



Commission for  
**Communications Regulation**

# **Complaints and Redress Procedures: Guidelines for Postal Service Providers**

**Response to Consultation**

**Reference: 14/06**

**Date: 28/01/2014**

**An Coimisiún um Rialáil Cumarsáide  
Commission for Communications Regulation**

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## **Additional Information**

Consultation Document 13/40	23 April 2013
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## **Responses received to Consultation 13/40**

	<b>Respondent</b>
1	An Post
2	DX Network Services Ireland
3	National Consumer Agency (“NCA”)
4	Nightline

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# 1 Introduction

## Background

- 1.1 In 2007 the Commission for Communications Regulation (“ComReg”) issued Complaints and Dispute Resolution Guidelines<sup>1</sup> in accordance with the legislation in effect at the time<sup>2</sup>.
- 1.2 An Post and certain other postal service providers were required to have Complaints and Dispute Resolution procedures in place in accordance with these.
- 1.3 The purpose of these guidelines is to assist postal service providers in drawing up, implementing and publishing their Codes of Practice and in particular to facilitate compliance with section 43 of the 2011 Act.
- 1.4 The Communications Regulation (Postal Services) Act 2011 (“the 2011 Act”) requires that a person who intends to provide a postal service shall, before doing so, make a notification to ComReg. In general terms the person making the notification is deemed to be a postal service provider authorised to provide the postal service. Authorisation is subject to compliance with conditions specified in section 39 of the 2011 Act<sup>3</sup>, including the provision of complaints and redress procedures that are in accordance with section 43 of the 2011 Act
- 1.5 Postal service providers are required under section 43(1) of the 2011 Act to draw up and implement a code of practice setting out procedures, standards and policies for handling complaints from postal service users<sup>4</sup>, which are transparent, simple, inexpensive, and enable disputes to be settled fairly and promptly<sup>5</sup>.
- 1.6 Section 43(1)(d) provides that all postal service providers codes of practice shall include “*procedures for resolving disputes*”. ComReg notes that all postal service providers, not just the universal service provider, must make provision for ‘*procedures for resolving disputes*’ in accordance with section 43(1)(d).

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<sup>1</sup> ComReg Document 07/105 ‘Complaints and Dispute Resolution Guidelines for Postal Service Providers who provide postal services within the scope of the universal service’

<sup>2</sup> European Communities (Postal Services) Regulations 2002 (S.I. 616 of 2002)

<sup>3</sup> The relevant legal provisions are set out in full in ComReg Document 12/81

<sup>4</sup> As defined in section 6(1) of the 2011 Act a “postal service user” is any person benefiting from postal service provision as a sender or as an addressee.

<sup>5</sup> In accordance with Section 43(5) of the 2011 Act

- 1.7 Section 43(3) provides that ComReg, or a person with the requisite degree of independence appointed by ComReg, may resolve disputes which remain unresolved after due completion of all of the procedures in a code of practice drawn up under section 43(1), in accordance with dispute resolution procedures established and maintained by ComReg and that, in this regard, ComReg may issue directions to a postal service provider.
- 1.8 ComReg conducted a public consultation titled 'Complaints and Redress Procedures: Consultation on Proposed Guidelines for Postal Service Providers'<sup>6</sup> ("Consultation 13/40") in which ComReg proposed guidelines in respect of such complaints and redress procedures.

### Standards for complaint handling<sup>7</sup>

- 1.9 ComReg, in drafting the Complaints and Redress Procedures Guidelines, has had regard to European Standard EN14012:2008<sup>8</sup> '*Postal services - Quality of service - Complaints handling principles*' and International Standard ISO 10002:2004 '*Quality management -- Customer satisfaction -- Guidelines for complaints handling in organizations*'.
- 1.10 As EN 14012:2008 follows the general structure of ISO 10002:2004, ComReg recommends that postal service providers are cognisant of this standard, in particular as its intention "*is to provide guidance on how to set up a complaints handling system for postal service operators that can deliver positive solutions for postal users who complain and provide sufficient information about quality of service related to complaints*" (EN14012, p.5).
- 1.11 The National Standards Association of Ireland (NSAI) is responsible for the publication and sale of Standards including EN 14012:2008 and ISO 10002:2004.

### The Complaints and Redress Procedures Guidelines

- 1.12 While there are similarities between the code of practice provisions in the old and new statutory frameworks, the 2011 Act does require postal service providers to make some modifications to their codes of practice.

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<sup>6</sup> 'Complaints and Redress Procedures: Consultation on Proposed Guidelines for Postal Service Providers' [ComReg Document 13/40](#) dated 23 April 2013, ("Consultation 13/40")

<sup>7</sup> The National Standards Association of Ireland (NSAI) is responsible for the publication and sale of Irish and European Standards.

<sup>8</sup> EN14012:2008 Postal services - Quality of service - Complaints handling principles; which updated and replaced EN 14012:2003, both published by the European Committee for Standardisation (CEN)

- 1.13 This Response to Consultation now sets out ComReg's Complaints and Redress Procedures Guidelines, taking into account the views of the four interested parties who submitted responses, namely An Post, DX Ireland, the National Consumer Agency (NCA), and Nightline, ComReg gratefully acknowledges the time and effort of all respondents in preparing their responses, which are published alongside this Response to Consultation. It is not practical for ComReg to provide commentary on every issue raised, however it should be noted that all views were considered and account taken of the merits of the views expressed.
- 1.14 ComReg expects postal service providers to publish (see section 2.3), within three (3) months from the publication date of this Response to Consultation, their codes of practice setting out complaints and redress procedures in accordance with section 43 of the 2011 Act. ComReg anticipates the full cooperation of postal service providers in this regard but notes its discretion to give directions in accordance with sections 43(6) and 43(8) of the 2011 Act.
- 1.15 ComReg's new Complaints and Redress Procedures Guidelines, set out in Annex: 1 of this Response to Consultation, should assist authorised postal service providers in drawing up and implementing their codes of practice and setting out their complaints and redress procedures in accordance with section 43 of the 2011 Act. This in turn should inform postal service users of their rights, of the process that will be followed in the event of a complaint, and of the remedies available to them which may include reimbursement or compensation, or both, as appropriate.

