



Commission for
Communications Regulation

Consultation Paper

Complaints and Dispute Resolution Guidelines for Postal Service Providers who provide postal services within the scope of the universal service

Proposed Guidelines

Document No:	07/71r
Date:	25 September 2007

All responses to this consultation should be clearly marked:-
“Reference: Submission re ComReg 07/71 ” as indicated above,
and sent by post, facsimile, e-mail or on-line at www.comreg.ie
(current consultations), to arrive on or before 5 pm, 23 October
2007, to:

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

Ph: +353-1-8049600 Fax: +353-1-804 9665 Email:
postalconsult@comreg.ie

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

Complaints and Dispute Resolution Guidelines

Contents

1	Executive Summary	2
2	Introduction	4
2.1	LEGAL	4
2.1.1	Irish Legislation	4
2.1.2	European Legislation	4
2.1.3	Other Relevant Legislation	4
2.2	PREVIOUS PUBLICATIONS.....	5
3	ComReg’s Proposed Guidelines	6
3.1	INTRODUCTION.....	6
3.1.1	Main Objectives of the Guidelines.....	6
3.1.2	Basis for the Guidelines	6
3.1.3	Consumers Benefits	7
3.1.4	Impact on Competition	7
3.1.5	Impact on Stakeholders	7
3.2	COMPLAINTS AND DISPUTE RESOLUTION PROCEDURES INFORMATION	8
3.3	MINIMUM REQUIREMENT FOR LODGING AND RECEIVING COMPLAINTS.....	9
3.3.1	Written Procedures.....	9
3.3.2	Receiving Complaints	9
3.3.3	Timescales	10
3.4	MINIMUM REQUIREMENT FOR COMMUNICATING AND RESPONDING TO COMPLAINTS	10
3.4.1	Communication to Complainant	10
3.4.2	Response Times.....	11
3.5	RETENTION OF RECORDS	11
3.6	PUBLICATION OF A CODE OF PRACTICE	11
3.7	COMPENSATION	12
3.7.1	Who Can Claim?	13
3.7.2	Prompt Procedures.....	13
4	Submitting Comments.....	14
	Appendix A – Consultation Questions	15

1 Executive Summary

The Commission for Communications Regulation (“ComReg”) is obliged under Regulation 15 (1) of the European Communities (Postal Services) Regulations, 2002 to set out guidelines in respect of complaints and dispute resolution procedures. ComReg has now prepared guidelines for consultation.

The main objectives of these enforceable guidelines are to assist postal service providers who provide postal services within the scope of the universal service to draw up transparent, simple and inexpensive procedures for dealing with user complaints and to include an appropriate form of redress based on compensatory principles.

The proposed guidelines, if adopted, will ensure that postal service providers publish a code of practice that clearly informs consumers of the complaints procedures available to them. Consumers will enjoy a formal form of redress with the further surety that it will contain an appropriate compensatory element. The proposed guidelines will give confidence to postal consumers that all providers maintain consistent standards in complaints and redress procedures, perhaps even leading to an increased consumption of postal services.

The compensatory principle directly benefits the individual consumer, as in practice, what ever the postal service provider pays in respect of justified compensation complaints will benefit consumers to that same amount. As such, it is likely that the gains to consumers are likely to be of greater benefit to society than the costs to the postal service provider. In addition, there is likely to be an overall benefit to society in general as the economic benefits of the compensation principle would be more broadly dispersed throughout society.

The impact on service providers is likely to be minimal. An Post currently has a dedicated customer services call centre to deal with complaints and has already introduced a pilot scheme whereby customers having issue with the delivery of Standard Post items receive a complimentary number of stamps. By and large, other postal service providers also appear to have procedures in place that meet the requirements of the proposed guidelines. In practice, the proposal should have little impact on those commercial organisations that effectively deal with all aspects of customer complaints.

