes. However, unlike An Post's 2005 price increase proposal to increase the price of posting a standard letter (from 48c to 60c) the proposals this time are more in keeping with the rate of increase in consumer prices generally. The proposed increase for the products which are most sensitive to price (e.g. discounted services) have however been kept at a low level to minimise the impact on volumes, which are critical to the long-term stability of the universal service provision. Furthermore, there is a commitment from An Post to produce and submit accounting data based on the new processes and procedures (as set out in the Accounting Direction issued in December 2006) later in 2007, and to review pricing in the light of that detailed information. It is the intention of ComReg to review all universal service tariffs at that time, be it part of a price increase application or not.

In August 1998 the long standing "contents based" tariff was abandoned in favour of a cost based tariff. In the 8½ years since August 1998, the weighted average price increase for items of correspondence in the reserved area is estimated to have fallen in real terms by 9.6%, i.e. by about 1.1% p.a.

⁵ ComReg 06/67a: "Application by An Post to ComReg for Interim Price Increase".

⁶ ComReg 07/10a Submissions to Consultation: "An Post's Application for Interim Price Increase – 2007"

However, overall domestic prices have fallen in real terms by only 1% over the same period, indicating that those products for which An Post is free to increase the price without first securing ComReg's prior concurrence have actually increased in real terms. The Consumer Association of Ireland (CAI) in its magazine *Consumer Choice* (January 2007) published a study that points to similar increases for international products where ComReg has no ex-ante control.

Once more detailed accounting data becomes available to it, at the end of this year, ComReg will review An Post's compliance with the tariff principles set out in the European Postal Directive, and require any necessary adjustments. In this respect it must be noted that An Post, taking on board the concerns of ComReg, intends to reduce the price of a standard letter weighing between 50g and 100g from 60c to 55c, restoring the principle of a single price for a standard sized letter irrespective of weight which existed until February last year.

2.1 Legal basis

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

Firstly and in accordance with section 70(2) of the 1983 Act (as amended)⁷ 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 50g⁸ 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-discriminatory³, 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.

⁷ As amended by S.I. No. 616 of 2002, European Communities (Postal Services) Regulations, 2002.

⁸ 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)

2.2 Background

In April 2002, the ODTR (ComReg's predecessor) concurred⁹ 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.¹⁰ Subsequently, and on receipt of detailed cost accounting information, ComReg in 2003 concurred with revised pricing proposals for the International Outbound¹¹ and Domestic¹² reserved services.

In August 2005, An Post submitted proposals to increase the price of its domestic postal services. Following a public consultation¹³, 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. ComReg was however of the view, that if its concerns were warranted the level of price increases needed for the Large Envelope and Packet products would be higher than that proposed 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 regarding the accuracy and reliability of An Post's cost accounts, the Response to Consultation document¹⁴ 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 2006¹⁵ which, once implemented by An Post, should overcome ComReg's concerns surrounding the accuracy and reliability of its cost accounts.

2.3 Consultation

The responses received by ComReg to the consultation paper have been of great assistance in informing ComReg as to whether it should concur with An Post's interim price increase proposals.

⁹ ODTR 02/32 Response to Consultation: "Application by An Post to increase the price of Reserved Postal Services"

¹⁰ 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.

¹¹ ODTR 02/111 Decision Notice & Response to Consultation: "Application by An Post to increase the price of International Outbound reserved Postal Services".

¹² 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".

¹³ ComReg 05/68r Consultation Paper: "An Post's Proposals to increase the price of Domestic Postal Services 2005".

¹⁴ ComReg 05/94 Response to Consultation & Decision Notice: "An Post Domestic Price Application 2005".

¹⁵ ComReg 06/63 Response to Consultation: "Regulation of Universal Postal Services – Accounting Separation and Costing Methodology – Accounting Direction to an Post"

ComReg would like to express its thanks to everyone who contributed to the consultation. In total, thirteen responses to the consultation paper were received.

While all points raised by respondents have been considered, readers will appreciate that it is not feasible to refer to every point made by every respondent in a document of this nature.

2.4 Format of document

This report summarises the main issues raised during the consultation; both in the consultation paper itself and by the respondents to the consultation.