## 2 Response to Consultation - Complaints and Redress Procedures: Guidelines for postal service providers

### 2.1 The Code of Practice

- 2.1.1 ComReg's proposals are set out in full in Consultation 13/40 and this section should be read in conjunction with Consultation 13/40.
- 2.1.2 Adopting the sequence set out in section 43(1) of the 2011 Act ComReg firstly asked the following question in Consultation 13/40:

*Q. 1 Do you agree or disagree with ComReg's proposals and preliminary views as to how a Code of Practice should make provision for the matters required by section 43(1) of the 2011 Act? Please support your answer with reasons and any supporting material.*

#### Views of respondents

- 2.1.3 In general, there was broad agreement with ComReg's proposals.
- 2.1.4 **The NCA** stated that *"at a general level"* it agrees with ComReg's proposals and preliminary views though it requested firstly that *"the nature of the complaints should also be published"*, and secondly clarity regarding the *"options, if any, the user has open to them once they have gone through the complaints process but have not received a satisfactory outcome"*.

#### ComReg's position

- 2.1.5 In relation to the publication of the nature of the complaints, ComReg agrees that the nature of the complaints should be published and refers to Annex: 3 of this paper. ComReg considers that the information to be published is sufficient to ensure transparency whilst not being overly onerous on postal service providers.
- 2.1.6 ComReg notes section 43(3) of the 2011 Act and the discretionary power, given to it or to a person appointed by it, to resolve disputes which remain unresolved after due completion of all the procedures of a postal service provider's code of practice. ComReg is currently drafting procedures in relation to its dispute resolution function and will consult on these procedures in the near future, prior to putting in place a dispute resolution mechanism.



**a. The first point of contact for complainants****Views of respondents**

- 2.1.7 There were no comments on ComReg's proposals save for **Nightline's** observation that it already provides *"email, phone and dedicated address"*.

**b. A means of recording complaints****Views of respondents**

- 2.1.8 **DX Ireland** questioned the proposed timescales for postal service users to make a complaint.
- 2.1.9 DX Ireland stated that it *"agrees that Customers should be able to avail of the complaints procedures by a variety of means"* but that *"it is not practical for complaints to be accepted verbally during a Customer's visit to an operator's premises"* and that postal service users have *"the ability to submit a complaint using several different media (telephone, mail, email, website) that ensure that the complaint reaches specialist staff who will deal with it."* Furthermore it suggests that some facilities such as sorting centres or administrative offices *"are not practical for customers to expect to be able to submit complaints."*
- 2.1.10 DX Ireland does not agree with ComReg's proposal that employee and/or contractors of an organisation should be fully conversant with the organisation's complaint handling procedures and suggests that *"the only people who need to be "fully conversant" with the [complaints and redress] procedures are those who operate them. Adequate publication of the complaints procedures will direct Customers to the correct complaints channel or contact."*

**ComReg's position**

- 2.1.11 ComReg considers that its recommended timescales for making a complaint are sufficient for all domestic and international mail.
- 2.1.12 ComReg maintains its view that postal service users should be able to submit complaints during normal business hours, at a minimum, in person, by telephone or in writing (regular post or email) and to all offices of the postal service provider which have customer service facilities and in addition to dedicated customer service facilities (if provided). All employees, contractors or other agents of an authorised postal service provider who work in the area of customer service should be sufficiently familiar with the postal service provider's complaint handling procedures so as to be able deal with any complaint received in full. In such a service orientated business, this seems to be the very least postal service users should expect of postal service

providers.

- 2.1.13 To address DX Ireland's concern, ComReg wishes to clarify that it merely expects that employees, contractors or other agents of an authorised postal service provider who do not work in customer service, should be sufficiently familiar with the postal service provider's complaint handling procedures to be able to effectively direct any complainant to the proper channel or point of contact. ComReg considers this to be reasonable.
- 2.1.14 Some postal service providers may of course wish that all of their employees are sufficiently familiar with complaint handling procedures so as to facilitate any postal service user in recording his/her complaint. Such an approach would be commendable and no doubt welcomed by postal service users.
- 2.1.15 Postal service providers should take all reasonable steps to implement and maintain awareness of their Codes of Practice with their employees and/or contractors.

<p><b>c. A time frame within which the postal service provider concerned shall respond to complaints</b></p>
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### Views of respondents

- 2.1.16 **An Post** stated that "*in certain circumstances, particularly in relation to international mail, it may take some time to receive a response from the other operator and therefore progress updates in these cases will be less frequent.*" It also suggested that as "*the United States Postal Service (USPS) will only accept postal correspondence on complaints... a sixty (60) day period [for feedback to the complainant] is more realistic for the USA.*"
- 2.1.17 **DX Ireland** expressed similar views that the time frames ComReg proposed for postal service providers to respond to complaints were acceptable but nonetheless maintained that "*the resolution period will ultimately be determined by the nature of the query or complaint.*"
- 2.1.18 **Nightline** stated that its "*international partners adhere to all timeframes.*"

### ComReg's position

- 2.1.19 ComReg notes An Post's comment that it experiences problems in dealing with the United States Postal Service. In the interests of ensuring that realistic expectations are set, ComReg will amend its recommended timeframe within which a postal service provider should respond to a complaint to a maximum of 60 calendar days for complaints relating to the United States.
- 2.1.20 Notwithstanding this, ComReg would expect that postal service providers

employ all reasonable efforts to ensure that complaints are resolved as quickly as possible, and that postal service users are apprised with regard to progress on their complaint on at least one occasion if the resolution of the matter exceeds 40 calendar days.

- 2.1.21 ComReg notes DX Ireland's comment and has reflected in the Complaints and Redress Procedures Guidelines an acknowledgement that time frames may vary depending on the category of the complaint.