The complaints and dispute resolution guidelines focus on the following areas:

1. Information on the Complaints and Dispute Resolution Procedures including contact information, and how that information is communicated.
2. Minimum requirements for lodging and receiving complaints, including the requirement on service providers to have written procedures outlining the process in relation to lodging a complaint, treatment of complainants and timescales for lodging complaints.

Complaints and Dispute Resolution Guidelines

3. Minimum requirement as to how a postal service provider (who provides postal services within the scope of the universal service) should communicate to complainants, including appeals mechanisms. Also included are response times to deal with complaints and maximum resolution times for complaint handling;
4. Retention of records relating to a complaint until any appeals process is exhausted;
5. Publication of a Code of Practice and ensuring customers are aware of the code by publicising it through the usual communication and advertising mediums.
6. The provision of a compensatory principle in the event of service failure.

The set of guidelines as proposed in this consultation paper will be key in guiding the postal service provider when compiling procedures for dealing with user complaints and the publication of a Code of Practice.

ComReg invites and welcomes all your comments to the consultation questions as listed at Appendix A and ask that you respond by 23 October 2007. Following the consultation period, ComReg will issue a Response to Consultation, setting out Complaints and Dispute Resolution Guidelines.

2 Introduction

2.1 Legal

2.1.1 Irish Legislation

Regulation 15 (1) of the European Communities (Postal Services) Regulations, 2002 (the “Postal Regulations”) provides:

“A universal service provider and a postal service provider with an annual turnover of €500,000, exclusive of VAT, shall, in accordance with guidelines laid down by the Regulator in consultation with the provider, draw up transparent, simple and inexpensive procedures for dealing with users complaints, particularly in cases involving loss, theft, damage or non-compliance with service quality standards (including procedures for determining where responsibility lies in cases where more than one operator is involved). These procedures shall enable disputes to be settled fairly and promptly with provision, where warranted, for a system of reimbursement or compensation or both.”

2.1.2 European Legislation

1997/67/EC (the “First Postal Directive”), as amended, provides:

“Member States shall ensure that transparent, simple and inexpensive procedures are drawn up for dealing with users' complaints, particularly in cases involving loss, theft, damage or non-compliance with service quality standards (including procedures for determining where responsibility lies in cases where more than one operator is involved). . . “
[Article 19]

2.1.3 Other Relevant Legislation

Section 64 of the Postal and Telecommunications Services Act, 1983 (the “1983 Act”), as qualified¹, provides that An Post is immune from all liability in respect of any loss or damage suffered by a person in the use of a universal postal service by reason of: (i) failure or delay in providing, operating or maintaining a postal service; or (ii) failure, interruption, suspension or restriction of a postal service.

Recital 34 of the First Postal Directive provides:

“ . . . Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (7) applies to postal operators;”

¹ Regulation 4 (7) of the Postal Regulations.

2.2 Previous Publications

The issue of complaints and dispute resolution guidelines was addressed previously in 2002 in a consultation paper 'ComReg 02/95 Postal Services - Universal Service Obligation, Tariff Principles and miscellaneous issues'. In May 2003 the response to consultation 'ComReg 03/50 D11/03' was published, setting out, among other things, guidelines to be advised to An Post and other postal service providers.

In the intervening period, a number of draft codes of practice has been submitted by An Post to this office. On each occasion An Post failed to deal with the compensation measures for lost or delayed standard mail but incrementally made some improvements to the other items listed in the Code of Practice. Earlier this year An Post introduced a pilot scheme whereby customers having issue with the delivery of standard post items receive a complimentary number of stamps.

Other postal service providers who apply to ComReg for an authorisation are also obliged to submit details of their Complaints and Redress Procedures drawn up in compliance with Regulation 15(1). This obligation must be met within six months from the date of application².