- Chapter 3 describes An Post's proposals as set out in the Consultation Paper;
- Chapter 4 deals with general issues regarding the proposals;
- Chapter 5 deals with issues regarding specific prices;
- Chapter 6 deals with issues regarding Quality of Service and its link with prices; and
- Chapter 7 deals with issues raised by respondents which are outside the scope of the consultation;

Each Chapter briefly summarises such issues, provides an analysis by ComReg of those issues and the position adopted by the Commission in response to the consultation.

The thirteen submissions received are published separately as an annex (ComReg document 07/10a) to this document, with confidential information excluded. The names of the thirteen organisations and individuals concerned are listed in the index to the annex.

In addition to the thirteen submissions, a late submission was received from Pitney Bowes, one week after the consultation closed (on 26 January 2007). While this could not be taken into account in undertaking our analysis, a number of relevant points were raised which will be important in the forthcoming and more detailed review of An Post's tariffs. It is for this reason that ComReg has decided that this response will be published along with the other submissions so that An Post and other stakeholders are aware of its contents.

3 Summary of Proposals put to Consultation

An Post is seeking an “interim” price increase because accounting data based on the new processes and procedures (as outlined in the Accounting Direction issued in December 2006¹⁵) will not be available until later in 2007, and by March 2007 it would 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, it is projected that 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 Consumer Price Index (CPI) increased by 4.4%.

The following is a summary of the price increase proposals for which An Post has sought ComReg’s concurrence:

3.1 Single Piece Tariffs

Table 1 summarises An Post’s interim price proposals for Single Piece items.

Table 1

	Current Tariff	Proposed Tariff – Stamped ¹⁶	Proposed Tariff – Metered ¹⁷	Increase %
Letter	48c	55c	54c	13.7% ¹⁸
Large Envelope	90c	95c		5.6%
Packet	200c	210c		5.0%

3.2 Bulk Mail Tariffs

Bulk Mail services include “discounted” services and a special service called “*Postaim*”, both of which are offered to large volume posters of mail. The tariffs for such services, in accordance with Regulation 9(3) of the European Communities (Postal Services) Regulations 2002 (“the Postal Regulations”)¹⁹, “*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.

¹⁶ Including Counter Automation Labels

¹⁷ Including Ceadúnas, Business Reply and Freepost

¹⁸ This is a best estimated of the weighted percentage increase based on 2003 mail volumes as An Post has not provided ComReg with up to date volume figures by product or payment method.

¹⁹ S.I. No. 616 of 2002, European Communities (Postal Services) Regulations, 2002

Table 2 summarises the price increase proposals in the reserved area for each option of the “discounted” services. A detailed “specification” for each option can be found at Appendix C.

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

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

Current and proposed tariffs for Postaim, the specialised service for the Direct Mail Industry 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)	32c	34c	30c	32c	29c	31c	28c	30c
<50g	34c	36c	32c	34c	30c	32c	29c	31c
Large Envelope Format								
0-50g	60c	63c	58c	61c	56c	59c	56c	59c
Packet Format								
0-50g	177c	186c	177c	186c	177c	186c	177c	186c

3.3 Non-Reserved Tariffs

An Post's interim price increase application also included full details of its price increase proposals for services falling in the non-reserved area²⁰. These tariffs have not been evaluated in this paper as An Post does not have to secure ComReg's prior concurrence before implementing them. Furthermore, An Post is not yet in a position to submit information demonstrating that any of its proposals comply with the Tariff Principles.

The level of increase proposed is however broadly in line with CPI increases.

3.4 Impact of An Post's Price Increase Proposals

An Post estimates that its proposals will increase reserved and non reserved universal service revenues by about €20m in a full year. Postage rates have a minimal impact on the calculation of CPI.

3.5 Consultation Question

Interested parties were asked the following question:

Q1	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?
----	--

The following four sections considers in detail the issues raised by respondents to the consultation, provides an analysis by ComReg of those issues and outlines the position adopted by the Commission.

²⁰ See Appendix D for details of non-reserved price increase proposals

4 General Issues regarding the proposals

4.1 Principle of an "interim" price increase

4.1.1 Views of Respondents

One respondent to the consultation was of the opinion that when considering any price increase proposal, the length of time since the last price increase was not a valid reason for An Post to justify an increase or for ComReg to concur with same. In addition, it was of the opinion that the use of CPI movements is insufficient to justify a price increase.

Another respondent expressed concern that the proposed interim increase is almost four times the current annual rate of inflation. It was also of the view that in considering any price increase application, the savings generated from An Post's staff reduction programme should be recognised by ComReg.