#### **d. Procedures for resolving disputes**

##### **Seeking views of respondents**

- 2.1.22 In Consultation 13/40, ComReg asked the following question:

*Q. 3 Are you satisfied with ComReg's proposals for dispute resolution? If not what amendments would you consider appropriate? Please support your answer with reasons and any supporting material.*

##### **Views of respondents**

- 2.1.23 **The NCA** suggested that further detail be provided on stages of the process and asked whether there is a mechanism by which the user can escalate the complaint to ComReg.
- 2.1.24 **Nightline** stated that it would support dispute resolution measures such as those employed by the Royal Mail in the UK<sup>9</sup>.
- 2.1.25 **An Post** agreed in principle with ComReg's proposals and stated that it "*is of the firm belief that an internally appointed Advocate*" provides a better solution to an advocate external to the postal service provider, citing that an internal advocate "*has intimate knowledge of An Post's mails network and is, therefore, ideally placed to deal with complaints in a competent and expeditious manner.*" An Post "*strongly emphasised that no pressure is exerted on the Advocate in relation to his or her work.*"
- 2.1.26 An Post stated that "*One element of ComReg's proposals is to confine the implementation of section 43(3) of the 2011 Act on dispute resolution procedures to An Post as the Universal Service Provider. This may have the consequence of causing some disadvantage for customers of other postal service providers*"
- 2.1.27 An Post stated that "*a one month deadline should be included for submitting complaints to the postal service user Advocate*" to mitigate against

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<sup>9</sup> <http://www.royalmail.com/personal/help-and-support/how-do-i-make-a-complaint>

investigations “*being so long in abeyance and exacerbated by peoples difficulties in their ability to recollect certain events*”.

- 2.1.28 An Post stated that that in circumstances where the customer advocate finds that “*An Post has failed to keep to its procedures for handling complaints*” the majority of cases would be adequately compensated by “*a payment of €30 and should not in any single case exceed €60*” citing comparisons to the Postal Redress Service (POSTRS) procedures in the UK.

### **ComReg’s position**

- 2.1.29 ComReg wishes to clarify that all postal service providers, not just the universal service provider, must make provision for ‘*procedures for resolving disputes*’ in accordance with section 43(1)(d). Similarly, ComReg’s discretionary power to resolve disputes provided for in section 43(3) applies to unresolved disputes of all postal service providers. ComReg is in the process of establishing dispute resolution procedures pursuant to section 43(3) and anticipates that they will be established in early 2014. These procedures should address the NCA’s query.
- 2.1.30 While it is a matter for individual postal service providers to determine how it will make provision for procedures for resolving disputes, ComReg suggests that dispute resolution procedures, within the code of practice include a postal service user advocate mechanism, either internal or external to the postal service provider, whose role is to independently assess the previous actions and decisions taken by the postal service provider regarding the complaint.
- 2.1.31 In order to ensure that the reasonable needs of postal service users will be met, ComReg has included in the Complaints and Redress Procedures Guidelines timeframes for complainants to lodge a complaint with the postal service user advocate for review, and also timeframes for the postal service user advocate to provide a response to the complainant.
- 2.1.32 It is ComReg’s view that as much of the information required for the postal service user advocate to review a complaint should be easily obtainable (see paragraphs 2.1.50 and 2.2.6) therefore a long timeframe for the review of a complaint by the postal service user advocate should not be required.
- 2.1.33 In response to An Post’s comments about timeframes for postal service users to submit complaints ComReg has reduced the timeframe for the lodging of the complaint with the postal service user advocate from 3 months; to thirty (30) calendar days.
- 2.1.34 ComReg welcomes An Post’s statement that in circumstances where the customer advocate finds that “*An Post has failed to keep to its procedures for*

*handling complaints*” in the majority of cases compensation would be adequately met by “a payment of €30 and should not in any single case exceed €60”.

- 2.1.35 ComReg notes the dispute escalation procedures available to UK postal service users, as highlighted by Nightline. In the UK postal service users who remain dissatisfied following escalation of a complaint for dispute resolution may be able to refer the complaint to the Postal Redress Service (POSTRS) a remedy analogous with that envisaged by section 43(3) of the 2011.
- 2.1.36 Furthermore, the postal service user also remains entitled to take their case to the Small Claims Court<sup>10</sup> if they so choose.
- 2.1.37 ComReg requests that postal service providers provide confirmation of the procedures put in place for resolving disputes (postal service user advocate<sup>11</sup> or alternative procedures), including evidence of independence from its customer service and operations sections, and such confirmation is communicated to ComReg within three (3) months from the publication date of this Response to Consultation.

**e. Remedies and redress, including reimbursement or compensation, or both, as appropriate**

### Views of respondents

- 2.1.38 With regard to the compensatory principle proposed by ComReg, **An Post** stated that it must be “*clearly understood to be for items with no intrinsic value*” and that a postal service provider should not be required to refund the cost of the contents for items such as gift vouchers or concert tickets, unless the items were posted using the appropriate services offering insurance.
- 2.1.39 **DX Ireland** asserted that “*the implied compensation would often be excessive*” and that clarity is required regarding the transmission of items “*prohibited from the post*”. DX Ireland suggests that compensation should only be “*to a level specified in the operator's terms and conditions*”. DX Ireland also believes “*there must be a requirement on the Customer to demonstrate that an item was posted and that a postal packet did actually contain the goods claimed by the Customer.*” DX Ireland also queried the postal services that the compensation would cover.
- 2.1.40 **Nightline** stated that whilst it “*agree[s] that the consumer should be put in the position that they were, this may not necessarily be a matter of commercial*

<sup>10</sup> The Small Claims Court is provided for under the District Court (Small Claims Procedure) Rules, 1997 & 1999, as amended by the District Court (Small Claims) Rules 2009 (SI 519/2009).