² ComReg 03/139 Decision Notice and Response to consultation 'Regulation of Postal Services – Postal Service Authorisations, Reserved Area Controls & Levy' details all requirements when applying to ComReg for a postal service authorisation

3 ComReg's Proposed Guidelines

3.1 Introduction

3.1.1 Main Objectives of the Guidelines

The main objectives of these enforceable guidelines are:

- To assist postal service providers who provide postal services within the scope of the universal service to draw up transparent, simple and inexpensive procedures for dealing with user complaints.
- To ensure an appropriate form of redress in the event of loss, theft, damage or non-compliance with service quality standards is available to users³.
- To ensure all users are treated in a consistent, transparent and non-discriminatory manner.

3.1.2 Basis for the Guidelines

The International Organisation for Standardisation⁴ provides guidelines for complaints handling in organisations. The standard includes the following aspects:

- Enhancing customer satisfaction by creating a customer-focused environment that is open to feedback (including complaints), resolving any complaints received, and enhancing the organisation's ability to improve its product and customer service.
- Recognising and addressing the needs and expectations of complainants.
- Providing complainants with an open, effective and easy-to-use complaints process.

Of itself, best practice⁵ suggests 'making it easy for customer to complain'. This in turn should lead to more customers raising complaints, which affords companies a greater opportunity to correct service delivery while enhancing customer satisfaction and retention. Companies that resolve complaints on the first contact increase customer satisfaction and loyalty, improve employee satisfaction and do so at less cost by effectively building quality in.

It is also worth noting that the compensatory principle, if adopted, would be broadly similar to those currently on offer by Royal Mail,⁶ a postal service

3 Any natural or legal person benefiting from universal service provision as a sender or an addressee.

4 ISO 10002:2004 Quality management -- Customer satisfaction -- Guidelines for complaints handling in organizations

5 Serving the American Public: Best Practices in Resolving Customer Complaints – Federal Benchmarking Consortium March 1996

6 In November 2006 a consultation was published by Postcomm "Royal Mails' Compensation Schemes for Delay and Loss and Damage" A response to consultation is due to publish shortly therefore examples used are current at time of publication.

Complaints and Dispute Resolution Guidelines

provider operating in a comparable postal environment, and from where circa 20% of the mail delivered in Ireland originates.

3.1.3 Consumers Benefits

The proposed guidelines aim to ensure that postal service providers publish a code of practice that clearly informs consumers of the complaints procedures available to them. Consumers will enjoy a formal form of redress with the further surety that it will contain an appropriate compensatory element. The proposed guidelines also give confidence to postal consumers that all providers maintain consistent standards in complaints and redress procedures, perhaps even leading to an increased consumption of postal services.

The compensatory principle directly benefits the individual consumer, as in practice, what ever the postal service provider pays in respect of justified compensation complaints will benefit consumers to that same amount. As such, it is likely that the gains to consumers are likely to be of greater benefit to society than the costs to the postal service provider. In addition, there is likely to be an overall benefit to society in general as the economic benefits of the compensation principle would be more broadly dispersed throughout society.

3.1.4 Impact on Competition

The proposed guidelines will benefit competition by assuring consumers that all operators maintain consistent standards in complaints and redress procedures. It might be argued that the introduction of these guidelines would prove a barrier to entry to the postal market. However as most new entrants, by their nature, tend to have a strong customer focus ComReg does not anticipate that the guidelines as outlined could discourage competition in the market.

3.1.5 Impact on Stakeholders

Universal Service Provider – An Post

An Post currently has a dedicated customer services call centre to deal with complaints and has already introduced a pilot scheme whereby customers having issue with the delivery of Standard Post items receive a complimentary number of stamps⁷. Evidence from customers confirms that An Post is also making what it terms ex gratia payments in some cases.

