



Commission for  
**Communications Regulation**

# **Terms and conditions of the universal postal service**

## **Single Piece and Bulk Mail**

### **Consultation**

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**An Coimisiún um Rialáil Cumarsáide**

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# 1 Introduction

1. Terms and conditions are the basis of the agreement between a customer and a service provider. They fulfil the essential role of informing and protecting all parties to a contract. This is particularly important in the case of consumer services where there may be an imbalance in knowledge between the contracting parties. Postal services are one such service.
2. Terms and conditions of the universal postal service (“Terms and Conditions”) are a basic requirement for all postal service users<sup>1</sup>. Sections 22, 23 and 24 of the Communications Regulation (Postal Services) Act 2011 (“the 2011 Act”) set out the legislative framework relating to Terms and Conditions. ComReg has a statutory objective to promote the interests of postal service users<sup>2</sup> and considers that postal service users require clear and unambiguous Terms and Conditions.
3. ComReg, through this consultation, outlines its preliminary views on An Post’s proposed Terms and Conditions. Following consideration of all responses to consultation received, ComReg anticipates that it will proceed to approve, with or without amendment, the proposed Terms and Conditions.
4. This consultation, which should be considered in its entirety, is structured as follows:

Chapter 1 Introduction

Chapter 2 Background

Chapter 3 ComReg’s review of An Post’s proposed Single Piece Terms and Condition (“SP T&Cs”) and Bulk Mail Terms and Conditions (“BM T&Cs”) which sets out ComReg’s preliminary views on the:

- General issues regarding the proposed SP T&Cs and proposed BM T&Cs; and
- Content of the proposed SP T&Cs and proposed BM T&Cs.

Chapter 4 Conclusion and Next Steps

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<sup>1</sup> Postal service user means any person benefiting from postal service provision as a sender or as an addressee.

<sup>2</sup> See section 12(1)(c)(ii) of the Communications Regulation Acts 2002 to 2011

## 2 Background

5. The 2011 Act established a new framework for the regulation of postal services in the State, including the universal postal service provided by An Post, the sole designated<sup>3</sup> universal service provider (“USP”).
6. In April 2012, ComReg began a public consultation<sup>4</sup> which addressed a number of issues relating to future regulation of the Irish postal sector under the 2011 Act, including:
  - The specification of the universal postal service; and
  - An Post’s role as the designated USP.
7. In July 2012, having considered the responses to the above consultation ComReg set out its position and made certain decisions regarding the issues identified<sup>5</sup>. At the same time ComReg also made the Communications Regulation (Universal Postal Service) Regulations 2012<sup>6</sup> (“the Regulations”), as required by section 16(9) of the 2011 Act. The Regulations specified the services to be provided by the USP relating to the provision of the universal postal service and, for the most part, reflected ComReg’s 2005 working definition of the universal postal service<sup>7</sup>.
8. This Decision (D08/12) noted that ComReg’s approval or otherwise of the content of An Post’s Terms and Conditions would be by separate consultation. D08/12 included a direction to An Post under section 22(1)(b) of the 2011 Act as follows, to publish the terms and conditions of its universal service provision and the charges made by it in respect of the universal postal services (“the Schedule of Charges”) provision in the following manner:
  - two sets of terms and conditions (1) single piece universal services and (2) bulk mail universal postal services;
  - by making printed copies of the single piece universal postal services booklet containing the current Terms and Conditions and the Schedule of Charges readily available to postal service users at every post office;

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<sup>3</sup> Section 17 of the 2011 Act

<sup>4</sup> Postal Regulatory Framework: Implementation of the Communications Regulation (Postal Services) Act 2011, ComReg 12/38, dated 30<sup>th</sup> April 2012.

<sup>5</sup> Postal Regulatory Framework: Implementation of the Communications Regulation (Postal Services) Act 2011, Response to Consultation, Direction and Regulation, ComReg 12/81, D 08/12, dated 26<sup>th</sup> July 2012 (“Doc. 12/81” and the decision instrument referred to as “D08/12”)

<sup>6</sup> S.I. No. 280 of 2012

<sup>7</sup> Response to Consultation, The Universal Postal Service, A working definition, Document 05/85, dated 15 November 2005 (“ComReg 05/85”) available at <http://www.comreg.ie/fileupload/publications/ComReg0585.pdf>