<sup>11</sup> This may be person or persons

*recompenses (sic)."*

## ComReg's position

- 2.1.41 With regard to the comment by DX Ireland that clarity is required regarding items "*prohibited from the post*", ComReg considers that section 55 of the 2011 Act describes in sufficient detail the categories of articles which may not be sent by post. As such the sending by post of such prohibited articles would be an offence that could result in prosecution. Clearly, no form of compensation would apply if such an item was lost or damaged.
- 2.1.42 ComReg notes An Post's comments in relation to the applicability of compensation for the cost of the contents when items were sent by standard post. ComReg has amended its Complaints and Redress Procedures Guidelines to remove reference to compensation for the cost of contents when an item is sent by standard post. ComReg expects that postal service providers clearly set out in their Terms and Conditions their definition of 'intrinsic value' and the availability of compensation for items of 'intrinsic value' in respect of particular services.
- 2.1.43 ComReg considers that in making provision for redress postal service providers could (i) exclude compensation for consequential loss<sup>12</sup>; (ii) exclude redress for loss where the services were covered by insurance and (iii) require reasonable proof. Therefore, ComReg does not anticipate an unreasonable or disproportionate level of burden on postal service providers in providing this compensation.
- 2.1.44 Notwithstanding the above, proof of posting should not be necessary for all claims, and the expectation is that the complaint details as submitted would be generally accepted by all parties, as is current custom and practice (noting that there may be some cases where reasonable proof is needed and the postal service user is required to provide some form of evidence of posting<sup>13</sup>).

<b>f. Procedures for determining where responsibility lies in cases where more than one postal service provider is involved</b>
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## Views of respondents

- 2.1.45 **DX Ireland** considers that the procedures regarding subcontracted services and/or services provided by a postal service provider that has access to the postal network of the universal postal service provider are "*unworkable and*

<sup>12</sup> ComReg also notes that Section 26 of the 2011 Act limits the liability of the universal postal service provider in respect of any loss or damage suffered by a postal service user

<sup>13</sup> This reflects the previous position with regard to Code of Practices provided by postal service providers and which no postal service provider had issue with. Also please see footnote 24 of ComReg 13/40



*would result in raised Customer expectations that would often be disappointed.”*

### **ComReg’s position**

- 2.1.46 ComReg believes it is reasonable that postal service users should only be required to make such claims on the postal service provider they engaged to provide the service, and should not be required to engage with other service providers who, unbeknownst to the user, may be fulfilling aspects of the service provision. Such a requirement on postal service users would be both burdensome and unworkable.
- 2.1.47 ComReg considers that the procedures set out in section 2.1.32 of Consultation 13/40 are appropriate and workable, and adequately promote the interests of postal service users. However ComReg will keep these procedures under review.

## **g. retention of records of complaints**

### **Views of respondents**

- 2.1.48 **An Post** stated that it follows a two year retention period for written correspondence.
- 2.1.49 An Post also stated that *“it is not technically feasible to collate and maintain records of all e-mail and telephone messages.”*

### **ComReg’s position**

- 2.1.50 ComReg considers it appropriate that a code of practice make provision for retention of all records of complaints for a period of at least one year following the date of resolution of the complaint, including records of complaints escalated for dispute resolution (see paragraph 2.1.29).
- 2.1.51 ComReg considers that it should be technically feasible to collate and maintain records regardless of the communication channel. The 2011 Act does not differentiate complaints based on the channel they are made through and expects that all postal service users will be treated on a non-discriminatory basis regardless of their chosen communication channel be it by post, email or telephone.
- 2.1.52 Postal Service providers are at liberty to retain information in excess of this required minimum but should ensure that they comply with Data Protection

obligations<sup>14</sup>.

<b>h. any other matters the Commission considers necessary and appropriate to secure effective protection for postal service users</b>
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### Views of respondents

2.1.53 There were no comments from respondents on this matter.

### ComReg's position

2.1.54 ComReg considers that the following constitute matters which are necessary and appropriate to secure effective protection for postal service users and as such a code of practice should make provision for the following:

- The code of practice should specify that postal service providers have a policy that all complaints are classified and then analysed to identify systematic, recurring and single incident problems and trends, to help eliminate the underlying causes of complaints<sup>15</sup>, and that particular attention will be paid to clusters of complaints relating to loss, theft, damage or quality of service emanating from a particular location.
- A code of practice should be readily available at all premises belonging to or otherwise under the control of a postal service provider, including all retail offices, mails processing centres, and customer service areas in accordance with section 43(2) of the 2011 Act which requires that all postal service providers shall publish their Codes of Practice and make them available to any postal service user free of charge, upon request.

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<sup>14</sup> In accordance with the Data Protection Act 1988 as amended by the Data Protection (Amendment) Act 2003.

<sup>15</sup> ISO 10002:2004, Section 8.2, p.8



## 2.2 Publication of complaint information

### Views of respondents

- 2.2.1 **DX Ireland** opined that “*ComReg needs to provide details of this [I. S. EN 14012:2008] standard so that interested parties are able to comment upon its suitability.*”
- 2.2.2 With regard to the publication of complaints referred to the postal service user advocate, An Post stated that “*the volume of cases may render it impractical to provide a detailed narrative in respect of each and every case*” and that “*for reasons of confidentiality, it is preferable that individual cases cannot be identified*”.
- 2.2.3 An Post stated it proposes to publish a listing “*of complaints as currently categorised in the Annual Report accompanied by the number complaints where compensation has been paid but not broken down by category and (ii) a list of complaints referred to the postal service user Advocate employing the same categories with a breakdown of the “volume of complaints where compensation is paid” in respect of the aforementioned categories as suggested by the model table in I.S. EN 14012:2008 but again with compensation not broken down by category.*”
- 2.2.4 An Post also stated that cases “*relating to enquiries outside or not fully under the control of An Post should ideally be highlighted separately*”.