The estimated current volume of complaints for items lost, damaged or arriving late⁸ per year is 25,000. On this basis and if we assume an average amount based on the compensatory principle of a multiple of a number of stamps (minimum being four) or an ex gratia payment within a range of circa €2 - €10 the total amount this compensatory principle should 'cost', if efficiently used, would be circa €125,000 - €150,000. It is recognised that formalisation of this scheme and greater awareness of

7 Approved by the An Post Board in May 2007

8 An Post annual report refers to numbers of complaints. The annual accounts for the following years published numbers for items lost delayed damaged and arriving late as follows: 2004 14,576, 2005 20,566, 2006 25,850 Based on this historic data we estimate that if the majority of complaints relate to universal services we can use a figure of 25000 as an estimate for the year .

Complaints and Dispute Resolution Guidelines

it amongst customers may result in the number of complaints rising, at least in the short term. This might suggest the compensation level will increase, to perhaps around €200,000. However the increase in the actual burden from the current situation should be considerably less than the estimated €200,000 due to the schemes currently on offer.

There may also be benefits to An Post. The compensation procedures proposed will result in a more efficient decision making process in handling consumer complaints (which are entitled to compensation), leading to the potential for further operational efficiencies by effectively building quality in. This should be welcomed given that it provides further opportunity for An Post to correct service failings while growing customer satisfaction. Customers may have more confidence and trust in An Post arising from the introduction of this scheme and as a consequence this could lead to increased demand for An Post postal services.

Other Postal Service Providers

The other postal service providers⁹ vary in size and turnover. However when considering the treatment of customers the majority, almost without exception, appear to have procedures in place that meet the requirements of the compensatory principle set out below. It is therefore reasonable to conclude that the financial impact of the compensatory principle as stated in the proposed guidelines should have little if any impact on commercial organisations that effectively deal with all aspects of customer complaints.

ComReg proposes enforceable guidelines in the following areas:

1. Complaints and Dispute Resolution Procedures information;
2. Minimum requirement for lodging and receiving complaints;
3. Minimum requirement as to how a postal service provider (who provides postal services within the scope of the universal service) should communicate and respond to complaints;
4. Retention of Records;
5. Publication of a Code of Practice and
6. Compensation.

ComReg's draft guidelines are set out below.

3.2 Complaints and Dispute Resolution Procedures information

A postal service provider (who provides postal services within the scope of the universal service) must provide and publish simple and inexpensive complaints and

⁹ those who provide postal services within the scope of the universal service

Complaints and Dispute Resolution Guidelines

dispute resolution procedures for dealing with users complaints. The scope of the procedures must be clear.

Clear and up to date information should be available to users on how to contact the postal service provider (who provides postal services within the scope of the universal service) in the event of complaints (including for example contact telephone numbers, dedicated email addresses etc.). Best practice should ensure that this information is also communicated on all product offerings and public notice material. The information on procedures for the submission of complaints (and all relevant forms) must be readily available to users and accessible at all physical points of contact (buildings), for example retail offices, mails offices, customer service areas etc. (and must be accessible to disabled users especially the blind and partially sighted). All employees and / or contractors of the organisation must be fully conversant on the company's complaint handling procedures and be able to effectively direct the complainant towards the proper complaints channel/contact.

The postal service provider (who provides postal services within the scope of the universal service) must ensure full flexibility for users to submit complaints, for example complaints could be submitted verbally (visit to premises or telephone local number), in writing (on-line customer service, dedicated email address, letter using FREEPOST), or by any other standard medium (including any future technological innovations).

The information sought from users in any complaint pro-forma must be relevant to the resolution of the complaint submitted.

3.3 Minimum requirement for lodging and receiving complaints

3.3.1 Written Procedures

Postal service providers (who provide postal services within the scope of the universal service) must have written procedures for the process to be followed by a complainant when lodging a complaint and the process to be followed by the service provider thereafter. All such procedures should be easy to follow, the information communicated should be clear and assistance in making a complaint should be available to all complainants, including those with disabilities, during normal business hours at a very minimum.