- by making printed copies of both sets of booklets containing the Terms and Conditions and the Schedule of Charges available to postal service users on request at no charge, as required by section 24(9) of the 2011 Act;
  - by publishing both sets of the Terms and Conditions on the An Post website, as required by section 22(b) of the 2011 Act. This will be in a clear and prominent position with a clear link to them from the An Post's 'home page', [www.anpost.ie](http://www.anpost.ie); and
  - by publishing both sets of the Terms and Conditions and the Schedule of Charges in Iris Oifigiúil and to republish in Iris Oifigiúil when an amendment to the Terms and Conditions and the Schedule of Charges is made by An Post.
9. Shortly following the specification of the universal postal service in July 2012, ComReg engaged in a lengthy iterative process with An Post in an effort to assist An Post to draft Terms and Conditions that were compliant with the requirements of the 2011 Act. This process included An Post providing ComReg with a number of working drafts of the Terms and Conditions, upon which ComReg commented. ComReg had hoped that this practical approach would yield a set of fit for purpose Terms and Conditions for the benefit of postal service users. However, this intervention did not prove fruitful as the working drafts provided by An Post did not, in ComReg's view, meet with the objective of the engagement.
10. In March 2014 ComReg published "Recommendations for drafting of terms and conditions of the universal postal service"<sup>8</sup> ComReg Document 14/24a (the "T&Cs Recommendations") in order to provide An Post and interested parties with increased clarity as to what ComReg considers should be contained within the Terms and Conditions. On the day that the T&Cs Recommendations were published, ComReg wrote to An Post requesting An Post to submit its proposed terms and conditions for the universal postal service by 28 April 2014.
11. On foot of publishing its T&Cs Recommendations, ComReg again engaged in an iterative process with An Post in an effort to assist An Post to draft Terms and Conditions that were compliant with the requirements of the 2011 Act. Again, it was hoped by ComReg that this practical approach would achieve a set of fit for purpose Terms and Conditions from An Post that would benefit its postal service users.
12. On 17 November 2014, An Post provided ComReg with its proposed SP T&Cs and its proposed BM T&Cs. ComReg, through this consultation, outlines its preliminary views on those Terms and Conditions proposed by An Post. It is

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<sup>8</sup> ComReg 14/24a published 21 March 2014, [available at: http://www.comreg.ie/fileupload/publications/ComReg1424a.pdf](http://www.comreg.ie/fileupload/publications/ComReg1424a.pdf)



however important to note that ComReg's preliminary views point to significant concerns in relation to An Post's proposed Terms and Conditions and that, in ComReg's preliminary view, amendments are required in order for ComReg to be in a position to approve the Terms and Conditions.

## 3 ComReg's review and preliminary views

13. An Post's proposed Terms and Conditions are set out in 15/37a (SP T&Cs) and 15/37b (BM T&Cs) of this consultation. There is a significant overlap in the text of the proposed SP T&Cs and text of the proposed BM T&Cs. To avoid unnecessary duplication within this consultation ComReg refers simply to the proposed Terms and Conditions, by which it means both the proposed SP T&Cs and the proposed BM T&Cs, unless expressly stated otherwise. The detail of the proposed Terms and Conditions is not repeated in this consultation and it is recommended that interested parties read these proposed Terms and Conditions documents fully.
14. ComReg in approving Terms and Conditions under section 22(2) of the 2011 Act is, pursuant to section 24(3) of the 2011 Act, statutorily obliged to consider whether the Terms and Conditions are appropriate having regard to the obligations imposed on the universal postal service provider by or under the Communications Regulation Acts 2002 to 2011 Act in respect of the provision of a universal postal service and the reasonable needs of users and do not have a significantly adverse effect on postal service users.
15. In arriving at its preliminary views, ComReg has examined the terms and conditions of service of a number of postal service providers in other jurisdictions and from other industries.
16. ComReg sets out in this consultation the key issues which ComReg considers to be relevant in reaching a view on whether it can approve the proposed Terms and Conditions, with or without amendment. ComReg outlines the amendments it considers necessary prior to it approving the proposed Terms and Conditions. ComReg is asking respondents to this consultation to comment on these. ComReg will consider all respondents' views in deciding whether to approve An Post's Terms and Conditions, with or without amendment.

## 3.1 General issues regarding the proposed Terms and Conditions

### 3.1.1 User friendliness

17. It is important that the Terms and Conditions are clearly drafted so that postal service users fully understand the basis on which they are availing of universal postal services.
18. As noted by the Department of Jobs, Enterprise and Innovation (“the DJEI”)<sup>9</sup>:

*“If a contract document is to be intelligible, it must be capable of being readily understood by the group of consumers at which it is aimed. ‘Intelligibility’ in this context is usually understood to entail avoiding or minimising legal or technical jargon – or where such terms are unavoidable, explaining them clearly – along with the avoidance of other features that hinder comprehensibility such as long sentences, dense paragraphs, and inadequate use of headings and signposting.”*
19. ComReg considers that, in general, the proposed Terms and Conditions may be difficult for postal service users to understand as the language used in many areas is not sufficiently clear and intelligible i.e. they are not in plain English. Unclear use of language in the Terms and Conditions will mean that they are difficult for postal service users to understand. This is clearly not appropriate having regard to the reasonable needs of postal service users.
20. ComReg is concerned that the numbering convention used in the proposed Terms and Conditions is complex, inaccurate in places and often not consistent. This will mean that postal service users will find the proposed Terms and Conditions are difficult to follow and to refer to. Some sections in the proposed Terms and Conditions are numbered using roman numerals (i, ii, iii etc.) some using alpha characters (a, b, c, etc.) some using Arabic numerals (1, 2, 3 etc.) and others using bulleted symbols (·, -). There is also a difference in the formatting and presentation of these characters with some in brackets and others not. Some examples include:
  - (i) In Part 2 of the proposed Terms and Conditions regarding the “Additional Terms and Conditions applicable to specific Single Piece Universal Services” the numbering is not consistent;
  - (ii) The numbering of the sublevels is often overly complex which might be confusing for postal service users (e.g. condition B.8(5)5.1(a)(xxi)); and