### ComReg’s position

- 2.2.5 It is recommended that postal service providers outline procedures for recording complaints and responses, and for managing and using these records. Postal service providers should also protect any personal information provided and ensure the confidentiality of complainants<sup>16</sup>.
- 2.2.6 ComReg expects that information on the number of complaints made and the manner in which they have been resolved, including complaints escalated to the postal service user advocate for dispute resolution, will be published by all postal service providers on an annual basis within four (4) months of the end of the postal service provider’s financial year. ComReg’s recommended format for complaint reporting, informed by EN 14012:2008 and ISO 10002:2004<sup>17</sup>, is set out at Annex: 3
- 2.2.7 ComReg notes An Post’s proposals and its position regarding records of e-

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<sup>16</sup> Reflective of ISO 10002:2004 ‘Quality management -- Customer satisfaction -- Guidelines for complaints handling in organizations’

<sup>17</sup> The NSAI is responsible for the publication and sale of these standards.

mail and telephone complaints (see paragraph 2.1.49), however as noted previously (see paragraph 2.1.51) the 2011 Act does not differentiate between complaints based on the channel they are made through. As such ComReg expects that information in relation to all complaints, regardless of how they are made, be published in this manner.

- 2.2.8 ComReg anticipates the full cooperation of postal service providers in relation to the publication of complaint information but notes its discretion to issue directions in this regard in accordance with section 43(6) of the 2011 Act.
- 2.2.9 Accurate reporting will assuage public concerns regarding the independence of the postal service user advocate and will also ensure that postal service users perceive the process as transparent.

## 2.3 Publication of the Code of Practice

2.3.1 Section 43(2) of the 2011 Act provides that

*“A postal service provider shall publish the code of practice drawn up under subsection (1) and, on a request being made for that purpose, make the code of practice available, on request, to postal service users free of charge.”*

2.3.2 ComReg in section 2.2 of Consultation 13/40 put forward proposals in relation to section 43(2) of the 2011 Act with which there was broad consensus. As such, ComReg considers that any postal service provider who publishes its code of practice through the usual communication and advertising mediums to include company websites, product offering terms and conditions, and by way of notice prominently displayed in all public offices owned or controlled by the postal service provider, within three (3) months of the issue of these Complaints and Redress Procedures Guidelines, to be compliant with section 43(2) of the 2011 Act.

## 2.4 Disputes involving postal service providers in more than one Member State

2.4.1 Section 43(7) of the 2011 Act provides that *“A person may, where the dispute involves postal service providers in more than one Member State, request the Commission to co-ordinate its efforts with any relevant regulatory authority in another Member State with a view to bringing about a resolution of the dispute.”*

### 3 Regulatory Impact Assessment (RIA)

- 3.1 ComReg's published RIA Guidelines<sup>18</sup> (Doc 07/56a), in accordance with a policy direction to ComReg<sup>19</sup>, state that ComReg will conduct a RIA in any process that may result in the imposition of a regulatory obligation, or the amendment of an existing obligation to a significant degree, or which may otherwise significantly impact on any relevant market or any stakeholders or consumers. However, the guidelines also note that in certain instances it may not be appropriate to conduct a RIA and, in particular, that a RIA is only considered mandatory or necessary in advance of a decision that could result in the imposition of an actual regulatory measure or obligation, and that where ComReg is merely charged with implementing a statutory obligation then it will assess each case individually and will determine whether a RIA is necessary and justified.
- 3.2 In this Response to Consultation, ComReg considers that it is not imposing a discretionary regulatory obligation. Section 43(1) of the 2011 Act imposes a statutory obligation on postal service providers to draw up and implement a code of practice setting out complaints and dispute resolution procedures. ComReg is merely providing guidelines that will assist postal service providers in this regard. Therefore, a RIA is not being undertaken on this occasion.

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<sup>18</sup> Which have regard to the RIA Guidelines issued by the Department of An Taoiseach in June 2009

<sup>19</sup> Ministerial Policy Direction made by Dermot Ahern T.D. Minister for Communications, Marine and Natural Resources on 21 February, 2003

# Annex: 1 Complaints and Redress Procedures: Guidelines for Postal Service Providers

## Introduction

- A 1.1 The Commission for Communications Regulation (ComReg) has prepared this set of guidelines for postal service providers, authorised in accordance with section 38 of the Communications Regulation (Postal Services) Act, 2011 (“2011 Act”), relating to the obligations imposed on such providers by section 43 of the 2011 Act.
- A 1.2 Section 43(1) of the 2011 Act requires that “[every] postal service provider shall draw up and implement a code of practice setting out procedures, standards and policies with respect to the handling of complaints from postal service users, in particular, complaints relating to loss, theft, damage or quality of service, and such a code of practice shall make provision for the following matters -
- (a) *the first point of contact for complainants,*
  - (b) *a means of recording complaints,*
  - (c) *a time frame within which the postal service provider concerned shall respond to complaints,*
  - (d) *procedures for resolving disputes,*
  - (e) *remedies and redress, including reimbursement or compensation, or both, as appropriate,*
  - (f) *procedures for determining where responsibility lies in cases where more than one postal service provider is involved,*
  - (g) *retention of records of complaints for such period, of not less than one year, as the Commission may specify following the resolution of the complaint, including—*
    - i. copies of the complaint and any response thereto, and*
    - ii. any determination in respect of the complaint and any documentation considered in the course of such determination,*
- and*
- (h) *any other matters the Commission considers necessary and appropriate to secure effective protection for postal service users.*

- A 1.3 Section 43(2) of the 2011 Act requires that postal service providers shall publish their codes of practice and make them available to postal service users, on request and free of charge, while section 43(5) requires, amongst other things, that the complaints and redress procedures in these codes of practice “*shall be – transparent, (b) simple, (c) inexpensive, and (d) enable disputes to be settled fairly and promptly.*”
- A 1.4 Section 43(7) of the 2011 Act provides that “*a person may, where the dispute involves postal service providers in more than one Member State, request the Commission to co-ordinate its efforts with any relevant regulatory authority in another Member State with a view to bringing about a resolution of the dispute*”.
- A 1.5 Terms used in these guidelines, including “postage” “postal service” “postal service provider”, “postal service user”, and “postal packet”, have the same meaning as in the 2011 Act and for the avoidance of doubt the term “code of practice” as used herein means a code of practice containing complaints and redress procedures to be drawn up and implemented by a postal service provider in accordance with section 43 of the 2011 Act.
- A 1.6 The purpose of these guidelines is to assist postal service providers in drawing up, implementing and publishing their Codes of Practice and in particular to facilitate compliance with section 43 of the 2011 Act.