3.3.2 Receiving Complaints

All personnel¹⁰ in contact with complainants should treat the complainant in a courteous manner and promptly respond to their complaints, or immediately direct them to the appropriate individual or service in the organisation that is able to respond to the complaint. All personnel should also be aware of their roles, responsibilities and authorities in respect of complaints and be aware of what procedures to follow and what information to provide to complainants. Postal service

¹⁰ In a study of communication at the University of Pennsylvania in 1970 (Kinesics and communication, R Birdwhistle) researchers determined that in communication over the phone 14% of what we communicate is the result of words and 86% of voice tone.

Complaints and Dispute Resolution Guidelines

providers (who provide postal services within the scope of the universal service) should take all reasonable steps to implement and maintain this awareness.

3.3.3 Timescales

Users should be informed of the appropriate timescales for making a complaint. A postal service provider (who provides postal services within the scope of the universal service) must accept and handle complaints in line with the following timescales;

- for domestic mail one month from date of receipt of item and three months from date of posting of item.
- for international mail up to six months
- within one month for all non mail related complaints

Notwithstanding, ComReg will expect that postal service providers (who provide postal services within the scope of the universal service) will ensure that all reasonable attempts will be undertaken to resolve a complaint in cases where the appropriate timescale has elapsed.

Q. 1. Do you agree with the guidelines as set out in 3.2 and 3.3 above? If not, what amendments would you consider appropriate?

3.4 Minimum requirement for communicating and responding to complaints

3.4.1 Communication to Complainant

Receipt of each complaint should be acknowledged to the complainant within 7 calendar days. Best practice should result in users' records remaining current and complainants being updated of any progress in respect of their complaint when a resolution is not imminent.

Appeals Mechanism

Best practice shall ensure that:

- The procedures contain an internal appeals mechanism.
- Final communication to the complainant should include contact details in relation to consumer organisations to whom a consumer, if dissatisfied with the response to the complaint, may refer. At a minimum the contact details should include the Office of the Ombudsman, ComReg, Competition Authority and the National Consumer Authority. It may be necessary to amend this list from time to time to reflect organisational or legislative changes.

Complaints and Dispute Resolution Guidelines

3.4.2 Response Times

Response timescales will vary depending on the nature of the complaint, complexity, level of investigation, number and location of other operators involved, other regulations etc. The postal service providers (who provide postal services within the scope of the universal service) must have written procedures describing response times for each category of complaint thereby ensuring reasonable expectations are set and met. Users should be informed of the expected time for them to receive answers at all treatment stages of the complaint.

The following table outlines maximum handling times within which a complaint should be resolved:

FOR UNIVERSAL SERVICES	MAXIMUM HANDLING TIMES
Domestic Universal Services	Up to 20 days
International Universal Services within industrialised countries e.g. EU, USA/ Canada, other countries that have bilateral agreements with the operator	Up to 40 days
International Universal Services to other countries	Up to 60 days

If the timescale for receiving a response is not met, the complainant should be provided with specific information about the time foreseen for the conclusion of investigations, the resolution of the complaint and the final response¹¹.

- Q. 2. Are the guidelines for communication with the user sufficient in your view? If not, please give reasons for your answer.**
- Q. 3. Are the maximum handling times for treatment of complaints acceptable? If not, please give reasons for your answer.**

3.5 Retention of Records

A postal service provider (who provides postal services within the scope of the universal service) must retain all records relating to a complaint until any appeals process is exhausted.

3.6 Publication of a Code of Practice

Once ComReg has issued its enforceable guidelines following the consultation process the postal service provider (who provides postal services within the scope

¹¹ Please also see Sec 3.7.2 Prompt Procedures

Complaints and Dispute Resolution Guidelines

of the universal service) is obliged to publish its code of practice and ensure that it is readily available to users.

The potential benefits for consumers and their consequential confidence and trust in the operator has already been outlined at section 3.1.3. It is expected that operators would wish to maximise their customer relationships by tapping into this customer ‘feel good factor’ and as a consequence grow the demand for its services.