Concern was also expressed that An Post could be endeavouring to get 'two bites of the cherry' by using an interim application.

4.1.2 Commission Position

The comment that the proposed interim increase is almost four times the current rate of inflation demonstrates why many postal operators seek small regular price increases rather than significant adjustments on an irregular basis. When the latter occur, the increases are usually perceived as being well above inflation rates. This can impact adversely on customers' future usage of mail services.

For clarity, if An Post's proposals are implemented the average price for a letter will have increased by 9.9% since August 2003, whereas the most recent CPI data²¹ shows an increase of 10.8% over the same period.

In relation to concerns that An Post may be seeking 'two bites of the cherry' there is a need to clarify that it does not necessarily follow that once more detailed cost accounting data becomes available that there will be a need for a further price increase. Once this information becomes available ComReg will review all universal tariffs and require that the necessary adjustments (up or down) are made.

4.2 Domestic USO is heavily loss making

4.2.1 Views of Respondents

With regard to the general principle of an interim price increase, An Post in its submission to the consultation claims that the domestic portion of the USO is heavily loss-making, the details of which being made available to ComReg on a confidential basis.

²¹ To December 2006

On the other hand and contrary to the above, An Post confirms that it and ComReg are working co-operatively to ensure early implementation of the systems, templates and review mechanisms necessary to achieve compliance with the new Accounting Direction.

4.2.2 Commission Position

Specific information to support the proposition that "*the domestic portion of the USO is heavily loss-making*" has not been submitted to ComReg. Further, availability of such information would negate the need for an "interim" price increase, pending implementation of the new cost accounting systems (as required by the new Accounting Direction), as it would be possible for An Post to submit detailed costing information in support of its proposals.

As outlined in the Consultation Paper, ComReg will not be in a position to assess An Post's compliance with Regulation 9 of the Postal Regulations' ("*Tariff Principles*")¹⁹ until it has more detailed cost accounting data, based on the new processes and procedures set out in the Accounting Direction¹⁵, later in 2007. In addition, until such time as An Post achieves full compliance, neither An Post nor ComReg can assess the performance of the domestic USO segment.

An Post has not published a summary of its 2005 Regulatory Accounts on its website²². It should be noted, however, that the accounts for the years 2001 to 2004, which have been published, suggest that the primary reason for An Post's losses in the past have not emanated from the provision of the universal service within the state, but rather from An Post's failure to comply with Regulation 10 "*Agreements on Terminal Dues*"²³ in respect of the charges that foreign postal operators pay for access to An Post's delivery network – see summary at Table 4:

²² While An Post is not obliged to publish this information, it is to its credit that it has done so in the past
<http://www.anpost.ie/AnPost/MainContent/About+An+Post/Annual+Reports/Regulatory+Accounts/Regulatoryaccounts.htm>).

²³ Regulation 10(1) of S.I. No. 616 of 2002, European Communities (Postal Services) Regulations, 2002 requires that "...a universal service provider shall arrange in its agreements on terminal dues for intra-Community cross-border mail that....(a).terminal dues shall be fixed in relation to the costs of processing and delivering incoming cross-border mail".

Table 4: Summary of An Post's (published) Regulatory Accounts

	2001	2002	2003	2004	Cumulative
	€'000	€'000	€'000	€'000	€'000
Domestic segment	7,585	(6,181)	(20,841)	15,601	(3,836)
Inbound International	(19,284)	(13,119)	(26,057)	(34,506)	(92,966)
Outbound International	5,125	2,137	8,758	20,863	36,883
Parcels	9	709	(316)	(4,384)	(3,982)
USO	(6,565)	(16,454)	(38,456)	(2,426)	(63,901)
NON USO	(100)	(54,000)	8,756	9,400	(35,944)
TOTAL	(6,665)	(70,454)	(29,700)	6,974	(99,845)

Table 4 confirms that the domestic element of the Universal Service was in a state of financial equilibrium in 2004 (following the August 2003 price increases). However due to cost movements in the intervening 3½ years an interim price increase short of the cumulative movement in CPI would appear to be necessary to maintain this position.

4.3 Impact on Postal Users

4.3.1 Views of Respondents

A number of respondents requested that An Post and ComReg recognise the budgetary implications that the proposed price increases will have on business customers, particularly as their budgetary process would normally have been complete during the last quarter of 2006.