#### **a) First point of contact for complainants**

- A 1.7 A code of practice must set out clearly the first point of contact for those postal service users wishing to submit a complaint to the postal service provider concerned.

It is recommended that:

- A 1.8 A code of practice include, at a minimum, a telephone number, a postal address, and an email address for the first point of contact.
- A 1.9 Postal service providers ensure that all of their employees, contractors or agents are sufficiently familiar with the providers’ Codes of Practice such that they are either capable of receiving and dealing with a complaint themselves, or else that they can direct a complainant to the appropriate point of contact within the organisation.
- A 1.10 A code of practice specify that complaints may be submitted during normal business hours, at a minimum, in person, by telephone or in writing (regular post or email) and to all offices of the postal service provider which have customer service facilities and in addition to dedicated customer service facilities (if provided).

## **b) Means of recording complaints**

A 1.11 A code of practice must set out the means of recording complaints of postal service users wishing to submit a complaint to the postal service provider concerned.

It is recommended that:

A 1.12 A code of practice include a transparent and simple set of instructions for submitting a complaint. ComReg considers that such sets of instructions should include contact details for the first point of contact including, at a minimum, a telephone number, a postal address, and an email address.

A 1.13 A code of practice state that assistance in submitting a complaint will be given to any postal service user who requests such assistance, including any user with a particular requirement or a disability.

A 1.14 A code of practice set time limits for submitting a complaint. For domestic mail (posted in the State for delivery within the State) postal service providers should accept a complaint made within one (1) calendar month of the date of receipt of a mail item and within three (3) calendar months of the date of posting of a mail item, at a minimum. For international mail, postal service providers should accept a complaint made within six (6) calendar months of the date of receipt or posting of a mail item.

A 1.15 A code of practice set out the process that will be followed by the postal service provider once the complaint has been submitted.

A 1.16 Postal service providers ensure that at least one available access channel is free of any charge to postal service users who wish to contact an organisation to make a complaint.

### **c) Time frame within which postal service providers shall respond to complaints**

A 1.17 A code of practice must specify a time frame within which the postal service provider concerned shall handle and respond to complaints received.

A 1.18 Time frames may vary depending on the category of the complaint - i.e. whether it relates to loss, theft, damage or quality of service. Where a code of practice does specify more than one time frame then it should also make clear which time frame applies for each category of complaint.

It is recommended that:

A 1.19 A code of practice state that the postal service provider will acknowledge receipt of a complaint within three (3) working days of the date on which the complaint is first received, by email where the complainant has provided an email address or by regular post where no email address has been provided.

A 1.20 A code of practice specify the following recommended *maximum* time frames within which complaints should be handled, which take into account that full and complete investigations of complaints should be undertaken and that some complaints are likely to be more complex than others,:

- Thirty (30) calendar days for postal packets posted within the State for delivery within the State.
- Forty (40) calendar days for postal packets posted within the State for delivery within Europe or to Canada, New Zealand, or Australia, and all other countries where the matters can be dealt with by email and any other electronic means, and
- Sixty (60) calendar days for postal packets posted within the State for delivery to the United States of America or any other country.

Notwithstanding these recommended maximum time frames, a code of practice should specify that postal service providers will employ all reasonable efforts to ensure that complaints are resolved as quickly as possible, and that postal service users will be appraised with regard to progress on their complaint on at least one occasion if the resolution of the matter exceeds forty (40) calendar days.



- A 1.21 A code of practice specify that if a complaint is not handled within its original time frame then the complainant should be informed of the reason for the delay and of the new time frame for handling the complaint and issuing a final response. A code of practice should also specify that a postal service provider will respond to all reasonable queries by a complainant regarding any delay in the handling of a complaint, including queries as to the exact reasons for the delay.
- A 1.22 A code of practice specify that where a complaint involves a postal service provider operating in another jurisdiction who has refused or failed to respond to an enquiry made by an authorised postal service provider operating within the State, such that the complaint has not been handled within the appropriate time frame set down by the code of practice, then the authorised postal service provider operating within the State will inform the complainant of the delay and of the cause of the delay and will keep the complainant reasonably informed and updated as to any progress in the investigation of the complaint, to include providing as much information as possible regarding the envisaged time frame for handling the complaint and issuing a final response.
- A 1.23 Postal service providers provide some redress to postal service users who have made a complaint when the response times and /or maximum handling times are not met, and this is detailed as part of their code of practice.

#### **d) Procedures for resolving disputes**

- A 1.24 A code of practice must set out procedures for resolving disputes arising from complaints submitted by postal service users to the postal service provider concerned.

It is recommended that:

- A 1.25 Dispute resolution include a postal service user advocate mechanism, either internal or external to the postal service provider, whose role is to independently assess the previous actions and decisions taken by the postal service provider regarding the complaint.
- A 1.26 Postal service providers nominate a postal service user advocate, independent of their customer service and operations sections.
- A 1.27 A code of practice inform postal service users who wish to escalate a complaint which remains unresolved, of the option to send their complaint to the postal service user advocate who will independently assess the complaint.

A 1.28 A code of practice state that a complaint must be escalated to the postal service user advocate within thirty (30) calendar days of the postal service provider providing a final response, unless exceptional circumstances can be proven, to its investigations of the postal service user's complaint.