As previously outlined best practice would also suggest this will afford Operators a greater opportunity to correct service delivery. It is important therefore that operators make the consumer aware of the service and its procedures. With this in mind ComReg expects that operators will publicise their Code of Practice for complaints and dispute resolution through the usual communication and advertising mediums.

Q. 4. Is the proposal with regard to the requirement that postal service providers publicise what is on offer to consumers in the form of ‘Complaints and Redress Code of Practice’ sufficient in your view? If not, please give reasons for your answer.

3.7 Compensation

Except in respect of services for registered¹² items and insured¹³ items postal service providers (who provide postal services within the scope of the universal service) must comply with the following principle:

1. If the postal service provider (who provides postal services within the scope of the universal service) fails to provide the customer with the service in question, then subject to force majeure¹⁴ and excluding consequential loss, the provider shall at a minimum put the customer in the position it would have been in had the service been satisfactorily provided.

By virtue of: (i) the exclusion of consequential loss; (ii) the common law position in respect of economic loss; (iii) the non-application of this principle to circumstances covered by the registered post and insurance universal services as defined in the Postal Regulations; and (iv) reasonable proof, ComReg does not anticipate an unreasonable or disproportionate level of compensation.

¹² Directive 97/67/EC Article 2. 9 defines registered item: as a service providing a flat-rate guarantee against risks of loss, theft or damage and supplying the sender, where appropriate upon request, with proof of the handing in of the postal item and/or of its delivery to the addressee;

¹³ Directive 97/67/EC Article 2. 10 defines insured item as 10. insured item: a service insuring the postal item up to the value declared by the sender in the event of loss, theft or damage;

¹⁴ “Force majeure” does not include any form of industrial action.

Complaints and Dispute Resolution Guidelines

3.7.1 Who Can Claim?

Any natural or legal person benefiting from universal service provision as a sender or an addressee.

3.7.2 Prompt Procedures

Postal service providers (who provide postal services within the scope of the universal service) should indicate the process for compensation they plan to implement in their formal Code of Practice when response times and /or maximum handling times are not met.

Q. 5. Is the compensatory principle as outlined sufficiently clear? If not what amendments would you consider appropriate?

Q. 6. Are there any additional aspects of the Complaints and Dispute Resolution Guidelines for Postal Service Providers who provide postal services within the scope of the universal service within Regulation 15(1) SI No 616 of 2002 that require consideration in your view?

4 Submitting Comments

All comments are welcome; however it would make the task of analysing responses easier if comments were referenced to the relevant question numbers from this document.

The consultation period will run from 25 September 2007 to 23 October 2007 during which the Commission welcomes written comments on any of the issues raised in this paper.

Having analysed and considered the comments received, ComReg will review the Complaints and Dispute Resolution Guidelines as raised in the consultation and publish a report before the end of the year on the consultation which will, inter alia, summarise the responses to the consultation.

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

Please Note

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

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

Such information will be treated subject to the provisions of ComReg's guidelines on the treatment of confidential information – ComReg 05/24 at www.comreg.ie

Appendix A – Consultation Questions

List of Questions

- Q. 1. Do you agree with the guidelines as set out in 3.2 and 3.3 above? If not, what amendments would you consider appropriate? 10
- Q. 2. Are the guidelines for communication with the user sufficient in your view? If not, please give reasons for your answer. 11
- Q. 3. Are the maximum handling times for treatment of complaints acceptable? If not, please give reasons for your answer. 11
- Q. 4. Is the proposal with regard to the requirement that postal service providers publicise what is on offer to consumers in the form of 'Complaints and Redress Code of Practice' sufficient in your view? If not, please give reasons for your answer. 12
- Q. 5. Is the compensatory principle as outlined sufficiently clear? If not what amendments would you consider appropriate? 13
- Q. 6. Are there any additional aspects of the Complaints and Dispute Resolution Guidelines for Postal Service Providers who provide postal services within the scope of the universal service within Regulation 15(1) SI No 616 of 2002 that require consideration in your view? 13