Concern was also expressed regarding An Post's ability to have stamps of the appropriate values / formats available for the new rates and to "make up" existing stocks of stamps to the new price levels.

4.3.2 Commission Position

An Post in its price increase application points out that during the period of August 2003 to May 2007, it will have absorbed significant cost increases, including wage increases of 18.9% under National Wage Agreements. Such cost increases are clearly significant given that over 70% of An Post's costs are labour related.

Furthermore, given that it is 3½ years since An Post's prices of reserved letters were last increased, and An Post had been signalling for some time that it wanted ComReg to agree to a 60c headline letter rate, it would not be unreasonable for any business or organisation to have prepared their budgets for 2007 on the basis that some increase in postage rates was likely to occur.

However, it is acknowledged that An Post's customers do need some notice of any price increase and announcements at the start of the financial year can present difficulties. In most countries Universal Service Providers (USPs) such as An Post are required to provide adequate notice to their customers of any future price change.

It is for this reason that ComReg stated in its consultation paper, issued on 15 December 2006, that any increases should be implemented on 1 March 2007.

ComReg has received complaints about the availability of appropriate values / format of postage stamps after previous price increases. It is for this reason that ComReg requires that An Post should only implement any increases when postage stamps of the appropriate denominations have been made available to meet customer needs.

4.4 Impact on Mail Volume

4.4.1 Views of Respondents

While An Post in its response to consultation declared its intention to grow its mail volumes and so secure economies that will benefit all postal users, a number of respondents expressed concern with the effect of the proposed price increases on mail volumes.

One respondent was of the opinion that an increase in the basic stamp would drive volumes down (increasing unit costs and the need for further price increases) whereas another respondent was of the opinion that the proposed increases will not lead to a diminution in volumes and should in fact have the opposite effect.

Another respondent was of the opinion that An Post needs to have a strategy of controlling costs and increasing mail volumes as in its opinion it is the only strategy for success.

4.4.2 Commission Position

This issue is of concern to both ComReg and An Post.

An Post's proposal attempts to balance the requirement to increase volumes and achieve financial equilibrium by minimising the increases for those segments which are most sensitive to price. On the other hand some would argue that the best opportunities for volume growth are to be achieved by promoting the use of mail by smaller companies which do not use the mail service currently. This will be a key issue for consideration when detailed accounting information becomes available later in 2007.

4.5 Benchmarking of proposed tariffs against international comparisons and movements in CPI

4.5.1 Views of Respondents

A number of respondents point to the results of recent benchmarking studies.

An Post in its response to consultation argues that using a weighted average price for all letter traffic below 100g, the proposed 55c tariff is the fourth lowest for the EU15 comparator group. Another respondent referring to a study conducted by Price

Waterhouse Coopers (PwC), highlighted that a Deutsche Post analysis showed that Ireland has the sixth lowest letter price, adjusted for purchasing power parity, out of twenty-seven Member States.

Other respondents were of the opinion that it was more appropriate for ComReg to compare An Post's prices with those available outside the State. A number of respondents identified the cost efficiencies to be gained by mailers in the Republic who post their mail for the UK in Northern Ireland. While cost is an important factor, quality of service was also identified as being of great importance.

As regards inbound international mailings, one respondent highlighted the fact that the pricing structure in Ireland has now reached a level that it costs the same to post from countries like Switzerland and Belgium as it does within Ireland.

In supporting An Post's application for an interim price increase, one respondent was of the opinion that the proposed increase should be considered reasonable and affordable given that the proposed letter tariff increase to 55c although 45% higher than the 1991 rate (in nominal terms) is significantly below the CPI rate for that period of 52.3%.

4.5.2 Commission Position

While a number of respondents have identified the results of some international benchmarking studies, many other studies provide different conclusions. A study by FFPI²⁴ identified that the stamped tariff for the basic letter service in Ireland was the sixth most expensive out of the EU-25. The reason for the difference in this case is that FFPI analysed the lowest price that a customer is asked to pay so that, for example, the price in those countries that offer first and second class services appear lower than that used by An Post and Deutsche Post in their analyses (both of whom only offer a single tier service).

A recent study conducted by WIK consult for the European Commission²⁵ highlighted the many reasons why it is extremely difficult to draw any useful conclusions from such comparisons given the wide variation in the services provided (e.g. weight versus format pricing, first and second class service, liability to VAT etc.).