A 1.29 A code of practice state that any postal service user making such application should give details of the dispute and, in particular, should include the following details:

- Details of the service under dispute;
- The exact issues which are being disputed;
- The reasons why the complaining postal service user is making a claim or trying to have an issue resolved;
- Details of any compensation element if relevant;
- To support the application, the postal service user must be advised to include copies of any documents that are relevant to the dispute, including letters, e-mails, records of phone calls made or received, or other letters and contact between the postal service user and the postal service provider.

A 1.30 A code of practice advise that a final response, containing the reasons which support the postal service user advocate's decision, should be provided to the postal service user by the postal service user advocate, who has independently assessed the complaint, no later than thirty (30) calendar days after the first contact<sup>20</sup> unless:

- The postal service user accepts a settlement the postal service provider has offered or
- The postal service provider gives the postal service user everything claimed for or
- The postal service provider can prove exceptional circumstances leading to a delay in responding.

A 1.31 A code of practice advise that in the event that the postal service user advocate finds in favour of the postal service user, the postal service user advocate can request the postal service provider to:

- Give the postal service user an apology and detail the reasons for the service failure;
- Take some practical action that will benefit the postal service user;

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<sup>20</sup> This timeframe mirrors that provided in the UK to customers of Royal Mail. Complainants can refer a complaint to the 'Postal Review Panel' for a "fresh and impartial" review of a complaint and they will provide a final response within 30 days of first contact.

- Provide compensation in accordance with the code of practice and/or the terms and conditions of the service whichever is more beneficial in monetary terms to the postal service user.
- Pay an additional small amount for any stress, anxiety or inconvenience the postal service user suffered as a result of how the postal service provider handled the complaint.

A 1.32 Any further requirements that the postal service provider may place on the process to be followed in making a complaint should not place an undue burden on the postal service user or place them at an undue financial disadvantage.

A 1.33 The volume of complaints escalated to the postal service user advocate and details of the advocate's decision in each case<sup>21</sup> are to be published at the same time and to the same specifications as the reporting of complaint information<sup>22</sup>.

#### **e) Remedies and redress, including reimbursement or compensation, or both**

A 1.34 A code of practice must set out in detail the remedies and redress (including reimbursement or compensation, or both) offered by the postal service provider to postal service users.

It is recommended that:

A 1.35 A code of practice set out a process to be followed to initiate a claim for compensation which should be transparent, simple, and inexpensive.

A 1.36 A code of practice specify that where there has been any loss<sup>23</sup>, theft, or damage to a postal packet, or a failure to provide a postal service of sufficient quality, then the postal service provider concerned will, at a minimum, place the postal service user in the position which he, she or it would have been in had there been no such loss, theft, or damage to the postal packet or had there been no failure to provide a postal service of sufficient quality, subject to any *force majeure* having occurred and excluding all consequential losses.

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<sup>21</sup> To include by category of complaint : number of complaints found in favour of the appellant, number of complaints found not in favour of the appellant, and volume of complaints where compensation is paid

<sup>22</sup> This information will assist in informing ComReg of the effectiveness and adequacy of the postal service user advocate model

<sup>23</sup> Complaints about lost items will also cover items that are substantially delayed. Substantial delay for domestic mail is defined as any item that has not been received within 7 calendar days and for cross border mail within 10 calendar days. This is in accordance with EN 14012:2008 and reflects the position as set out in ComReg 07/105.

- A 1.37 A code of practice set out the compensation scheme that will apply in respect of any loss, theft, or damage to a postal packet or any failure to provide a postal service of sufficient quality and should further state, at a minimum, that compensation will include:
- A refund of the cost of postage;
  - Recompense for the cost of any wrapping or protective material used in the postal packet; and
  - Recompense for any other relevant and reasonable costs incurred
- A 1.38 A code of practice provide that compensation payable to the postal service user is in the form of a number of stamps and/or a financial amount (credited for example by means of cheque, bank draft, money order, postal order or bank transfer) provided it is reasonable and in proportion to the full cost of the mailing.
- A 1.39 A code of practice may specify that postal service users will not be compensated for any consequential losses or other economic losses arising out of:
- any loss, theft, or damage to a postal packet; or
  - any failure to provide a postal service of sufficient quality.
- A 1.40 A code of practice need not provide for remedies and redress for insured postal services, which offer remedies in accordance with their own terms and conditions.
- A 1.41 A code of practice provide that where compensation is paid and/or a refund is given then this should be done promptly and in an easily accessible manner that does not impose a charge or any unfair burden on the recipient postal service user. All compensation or refunds should be in Euro (€).

**f) Procedures for determining where responsibility lies where more than one postal service provider is involved**

- A 1.42 A code of practice must set out procedures for determining where responsibility lies in cases where more than one postal service provider is involved.
- A 1.43 A postal service provider may subcontract one or more elements of the postal service to another party, who may be another postal service provider, or the original postal service provider may deliver the postal packet(s) concerned into the postal network operated by An Post, the current sole designated provider of the universal postal service. Where a complaint concerns a postal service which has been subcontracted in some such

manner, or where the postal packet(s) concerned have been passed into the postal network operated by An Post, then ComReg recommends that a code of practice should provide that the original postal service provider, who first agreed and undertook to provide the postal service, should be responsible for handling and resolving any such complaint and the code of practice of that original postal service provider should apply in respect of any such complaint.

It is recommended that:

- A 1.44 Where a complaint concerns a postal service provided by a franchisee or subsidiary company of the original postal service provider, the code of practice should provide that the code of practice of the original postal service provider (being the franchisor or holding company) should apply.
- A 1.45 Any postal service provider whose service includes accessing the network of the universal postal service provider (or who subcontracts out the service), should ensure that any interoperator contract in place properly reflects its code of practice. As such complaints relating to a postal service which has been delivered by means of an access or sub-contract agreement should be treated in the same manner as those that are not.

#### **g) Retention of records of complaint**

- A 1.46 A code of practice must set out procedures for the retention of records of complaint
- A 1.47 A code of practice should make provision for retention of records relating to all complaints (including records of complaints escalated for dispute resolution irrespective of the channel they are made through), for a period of at least one year following the date of resolution of the complaint. Such retained records should include copies of the original complaint and responses thereto and any determination in respect of the complaint and any documentation considered in the course of such determination.