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<sup>9</sup> DJEI “Consultation on the regulation of small print in consumer contracts” (2013) available at: <http://www.djei.ie/publications/commerce/2013/smallprint.pdf>

- (iii) There is inconsistency in the format of numbering, such as, the sublevels within condition B.7 are bracketed, whilst the sublevels within condition B.8 are not.
21. ComReg is concerned that the proposed Terms and Conditions are difficult to understand as they are not presented in a sufficiently user-friendly format. In particular:
- (i) the dimensions of postal items (letter/postcard, large envelope, packet, parcel) are not set out graphically within either the proposed SP T&Cs or the proposed BM T&Cs to aid understanding. They are provided by An Post elsewhere<sup>10</sup>; and
  - (ii) the differences between the universal postal services as set out in Section E are not set out graphically within either the proposed SP T&Cs or the proposed BM T&Cs to aid understanding.
22. ComReg considers that the way the defined terms, material to the Terms and Conditions, are presented is not sufficiently clear to postal service users. The proposed Terms and Conditions contain definitions in two sections namely B.1 and F.1.; F.1 is in Part 3 which is titled “*Definitions*”. Terms are also defined in an *ad hoc* way within the body of the text. ComReg is concerned that the provision of definitions in different places may cause confusion for postal service users attempting to find the meaning of a defined term.

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<sup>10</sup> See “*Post Mail Sizes*” in An Post’s “*Guide to Postal Services*”  
[http://www.anpost.ie/AnPost/Downloads/Anpost/Guide\\_to\\_Postal\\_Services.pdf](http://www.anpost.ie/AnPost/Downloads/Anpost/Guide_to_Postal_Services.pdf)

23. ComReg is of the preliminary view that the following amendments must be made:

- (i) Amendments to ensure that the Terms and Conditions are in plain and intelligible language.
- (ii) The numbering in the proposed Terms and Conditions must be simplified in order to ensure consistency and also ease of reference for postal service users;

A graphical presentation of what can be posted, what will be compensated for in case of damage, and what needs to be insured must be included in the Terms and Conditions. An example<sup>11</sup> of a possible graphical presentation is as follows:

	Standard Post				Registered (Proof of Delivery) Service				Insured Service			
	Can be sent in post?		Compensation available?		Can be sent in post?		Compensation available?		Can be sent in post?		Compensation available?	
	Domestic	International	Domestic	International	Domestic	International	Domestic	International	Domestic	International	Domestic	International
<b>Cash and coin</b>	✓	✓	✗	✗	✓	✓	✓ (Limited)	✓ (Limited)	✓	✓	✓ (Limited)	✓ (Limited)
<b>Jewellery or Precious Metals</b>	✗	✗	✗	✗	✓	✓	✗	✗	✓	✓	✓ (Limited)	✓ (Limited)
<b>Bank Drafts</b>	✓	✗	✗	✗	✓	✓	✓ (Limited)	✓ (Limited)	✓	✓	✓ (Limited)	✓ (Limited)
<b>Passports</b>	✗	✗	✗	✗	✓	✓	✗	✗	✗	✗	✗	✗
<b>Vouchers with monetary value</b>	✓	✗	✗	✗	✓	✓	✓ (Limited)	✓ (Limited)	✓	✓	✓ (Limited)	✓ (Limited)
<b>Etc.</b>												

- (iii) A graphical representation of the dimensions of postal items (letter/postcard, large envelope, packet and parcel) must be included with the proposed Terms and Conditions which conveys the information as set out in condition B.1 of the proposed Terms and Conditions;
- (iv) A graphical representation of the differences between the universal postal services to convey the information as set out in Section E of the proposed Terms and Conditions must be included in the Terms and Conditions; and
- (v) Defined terms used in the Terms and Conditions to be consolidated into a single comprehensive listing. When defined terms are used for the first time, they should be highlighted (e.g. shown in bold print) and hyperlinked to the appropriate definition.

<sup>11</sup> This is a purely illustrative example and would need to be reviewed by An Post for accuracy of content, and design.