It is for these reasons that international comparatives are not a key factor which ComReg considers in deciding whether to concur with any price increase proposals which An Post may choose to make.

In relation to outbound international mailings it is important to clarify that this market has been fully liberalised since January 2004, and An Post does not have to seek ComReg's prior concurrence for price changes for such services. Business and

²⁴ Free & Fair Post Pricing Stamp Prices Survey 2005 – 'Stamp Price in the EU-25 for basic domestic letters' – see <http://www.freefairpost.com/pdf/Stamp%20price%20survey%202005%20final.pdf>.

²⁵ WIK Study entitled 'Main Developments in the Postal Sector 2004-2006'.

personal customers now have the option of using any of the postal service providers which have been authorised by ComReg²⁶ to provide these services or to inject their mail directly into the overseas operator's network.

While price is an important driving factor in the choice of postal operator it is evident from the responses received that quality of delivery is also important.

In this connection, An Post needs to bear in mind the contention that substantial savings and improved quality can be made by posting mail for delivery in Britain in Northern Ireland and that this option is also available to private individuals living in border regions.

The assertion that it costs the same to post from countries like Switzerland and Belgium as it does within Ireland is the flipside of the point made in paragraph 4.2.2 above that the primary reason for An Post's losses is its failure to comply with Regulation 10 "*Agreements on Terminal Dues*"²³ in respect of the charges that foreign postal operators pay for access to An Post's delivery network.

In comparing An Post's proposed domestic tariff increases against movements in CPI, it is not appropriate to use 1991 as the baseline. This is due to the fact that there was a fundamental restructuring of tariffs in 1998 when the old structure, under which "printed papers"²⁷ were subsidised by "Letters", was replaced by a "single-tier" service with the price paid being determined solely by the weight. .

Since April 1998 (to December 2006) CPI has increased by 35.7%. It is difficult to directly compare this with the movement in postal prices over the same period, as firstly during this time there had been a switch from a weight based to format based pricing structure and secondly the requirement imposed by the European Communities (Postal Services) Regulations (S.I. No. 310 of 2000), that prices should be '*geared to cost*' has required an elimination of the subsidies that some postal users were receiving at the expense of others.

In addition, and during this time, the size of the reserved area (than is An Post's monopoly) has been reduced from all postal items (in 1998) to only items of correspondence weighing up to 50g from 1st January 2006.

Against this background, what can however be said is that over the period 1998-2006, the average domestic tariff (for all format types, reserved and non-reserved) will have fallen in real terms by about 1%, while prices for the reserved area alone have fallen in real terms by 9.6%. Clearly the price of some services would have greater reductions whereas others would have increased in real terms.

²⁶See: http://www.comreg.ie/postal_service/search.asp

²⁷ Printed papers included greeting cards, newspapers, books, invoices, pamphlets etc. posted in unsealed envelopes.

4.6 Compliance with "geared to cost" principle

4.6.1 Views of Respondents

While one respondent was of the opinion that the proposed tariff increase should be considered to comply with the 'geared to cost' principle, it also recognised the importance of the implementation of new Accounting Direction so as to establish An Post's compliance with Regulation 9 'Tariff Principles' in 2007.

4.6.2 Commission Position

Until ComReg receives data on foot of the new Accounting Direction it will be unable to assess whether there is compliance with the "geared to cost" principle. However, and as noted in paragraph 4.2.2, on the supposition that the August 2003 price increase put the universal services on a sound financial footing, ComReg is of the opinion that an "interim" increase short of the cumulative movement in CPI appears to be now necessary to maintain the financial equilibrium of the universal services.

4.7 Compliance with Ministerial Policy Direction

4.7.1 Views of Respondents

One respondent to the consultation considered it important that ComReg, before reaching a decision on An Post's price increase application, should reflect on the provisions of Policy Direction 12, in particular the need to consider the impact of its decisions on the cost of sustaining the universal service, including per employee costs arising from national pay policy.

4.7.2 Commission Position

It determining whether An Post's pricing complies with the "geared to cost" principle, ComReg uses An Post's Regulatory Accounts as the basis for its assessment. The costs therein include "*per employee costs arising from national pay policy*".

The first part of Policy Direction 12 indicates however that with regard to pricing decisions ComReg should take into account the impact An Post's proposals might have on volume, and therefore unit costs and the sustainability of universal service.