#### **h) Any other matters necessary and appropriate to secure effective protection for postal service users**

- A 1.48 A code of practice must make provision for any other matters that ComReg considers necessary and appropriate to secure effective protection for postal service users. ComReg considers that a code of practice should make provision for the following matters:

- A policy that all complaints are classified and then analysed to identify systematic, recurring and single incident problems and trends, to help eliminate the underlying causes of complaints<sup>15</sup>, and that particular attention will be paid to clusters of complaints relating to loss, theft, damage or quality of service emanating from a particular location.
- A policy that the code of practice is readily available at all premises belonging to or otherwise under the control of a postal service provider, including all retail offices, mails processing centres, and customer service areas.

# Annex: 2 Legal Framework

## Summary of main relevant provisions

- A 2.1 The publication of these guidelines is in accordance with ComReg's statutory functions and objectives, in particular the functions set out at section 10(1)(ba) and 10(1)(c) of the Communications Regulation Acts 2002 to 2011 ("the 2002 Act") and the objectives set out at section 12 (1)(c) of the 2002 Act. ComReg notes its obligation under section 12(2A) of the 2002 Act to take all reasonable measures aimed at achieving the objectives referred to at 12(1)(c), including *inter alia* "(d) in so far as the promotion of the interests of postal service users within the Community is concerned ensuring a high level of protection for postal service users in their dealings with postal service providers, in particular by— (I) ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved.."
- A 2.2 Section 38 of the 2011 Act requires that any person who intends to provide a postal service shall, before doing so, notify ComReg of his or her intention to provide such a service and include certain information as set out in section 38, and upon receipt by ComReg of such a notification the person making it is deemed to be authorised to provide the postal service concerned. Obtaining authorisation is also subject to the conditions specified in section 39 of the 2011 Act which include, at section 39(1)(a), that authorised postal service providers shall comply with the provision of complaints and redress procedures in accordance with section 43 of the 2011 Act.
- A 2.3 Section 43(1) of the 2011 Act requires that every "postal service provider shall draw up and implement a code of practice setting out procedures, standards and policies with respect to the handling of complaints from postal service users, in particular, complaints relating to loss, theft, damage or quality of service, and such a code of practice shall make provision for the following matters-
- (a) *the first point of contact for complainants,*
  - (b) *a means of recording complaints,*
  - (c) *a time frame within which the postal service provider concerned shall respond to complaints,*
  - (d) *procedures for resolving disputes,*
  - (e) *remedies and redress, including reimbursement or compensation, or both, as appropriate,*
  - (f) *procedures for determining where responsibility lies in cases where more than one postal service provider is involved,*

- (g) *retention of records of complaints for such period, of not less than one year, as the Commission may specify following the resolution of the complaint, including—*
- iii. copies of the complaint and any response thereto, and*
  - iv. any determination in respect of the complaint and any documentation considered in the course of such determination,*
- and*
- (h) *any other matters the Commission considers necessary and appropriate to secure effective protection for postal service users.*

A 2.4 Section 43(2) requires that a postal service provider shall publish their codes of practice and make them available to postal service users free of charge.

A 2.5 In addition, section 43(3) of the 2011 Act provides that ComReg, or an independent person appointed by ComReg, may resolve any dispute which remains unresolved after the procedures under a code of practice have been followed. In this regard, ComReg may issue directions to a postal service provider requiring it to comply with certain measures as may be specified in order to resolve the dispute, which may include payment of costs and reimbursement of payments and/or compensation, as appropriate.

A 2.6 Section 43(5) of the 2011 Act provides that both the complaints and redress procedures in the codes of practice drawn up by postal service providers, and the dispute resolution procedures drawn up by ComReg, shall be transparent, simple, inexpensive, and enable disputes to be settled fairly and promptly.

A 2.7 Section 43(6) of the 2011 Act provides that ComReg may give directions to a postal service provider for the purpose of ensuring compliance with section 43, including directions as to the form and manner in which a code of practice shall be published, including information on the number of complaints made and the manner in which they were dealt with, and the making of such alterations or additions to a code of practice as ComReg considers appropriate.

A 2.8 Section 43(8) of the 2011 Act provides that where ComReg is of the opinion that a postal service provider is failing, or has failed, to comply with any of the requirements of section 43, ComReg may give a direction to the postal service provider in order to ensure compliance.



A 2.9 Section 24(2)(b) of the 2011 Act provides that procedures for dealing with complaints made by postal service users relating to the universal postal service provision shall be included within the terms and conditions to be published by the universal postal service provider (section 17(1) of the 2011 Act designates An Post as the universal postal service provider) in accordance with section 22 of the 2011 Act.

## Annex: 3 Complaint Reports<sup>24</sup>

### A 3.1 Complaint Report for all complaints recorded

Type of complaint	Number of complaints	Number of complaints decided in favour of the complainant	Number of complaints where compensation is paid
Item lost or substantially delayed			
Item arriving late			
Item damaged			
Change of address			
Mail delivery or collection			
Mis-delivery			
Access to customer service information			
Behaviour and competence of postal personnel			
Access to postal services			
How complaints are treated			
Other complaints (not appropriate to be included in the categories above).			

<sup>24</sup> see paragraph 2.2.6

A 3.2 Complaint Report for all complaints escalated for dispute resolution (e.g. postal service user advocate)

<b>Type of complaint</b>	<b>Number of escalated complaints</b>	<b>Number of escalated complaints decided in favour of the complainant</b>	<b>Number of escalated complaints where compensation is paid</b>
Item lost or substantially delayed			
Item arriving late			
Item damaged			
Change of address			
Mail delivery or collection			
Mis-delivery			
Access to customer service information			
Behaviour and competence of postal personnel			
Access to postal services			
How complaints are treated			
Other complaints (not appropriate to be included in the categories above).			