### 3.1.2 References to conditions contained in documents external to the proposed Terms and Conditions

24. ComReg is concerned that the proposed Terms and Conditions contain references to conditions contained in documents external to the proposed Terms and Conditions. ComReg notes by way of example:

- (i) Condition B.9(1) *“Applicable legislation”*, which relates to *“Customs and other requirements for Universal Services”* and states that:

*“The provisions of the Foreign Parcels (Customs) Warrant, 1885 and of any other Warrant made under Section 14 of the Post Office (Parcels) Act, 1882 shall apply to all Foreign Postal Packets to which these Terms and Conditions relate in like manner as they apply to Parcels.”*

The Foreign Parcels (Customs) Warrant, 1885 is not generally available and would not be accessible to postal service users. The general reference to *“any other Warrant made under Section 14 of the Post Office (Parcels) Act, 1882”* is too vague and provides no clarity for postal service users as to the warrants which An Post is relying on and indeed what the terms of those warrants are.

- (ii) Condition B.9(3) *“Customs documentation”* states that

*“All Foreign Postal Packets shall have affixed to them such correct and complete customs documentation as required by law or as An Post may from time to time prescribe.”*

Reliance on conditions that *“An Post may from time to time prescribe”* is, in ComReg’s view, not appropriate. These unspecified conditions form part of the Terms and Conditions and details of them should be included in the proposed Terms and Conditions.

25. Condition B.2(1) of the proposed Terms and Conditions provides that:

*“Every Postal Packet shall be made up and secured to prevent injury to any other Postal Packet in the course of transmission by post or to any receptacle in which the same is conveyed, or to an officer of An Post or other person who may deal with such Postal Packet or to postal equipment or to third party property. Where An Post has published special rules in relation to the packing of any particular Postal Packet or article such rules shall apply”.*

Reliance on *“special rules in relation to the packing of any particular Postal Packet or article”* is, in ComReg’s view, not appropriate. These *“special rules”* form part of the Terms and Conditions of the provision of

the universal service and details of them should be included in the Proposed Terms and Conditions.

26. ComReg considers that reliance on documents external to the proposed Terms and Conditions is, in general, not appropriate having regard to the reasonable needs of postal service users. All conditions which form part of the Terms and Conditions should be contained in the Terms and Conditions so that they can readily available to postal service users. It is more user-friendly and transparent to have all applicable terms and conditions provided for in the Terms and Conditions. This would mean that the Terms and Conditions were a “one-stop shop” for postal service users, and avoid them having to locate and interpret other documents.
27. ComReg is of the preliminary view that it is, in general, not appropriate to reference terms contained in documents external to the proposed Terms and Conditions. All relevant conditions should be contained in the proposed Terms and Conditions. Reference to external documents should be deleted.

### 3.1.3 Drafting errors

28. ComReg is concerned that the proposed Terms and Conditions contain multiple drafting errors such as mistaken references, spelling and punctuation errors, and inconsistency in terms used.
29. ComReg considers that the Terms and Conditions should not contain drafting errors. Drafting errors make the document difficult to follow and understand for postal service users, and are therefore not appropriate having regard to the reasonable needs of users.
30. ComReg is therefore of the preliminary view that An Post should review the proposed Terms and Conditions to ensure that there are no drafting errors. ComReg sets out in Annex 2 of this consultation a non-exhaustive list which illustrates the types of errors that ComReg has identified and which must be corrected.

### 3.1.4 Consistency between proposed SP T&Cs and proposed BM T&Cs

31. There is a significant overlap between the text of the proposed SP T&Cs and the text of the proposed BM T&Cs. ComReg has however identified several instances where the text within the proposed Terms and Conditions differs between the proposed SP T&Cs and the proposed BM T&Cs but it appears that there is no basis for the discrepancies; a non-exhaustive list of these is outlined in Annex 3 of this document. In some instances the differences are merely synonymous substitutions, and in other instances text is omitted causing material differences between the two sets of Terms and Conditions.
32. ComReg considers that such unwarranted differences in text in the proposed Terms and Conditions could be confusing for postal service users and therefore are not appropriate having regard to the reasonable needs of users.
33. ComReg considers that the text within the proposed SP T&Cs and the text within the proposed BM T&Cs should be the same, except where the differences are appropriate.
34. ComReg is therefore of the preliminary view that An Post should review the proposed Terms and Conditions to ensure that there is consistency between the proposed SP T&Cs and proposed BM T&Cs (as appropriate). ComReg sets out in Annex 3 of this consultation a non-exhaustive list which illustrates the issues which ComReg has identified and which must be corrected prior to ComReg's approval of the Terms and Conditions.

### 3.1.5 Consistency with Terms and Conditions published in other An Post material

35. ComReg is concerned that where conditions of the Terms and Conditions are reproduced in other An Post materials (e.g. on An Post's website, printed notices and printed guides) they are often incorrectly paraphrased. This is confusing for postal service users and not appropriate having regard to their reasonable needs. All An Post material must be reviewed to ensure consistency.