In this regard, a range of factors (in addition to employee costs) must be considered by ComReg before a decision can be made as to whether it should or should not concur with any reserved price increase proposal received from An Post.

5 Issues regarding specific prices

5.1 Tariff Relativities/Discrimination between Postal User's

5.1.1 Views of Respondents

A number of respondents expressed concerns that the proposed increases in prices were discriminatory between postal users'.

One respondent identified that while the proposed increase in price of a fully paid meter/Ceadúnas letter equated to 12.5% (i.e. 48c to 54c), the average increase for a discounted letter would be significantly lower at 5%. On this basis, the respondent was of the view that An Post's proposals will allow it to continue to discriminate between customers who, due to geographical location or volume of daily postings, cannot avail of discounted bulk mail products and therefore continue to subsidise their urban peers who can avail of the discounts.

Another respondent while concurring with an interim price increase did not agree with a 6c or 12.5% increase on the base rate for businesses using meter or ceadunas payment methods and was of the view that 4c or an 8.3% would be adequate as an interim rate increase.

5.1.2 Commission Position

In the absence of detailed costing information, ComReg is not in a position at this stage to form a definitive view on this issue. However, given that the interim price increase proposals are based on the supposition that the August 2003 price increase put the universal services on a sound financial footing, it is the reduced level of increase for the bulk mail services rather than the level of increase for the single-piece mail that may be incorrect.

However, it would be difficult to undo any adverse impact on volumes if a larger increase was imposed for the bulk mail services at this time. It therefore seems appropriate that ComReg wait until An Post examines comprehensively its discount offerings, including the number and type of bulk discounts, and discount levels and relativities when reliable accounting information becomes available later in 2007.

In the meantime, ComReg's Direction²⁸ to An Post requiring "*full and unconditional access to all bulk mailers*" at 43 access points nationwide, issued on 2 February 2007, should address many of the respondent's concerns, especially those concerning discounts for the "*pre-sort*" and "*Postaim*" services.

²⁸ ComReg 07/06 Response to Consultation: "Regulation of the Postal Services – Universal Service Obligation – Bulk Mail Access"

5.2 Level of discount for the Pre-sort service

5.2.1 Views of Respondents

An Post in its response to consultation questioned the need for a pre-sort service given that a significant portion of mail is now routinely sorted to the level of the postal route through its automated processes. It also disputed the claim made in the Consultation Paper that the pre-sort discount should be larger than the discount for a service which is sorted automatically.

5.2.2 Commission Position

ComReg stated in its consultation paper that 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 and that this should be addressed when full accounting information is available.

It is important to clarify that the make up of services which fall within the universal service is driven by customer requirements, and not by what An Post may or may not choose to provide. Many customers can now print their mail in delivery sequence, obviating the need for any sorting by An Post. In this context, it is important to note the position of the European Commission (DG Comp)²⁹:

“clearance, sorting, transport and delivery of postal items constitute different markets”. (paragraph 2.5)

According to point (b) of the second paragraph of Article 86 of the Treaty, an abuse may consist in limiting the performance of the relevant service to the prejudice of its consumers. Where a Member State grants exclusive rights to an operator ... for services which it does not offer, or offers in conditions not satisfying the needs of customers in the same way as the services which competitive economic operators would have offered, the Member State induces those operators ... to limit the supply of the relevant service, as the effective exercise of those activities by private companies is, in this case, impossible. (paragraph 2.7)

*“Preferential tariffs appear to be offered by some operators to particular groups of customers in a non-transparent fashion. Member States should monitor the access conditions to the network with a view to ensuring that there is no discrimination either in the conditions of use or in the charges payable. It should in particular be ensured that intermediaries, including operators from other Member States, can choose from amongst available access points to the public postal network and obtain access within a reasonable period at price conditions based on costs, **that take into***

²⁹ 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 (98/C 39/02) – section 2.7.

account the actual services required." (paragraph 8(b)(vii) – our emphasis).

5.3 Need for discounted tariffs to be transparent

5.3.1 Views of Respondents

An Post, in its response to consultation, (see footnote no. 1 of An Post's submission to consultation) stated that "*it is necessary to correct page 7 of ComReg's consultation paper.....the discount in the example increases by 4c rather than 5c. However, when the payment-method discount is taken into account, the net result is the same.*"

5.3.2 Commission Position

In relation to the correction proposed by An Post, there is a need to clarify that this is not a correction but rather a new proposal by An Post to separate the discounts offered to the bulk poster of mail (i.e. into payment method discount and bulk discount). Appendix 1(f) of An Post's price increase application shows only the net price and nothing in this appendix or in the text of the paper suggests that the net price is to be calculated by subtracting two different figures from the "headline" tariff.

