



Information Notice

Communications Regulation (Postal Services) Act 2011

Implications for ComReg's work programme 2011 and beyond

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1 Introduction

The Communications Regulation (Postal Services) Act 2011 (the "Act") came into force on 2 August 2011. The Act transposes the European regulatory framework established by the first Postal Directive adopted in 1997 and amended in 2002 and 2008, and amends the national legislation to comply with the obligation that "*Member States shall not grant or maintain in force exclusive or special rights for the establishment and provision of postal services*" after 31 December 2010.

Section 9 of the Act amends ComReg's functions in respect of postal services, as originally set out in section 10 of the Communications Regulation Act, 2002. From now on, ComReg's statutory functions are:

- (i) *to ensure the provision of a universal postal service that meets the reasonable needs of postal service users,*
- (ii) *to monitor and ensure compliance by postal service providers with the obligations imposed on them by or under the Communications Regulation Acts 2002 to 2011 in relation to the provision of postal services,*

The objectives of ComReg in exercising its functions in relation to the provision of postal services are also amended (by Section 10 of the Act). In future they will be:

- (i) *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 postal service users,*
- (ii) *to promote the interests of postal service users within the Community, and*
- (iii) *subject to subparagraph (i), to facilitate the development of competition and innovation in the market for postal service provision".*

The Act has recently been published and ComReg will now prepare and publish, as soon as practicable, a draft of its Postal Strategy Statement for the period to 30 June 2014. The draft statement will seek the views of stakeholders regarding the measures which ComReg shall take in order to carry out the tasks assigned to it under the new Act, how ComReg will ensure compliance with the obligations imposed on postal service providers by the Act, and how ComReg will achieve the statutory objectives set out in the Act.

This information notice provides a brief outline of the work that ComReg will need to undertake to meet its obligations under the Act.

2 Public Consultations

In anticipation of the Act, ComReg has reviewed and revised its consultation procedures and these are set out in ComReg document 11/34¹. The formal notice required by Section 15(3) of the Act will be published in *Iris Oifigiúil* shortly.

¹ See http://www.comreg.ie/fileupload/publications/ComReg_1134.pdf

3 Programme of Consultations

This section sets out some of the consultations that will be necessary to implement ComReg's obligations under the Act. In the interest of convenience for all interested parties, and notwithstanding the appreciable workload, ComReg may undertake the relevant consultations over an extended period, and, where appropriate, will combine related topics within a single consultation.

Universal Services This consultation will address a number of important issues that form the cornerstone of the regulatory framework going forward:

- The scope of regulation; definition of postal services (section 8 of the Act);
- The scope of universal service (section 37 of the Act);
- The minimum range of universal services that An Post must provide to meet the needs of users (section 16(9) of the Act);
- The means by which An Post should publish the terms and conditions of and charges for its universal services (section 22(1)(b) of the Act); and
- uniform pricing for cross-border services (section 28(2)(c) of the Act).

Approval of An Post's Terms and Conditions An Post is required to submit to ComReg for approval its proposed terms and conditions for the provision of universal services. In accordance with section 22 of the Act, ComReg shall approve these, with or without amendment and direct how they should be published.

Price Control Section 30 of the Act requires for the imposition of a price cap in certain circumstances. This will involve three separate tasks:

- Decide if the conditions exist where ComReg must impose a price cap.*
- Decide on what the efficiency or "-X" factor should be.*
- Decide how An Post's services should be grouped into "baskets"*

Authorisation of Postal Service Providers Sections 38-40 of the Act provide for the registration and authorisation of postal service providers and ComReg must specify the information to be submitted by postal service providers as part of that process.

Financing of Universal Service Provision The Act makes provision for An Post to seek funding of its universal services provision. In accordance with section 35 of the Act, ComReg must determine the form in which An Post should submit any request for funding.

Code of Practice and Out of Court Settlement Procedures Section 43 of the Act requires postal service providers to publish a code of practice for dealing with complaints in accordance with directions given by ComReg and to put in place out of court settlement procedures.

Review of existing Directions etc The Act also provides for the review of a number of ComReg's existing directions. Accordingly, ComReg will review and amend or update such directions as required in due course.

Postal Levy In accordance with section 44 of the Act, the cost of regulating the postal sector is in future to be borne solely by postal service providers offering services within the scope of universal service. ComReg will therefore review its Postal Levy Order in accordance with the Act.

Designation of An Post as universal service provider Section 19 of the Act requires ComReg to publish procedures for reviewing in 2018 the designation of An Post as universal service provider.

4 Summary

Postal service providers will need to ensure that they are aware of all of the implications for their operations and comply fully with the new legal requirements. The consultation processes outlined above will give all stakeholders the opportunity to make their views known to ComReg. .

5 Further Information

The full text of the Act is published at
<http://www.oireachtas.ie/documents/bills28/acts/2011/a2111.pdf>

The relevant European Directives are available at:
http://ec.europa.eu/internal_market/post/legislation_en.htm