## 3.2 Content of the proposed Terms and Conditions

36. This section sets out ComReg's preliminary views on certain aspects of the content of the proposed Terms and Conditions submitted to ComReg for approval by An Post.

### 3.2.1 Introduction

#### 3.2.1.1 Accessing Postal Services

37. In setting out "*How to Access An Post's Universal Services*" within the "*Introduction*" of the proposed SP T&Cs, An Post indicates the ways postal service users can access its services including universal postal services. Delivery Sorting Units ("DSUs") and rural post persons<sup>12</sup> are omitted in the proposed SP T&Cs as access points.
38. Accordingly it is ComReg's preliminary view, it is necessary that the section "*How to Access An Post's Universal Services*" in the "*Introduction*" of the proposed SP T&Cs be amended to include DSUs and rural post persons as access points for postal service users.

### 3.2.2 Definitions

39. Clear and comprehensive definitions are important to enable postal service users to understand the Terms and Conditions.

#### 3.2.2.1 Terms not defined

40. ComReg is concerned that there are terms used within the proposed Terms and Conditions which are not defined, but should be. Furthermore there are some terms that are capitalised suggesting that they are defined terms, however there are no definitions for these terms within the Terms and Conditions. ComReg is concerned that this may cause confusion and so not meet the reasonable needs of postal service users as required by the 2011 Act.
41. It is ComReg's preliminary view that An Post should amend the proposed Terms and Conditions to define terms for which definitions have been omitted including:
- (i) Common Carrier;

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<sup>12</sup> As per Directions 1(c) and 1(d) in ComReg 03/50 published 13 May 2003, available at <http://www.comreg.ie/fileupload/publications/ComReg0350.pdf>

- (ii) MailMinder<sup>13</sup>;
  - (iii) Poste Restante<sup>13</sup>;
  - (iv) Bulk Mail; and
  - (v) Force Majeure.
42. It is ComReg’s preliminary view that An Post should amend the proposed Terms and Conditions to ensure that capital letters are only used for defined terms (or where it is grammatically appropriate).
43. It is ComReg’s preliminary view that An Post should amend the proposed Terms and Conditions to ensure that defined terms are used properly and consistently. A non-exhaustive list of the issues that ComReg has identified in this regard is attached at Annex 4 of this consultation.

### 3.2.2.2 Unclear Definitions

#### (i) Postal Packets for the Blind

44. Section E.8 (1) of the proposed SP T&Cs appears to contain a definition of “*Postal Packets for the Blind*”. The content of this “definition” appears to be the terms and conditions which apply to “*Postal Packets for the Blind*” as opposed to a definition. There is no mention of blind or partially sighted person in the content of this “definition”. The different term “*Postal Packets for the Blind or partially sighted persons*” (emphasis added) is also used throughout the SP T&Cs.
45. This lack of clarity and inconsistency in relation to “*Postal Packets for the Blind*” does not meet the reasonable needs of postal service users, and in particular blind or partially sighted postal service users.
46. ComReg is of the preliminary view that a definition of “*Postal Packets for the Blind*” should be inserted in the definitions section. This defined term should then be used consistently throughout the Terms and Conditions. ComReg is of the preliminary view that this definition should reference or reflect the universal postal union (“UPU”) description of “items for the blind”, which is contained at Article 7(3) of the UPU Letter Post Manual.

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<sup>13</sup> Defined in the Regulations; Currently set out in F9.3 of SP T&Cs but needs to be defined in the definitions section

(ii) Fragile and Exceptionally Fragile

47. Section F.1 of the proposed Terms and Conditions defines “*Fragile*” as follows:

*“when used in relation to any Postal Packet of any description thereof means a Postal Packet containing articles which are liable to break easily and which are to be handled with special care and are clearly marked or labelled accordingly”*

48. Section F.1 of the proposed Terms and Conditions defines “*Exceptionally Fragile Article*” as:

*“any article including but not limited to articles constructed of or from glass, ceramics or porcelain, which by its intrinsic nature is liable to suffer damage as a consequence of routine processing whilst in the postal system which would include the effects of not being maintained in an upright position or of the effects of normal variations in temperature or humidity levels even in circumstances where all due and proper care is taken.”*

49. ComReg is concerned that the determination of whether an item is “*Fragile*” or “*Exceptionally Fragile*” may be very subjective. As Condition D3(6)(c) of the proposed SP T&Cs provides an exclusion of liability for “*Exceptionally Fragile*” items it is important that there is clarity for postal service users as to the distinction between “*Fragile*” and “*Exceptionally Fragile*” items.

50. Accordingly ComReg is of the preliminary view that the proposed Terms and Conditions require amendment to ensure the definitions of “*Fragile*” and “*Exceptionally Fragile Articles*” are made clearer so that postal service users are in no doubt as to what the distinction between the terms is.