It is questionable whether this new proposal is consistent with the transparency principle and it most likely would create confusion and reduce clarity, from a customer perspective.

For the avoidance of any doubt, it is the net price that ComReg is concurring with and ComReg expects that it is this net price that is clearly and unambiguously conveyed to the customer at all times and that it is this price that is paid by the customer at the time of posting.

5.4 Need for discounted tariffs to reflect volume posted

5.4.1 Views of Respondents

A number of respondents expressed disappointment with An Post's price increase application. Whereas one respondent was of the opinion that An Post should consider reviewing the costs of providing a postal delivery service at different levels in excess of the minimum quantity (currently 2,000 items) for all discounted services, another respondent recommended that An Post introduce a volume increment between 75,000 and 250,000 items for the Postaim service.

5.4.2 Commission Position

ComReg is of the opinion that these are issues that should be considered by An Post before submitting its detailed proposals later this year while ensuring compliance with Regulation 9(3) of the Postal Regulations (i.e. such tariffs should be based on "avoided" costs).

6 Issues regarding Quality of Service and its link with prices

6.1 Views of Respondents

Referring to ComReg document 06/25 - *"An Post's Quality of Service Domestic single piece mail Quarter 1, January to March 2006"*, a number of respondents expressed dissatisfaction at the inefficiencies of An Post and its failure to achieve the quality of service targets.

One respondent was of the opinion that An Post's price increase proposal was wholly unjustifiable and another was of the view that management of An Post needs to get its house in order before attempting to introduce cost increases of the magnitude outlined.

Another respondent while inferring that An Post is using the basic service as a means to promote its next day delivery service via Swiftpost³⁰ (in return for €5) was of the opinion that a customer charter should be introduced which could provide for compensation for late delivery *"€10 for every letter not delivered within three days, and €20 for every letter not delivered within 14 days."*

Another respondent was also in favour of a more customer focused approach and suggested that An Post pay customers a refund e.g. *"1% for every 1% their quality falls below 94%"*.

6.2 Commission Position

ComReg is concerned with the continued failure by An Post to reach its quality of service targets. However, it is difficult to see on what statutory basis ComReg could link price increases to quality of service improvements. That is why ComReg welcomes the proposal made by An Post to link the timing of any future price increases to improvements in quality.

³⁰ Re-launched as Express Post in 2006

7 Issues outside the scope of the consultation

In addition to responding to the specific question raised, a number of respondents raised issues which fall outside the scope of the consultation as follows:

7.1 Tariff Structure – abolition of 50g to 100g weight step

7.1.1 Views of Respondents

While one respondent welcomed An Post's initiative to remove the current price differential for stamped letters weighing 50-100g compared with letters weighing less than 50g (60c versus 48c) by the introduction of a single tariff for all letters weighing up to 100g, another respondent questioned as to why An Post had chosen to introduce this price differential in the first place in March 2006³¹.

7.1.2 Commission Position

In February 2006, 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 a 50g or 100g Letter were not materially different from one another and therefore did not 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 up to 50g.

While the Commission welcomes An Post's proposal to remove the price differential between the 50g and 100g letter, it is important to clarify that this movement is not new as format based pricing was in place prior to February 2006 when An Post introduced the additional weight step. A format based pricing structure is one which is consistent with costing information previously provided by An Post and with international trends generally.

7.2 Tariff Structure – suggestion to introduce two weight steps between 100g and 250g

7.2.1 Views of Respondents

One respondent to the consultation expressed the need for a new weight increment between the 100-250g weight break.

7.2.2 Commission Position

There is no evidence that the introduction of a new weight step would be consistent with the "geared to cost" principle. Rather, the evidence suggests that there should be fewer weight steps, not more, and that price differentials should be reduced.

³¹ Actually introduced by An Post in February 2006

7.3 Lack of "customer focus" at An Post

7.3.1 Views of Respondents

A number of respondents expressed dissatisfaction with An Post's apparent lack of customer focus, in particular the restricted Postaim service provided from mid-November and during election time. Another respondent was of the opinion that An Post gives priority to the wrong customers, e.g. at Christmas time it rewards customers who buy a large number of stamps (i.e. for every 25 48c stamps purchased there is one free) but it fails to reward its business customers who use the service regularly.