(iii) Liquids

51. Section F.1 of the proposed Terms and Conditions defines “*Liquid*” as:

*“a substance that flows freely but is of constant volume, having a consistency like that of water or oil;”*

52. Section F.1 of the proposed Terms and Conditions defines “*Flammable or Corrosive Solids or Liquids*” as:

*“all flammable or corrosive solids or liquids, which, if there was a leakage from their packaging or container, would be reasonably liable to soil or contaminate other Postal Packets or be injurious to staff or to their clothes or pose a risk of possible damage to postal equipment, furniture and premises;”*

53. Condition B.8(5)5.1(a)(ix)<sup>14</sup> of the proposed SP T&Cs prohibits the inclusion of items consisting of or containing *“Flammable or Corrosive solids (sic) or Liquids”* in a *“Postal Packet”*.
54. Condition B.8(5)5.3 of the proposed SP T&Cs provides that *“Foreign Postal Packets shall not contain Liquids of any kind (including water, alcohol, gels, creams, aftershaves and perfumes)”*. No such prohibition exists in relation to the sending of *“Liquids”* in domestic postal packets.
55. Condition D3(6)(c) of the proposed SP T&Cs provides an exclusion of liability for certain contents, specifying that compensation shall not be paid:
- “...in respect of damage to Postal Packets containing eggs, soft fruit, Liquids, glass, Documents or any article of an Exceptionally Fragile nature;”*
56. ComReg considers it unlikely that a liquid exists which, on leakage from its packaging or container, would not *“be reasonably liable to soil or contaminate other postal packets or be injurious to staff or to their clothes or pose a risk of possible damage to postal equipment, furniture and premises”*. Accordingly it would appear that all liquids by their nature are encompassed by the definition of *“Flammable or Corrosive Solids or Liquids”*.
57. ComReg is of the preliminary view that the definitions of *“Liquid”* and *“Flammable or Corrosive solids (sic) or Liquids”* require amendment to ensure that postal service users are clear as to what the distinction between the terms is and whether it is, in fact, permitted to send any *“Liquids”* in domestic postal packets.

### 3.2.3 Proposed conditions which give An Post the unilateral right to change the terms of its contract with a postal service user in individual cases

58. ComReg is concerned that several of the conditions in the proposed Terms and Conditions give An Post the unilateral right to change the terms of its contract with a postal service user in individual cases. Such conditions are, in ComReg’s view, significantly weighted against the postal service user in favour of An Post.
59. ComReg considers that these are conditions which would cause a significant imbalance in the parties’ rights and obligations to the detriment of the postal service user and as such do not meet the reasonable needs of postal service users. ComReg considers that such conditions could have a significantly adverse effect on postal service users.

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<sup>14</sup> This appears to be a mistaken reference due to an error in the numbering in An Post’s submitted Terms and Conditions. ComReg understands that the section numbering should read B.8(5)(5.1)(c)(ix)

60. ComReg also considers that conditions which give An Post the unilateral right to change the terms of its contract with a postal service user in individual cases could mean that some users of the universal postal service will receive different treatment to others. This would not be appropriate having regard to the obligations imposed on the universal service provider under the 2011 Act in respect of the provision of a universal postal service, in particular as section 21(1)(b) of the 2011 Act requires An Post, as universal postal service provider, to provide identical services to postal service users under comparable conditions. Therefore ComReg suggests the amendments detailed below.

61. Condition B.6(3) of the proposed Terms and Conditions provides that:

*“Any condition, term, standard or requirement in these Terms and Conditions which affects or relates either to:*

- (a) the eligibility, of a Postal Packet to be included in a service, or*
- (b) the eligibility or entitlement of a person to use, avail of or benefit from service,*

*may be waived, dispensed with or varied by An Post in any individual case and as regards any person, or generally from time to time, provided that such waiver, dispensation or variation meets the reasonable needs of postal service users or is one which would or is calculated to increase the use of service by any person or group or class of persons”*

62. ComReg considers that the reasons which would cause An Post to waive, dispense with or vary a condition in the context of the Terms and Conditions are not sufficiently specified within the proposed Terms and Conditions. ComReg is of the preliminary view that condition B.6(3) requires amendment to supply such specification or alternatively condition B.6(3) should be deleted.

63. Condition B.6(4)(a) of the proposed Terms and Conditions provides that:

*“Subject to these Terms and Conditions An Post may in any case in which it considers it just, reasonable or advantageous to do so, refund to any person a Charge which is paid to it in relation to a service and may attach such conditions to such refund as it deems to be equitable and appropriate.”*

64. ComReg is concerned that condition B.6(4)(a) is too vague and therefore lacks transparency about when refunds will be given and about what sort of conditions might be attached to a refund.

65. ComReg is of the preliminary view that condition B.6(4)(a) needs to be amended to make it clear when An Post will refund a “Charge” and the types of conditions An Post will attach to refunds in specific circumstances. ComReg considers that An Post should indicate that it will, in general, provide full

refunds. In the event that limited refunds are proposed, limits should be outlined that fairly balance the interests of the parties.

66. Section B.6 (5) of the proposed Terms and Conditions provides that:

*“An Post may in case of doubt or dispute arising from the manner in which a Postal Packet is made up or presented, decide under which service it shall be or has been conveyed. Where it is unavoidable a service other than that chosen by the sender may be used to convey the Postal Packet to its destination.”*

67. ComReg is concerned that this condition B.6(5) is also too vague and lacks transparency about what exact circumstances might lead to An Post to decide under which service a postal packet shall be or has been conveyed.

68. Accordingly, ComReg is of the preliminary view that, prior to it approving the proposed Terms and Conditions, condition B.6(5) needs to be amended to make it clear what exactly the circumstances are that would cause doubt or dispute in establishing which service a postal packet is to be conveyed in.

### 3.2.4 Proposed conditions allowing An Post to refuse to provide certain universal services

69. ComReg is concerned that several of the conditions in the proposed Terms and Conditions allow An Post to refuse to provide certain universal services.

70. ComReg considers that these are conditions which do not meet the reasonable needs of postal service users as required by the 2011 Act. ComReg considers that such conditions could have a significantly adverse effect on postal service users. ComReg also considers that conditions which give An Post the right to refuse to provide universal services would not be appropriate having regard to the obligations imposed on the universal service provider under the 2011 Act in respect of the provision of a universal postal service. Therefore ComReg suggests the amendments detailed below.

71. Condition E.9.1(3) provides that:

*“An Post reserves the absolute right to refuse any application or discontinue a PO Box/caller’s service”<sup>15</sup> .....*

72. ComReg is concerned that that this condition allows An Post to refuse to provide, or to discontinue the provision of the “PO Box service”, which is a universal service, for any reason and without any notice to the postal service user. ComReg considers that this condition is not appropriate having regard to

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<sup>15</sup> The “caller’s service” is not a universal service (see 3.2.8.7)

the universal service obligations imposed on An Post and the reasonable needs of postal service users.

73. ComReg is of the preliminary view that condition E.9.1(3) must be amended by deleting it or by inserting text which indicates limits on An Post's right to refuse or discontinue, for example by limiting this right to circumstances where An Post has serious grounds for termination of the "PO Box Service" and indicating that An Post will provide the postal service user with reasonable notice of the discontinuation.

74. Condition E.9.2A(12) provides that:

*"An Post reserves the right to refuse or discontinue the Redirection Service at its absolute discretion, including but not limited to, where the Redirection Service is unworkable. In this event, An Post will refund the Charge paid for the Redirection Service but will have no further liability."*

75. ComReg is concerned that this condition permits An Post to refuse to provide, or to discontinue the provision of the "Redirection Service", a universal service, at its "absolute discretion". ComReg considers that this condition is not appropriate having regard to the universal service obligations imposed on An Post and the reasonable needs of postal service users.

76. ComReg is of the preliminary view that condition E.9.2A(12) must be amended by deleting it or by inserting text to indicate limits on An Post's right to refuse or discontinue, for example indicating that An Post will only discontinue the "Redirection Service" if there are serious grounds for this and that reasonable notice of the discontinuation of the "Redirection Service" will be given.

### 3.2.5 Prohibitions and restrictions on sending money in the post

77. Clear and comprehensive information within the Terms and Conditions, regarding any prohibitions and restrictions with regard to the transmission of postal packets, is important to ensure the reasonable needs of postal service users are met.

78. Section F.1 of the proposed Terms and Conditions defines "Paper Money" as:

- a) legal tender notes; notes of any bank of issue, or notes which are currency, in Ireland or any other country or state;*
- b) postal money orders or foreign currency drafts;*
- c) unobliterated postage or revenue stamps, whether embossed or adhesive;*

- d) *exchequer bills, bank post bills, bills of exchange, promissory notes, vouchers, cheques, credit notes which entitle the holder to money or goods and all orders and authorities for the payment of money, whether negotiable or not;*
- e) *bonds, coupons, and securities for money, whether negotiable or not*

79. Condition B.8 (5)(5.2)(j) of the proposed Terms and Conditions provides that:

*“A Postal Packet is prohibited.... containing Paper Money or Coins save as otherwise permitted in these Terms and Conditions;”*

80. Condition D3(6)(f) of the proposed SP T&Cs provides an exclusion of liability for certain contents, specifying that compensation shall not be paid:

*“for Paper Money or Jewellery transmitted by post unless contained in a Secure Post (Insured) Postal Packet addressed to an address in the State which does not exceed 2 kilograms in weight”.*

81. Condition D3(6)(f) appears to suggest that “Paper Money” can be transmitted by post if “contained in a Secure Post (Insured) Postal Packet addressed to an address in the State” and that this is one of the exceptions to the prohibition in Condition B.8 (5)(5.2)(j). Condition D3(6)(f) is silent as to whether there is an exclusion of liability for the transmission of “Paper Money” to an address outside the State using the “Secure Post (Insured)” service.