7.3.2 Commission Position

In light of such concerns and given the legal obligations of An Post to provide a universal service, it is ComReg's intention to take such measures as it can to ensure that An Post eliminates the current restrictions surrounding the Postaim service.

7.4 Subsidisation of non-postal activities

7.4.1 Views of Respondents

One respondent was of the opinion that there was a justification for a price increase as An Post has to deal with the burden of collecting the RTE license fee which it does not profit from.

7.4.2 Commission Position

There is a need to clarify that in accordance with legislative requirements, An Post cannot use the revenues from the reserved postal service to finance activities such as TV Licence collection.

7.5 Other issues

7.5.1 Views of Respondents

Respondents raised a number of other issues including:

- Display of postage rates
- Lack of compensation/Customer Charter
- Compliance with Sale of Goods and Services Act
- Need for Second class mail service
- Need for better payment options
- Need for on-line stamps

- Need for better payment options / access at post offices
- Postcodes
- Level and cost of mis-delivery

7.5.2 Recommended Commission Position

An Post should take these issues into account when determining it's future policy.

8 Decisions

Decision No. 1. ComReg has decided to concur with An Post's proposal for an interim price increase for services that fall within the domestic reserved area, i.e. the prices for all items up to the weight limit of 50g as shown in Appendix 1 of An Post's Price Increase Application dated 6 December 2006.

Decision No. 2. An Post should have due regard to the principle of transparency when advising its customers that the prices shown in Appendix 1 of An Post's Price Increase Application dated 6 December 2006 is the price payable at time of posting.

Decision No. 3. An Post should have regard also to the need to display its pricing information in accordance with the guidelines issued under Regulation 6 of S.I. No. 616 of 2002.

Decision No. 4. An Post should ensure the availability of stamps (including stamps of single 'make up' value) at all points of sale.

Decision No. 5. These price increases are to be implemented on 1 March 2007 or when the relevant scheme(s) under Section 70 of the 1983 Act are countersigned on behalf of ComReg, whichever is the later.

Appendix A – Legislation

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

The EC “Postal Directive” 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, since revoked and replaced by the European Communities (Postal Services) Regulations, 2002, S.I. No. 616 of 2002 (“the Postal Regulations”).

The Postal Regulations set out a broad framework of the universal service requirement. A function of ComReg is to put flesh on the bones of the 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 1983 Act 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 Regulation 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).

Communications Regulation Act 2002

Under Section 12(1) of the Communications Regulation Act 2002, one of the statutory objectives of the Commission 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 different 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.

Section 70 of the 1983 Act

The responsibility only relates to those services defined under Regulation 8 as reserved services, i.e. items of correspondence weighing up to 50 grams and charged less than two and half times the standard tariff for an item in the first weight step (currently 48c * 2.5 times = €1.20). 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 whether to approve proposals to increase prices for services within the Reserved Area:

- 1 Observations made to ComReg under Regulation 16(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 the "affordability" and "geared to costs" principles) as these 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 sector³² Point 3.4 of this notice provides that monopoly operators such as An Post “should not use the income from

32 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.

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 the Postal Regulations 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: “*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...*”

Appendix B – List of Decisions

- Decision No. 1. ComReg has decided to concur with An Post's proposal for an interim price increase for services that fall within the domestic reserved area, i.e. the prices for all items up to the weight limit of 50g as shown in Appendix 1 of An Post's Price Increase Application dated 6 December 2006. 26
- Decision No. 2. An Post should have due regard to the principle of transparency when advising its customers that the prices shown in Appendix 1 of An Post's Price Increase Application dated 6 December 2006 is the price payable at time of posting. 26
- Decision No. 3. Regard must also be had to the need to display its pricing information in accordance with the guidelines issued under Regulation 6 of S.I. No. 616 of 2002. 26
- Decision No. 4. An Post should ensure the availability of stamps (including stamps of single 'make up' value) at all points of sale. 26
- Decision No. 5. These price increases are to be implemented on 1 March 2007 or when the relevant scheme(s) under Section 70 of the 1983 Act are countersigned on behalf of ComReg, whichever is the later. 26

Appendix C – 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 D – Non Reserved Tariff Proposals

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