82. However B.8 (5)(5.2)(j) and D3(6)(f) appear to directly contradict Condition B.8 (5)(5.6) which provides that:

*“ The following items are excluded from compensation although not prohibited as contents if posted in a Postal Packet to all addresses within and outside the State:*

- *Cash and Coins;*
- *Bank Drafts;*
- *Vouchers with monetary face value (other than postage stamps); .....*”

83. Confusingly, condition B.8(5)5.6 indicates that the money items specified (which would appear to include “Paper Money” as defined) can be transmitted by post.

84. ComReg considers that it would be difficult for postal service users to know whether they can or cannot send money by post and if so, in what circumstances this is permitted and what compensation is payable. This means that the reasonable needs of postal service users are not being met, as required by the 2011 Act.



85. Therefore ComReg is of the preliminary view that amendment of the proposed Terms and Conditions is required in order to make the restrictions An Post is attaching to the sending of money by post, if any, clear. In particular:
- (i) The position in relation to whether “*Paper Money*” can be transmitted by post, or not, must be explicitly set out for all universal postal services.
  - (ii) If postal service users need to avail of specific service in order to post money (such as the “*Secure Post (Insured)*” service) this must be clearly stated.
  - (iii) The position in relation to whether compensation is or is not available must be explicitly set out.
  - (iv) Section E.7 must be amended to give clarity as to whether it is possible to send “*Paper Money*” using the “*Secure Post (Insured)*” service to addresses outside the State.

### 3.2.6 Packing

86. Condition B.2(1) of the proposed Terms and Conditions provides that:

*“Every Postal Packet shall be made up and secured to prevent injury to any other Postal Packet in the course of transmission by post or to any receptacle in which the same is conveyed, or to an officer of An Post or other person who may deal with such Postal Packet or to postal equipment or to third party property. Where An Post has published special rules in relation to the packing of any particular Postal Packet or article such rules shall apply”*

87. ComReg considers that referring to “*special rules in relation to the packing of any particular Postal Packet or article*” that are provided in unspecified documents external to the proposed Terms and Condition is not appropriate. These “*special rules*” should be contained within the text of the Terms and Conditions as they form part of the Terms and Conditions of the provision of the universal service. In addition it would be more user friendly and transparent to have these rules provided for in the Terms and Conditions. These rules should be approved by ComReg. It is not appropriate having regard to the reasonable needs of postal service users to refer out to an external document in this manner.
88. ComReg is of the preliminary view that condition B.2(1) needs to be amended to provide details of the “*special rules in relation to the packing of any particular Postal Packet or article*”.

### 3.2.7 Cancellation of stamps and dating of postal packets

89. Condition B.7(4) of the proposed SP T&Cs relates to “*Cancellation of postage stamps*” and sets out that:

*“Postage stamps on Postal Packets presented at a Post Office counter or posted at a collection box are cancelled by means of automated processing. Where this has not occurred the postage stamps shall be cancelled by means of a hand stamp, ink pen or marker.”*

90. The cancellation of stamps, by means of a cancellation stamp, is necessary to inform postal service users, as senders or addressees, that the pre-payment of the postal packet has been accepted, and of the date of acceptance of the postal packet for onward transmission by post. This is information that meets the reasonable need of postal users.
91. The proposed Terms and Conditions do not specify that the cancellation method will indicate on a postal packet the date of acceptance of that postal packet. Condition B.7(4) would appear to be the appropriate place for this indication.
92. ComReg is of the preliminary view that in order to provide clarity to postal service users regarding whether the pre-payment of the postal packet has been accepted and how to identify the date of acceptance of postal packets, condition B.7(4) of the proposed SP T&Cs must be amended to state:

*“Postage stamps on Postal Packets presented at a Post Office counter or posted at a collection box are cancelled by means of automated processing and a cancellation stamp will apply the date of acceptance of the postal packet. Where this has not occurred the postage stamps shall be cancelled by means of a hand stamp, ink pen or marker and the date of acceptance of the postal packet will be applied.”*

## 3.2.8 Universal postal services

### 3.2.8.1 Schedules containing overviews of universal postal services

93. Regulation 3(1) of the Regulations specifies the services to be provided by An Post relating to the provision of the universal postal service.
94. The proposed Terms and Conditions do not provide an easily accessible but comprehensive overview of each universal postal service provided with all applicable provisions related to each service.
95. Whilst “*Section E – Universal Postal Service*” provides information relating to each universal postal service, it is not comprehensive. Therefore postal service users cannot easily find all the applicable provisions relating to each service in one place within the Terms and Conditions.
96. ComReg is aware that this has been achieved by way of separate schedules in other jurisdictions<sup>16</sup>. These type of schedules are very user-friendly and would facilitate postal service users understanding of the service they are purchasing. Inclusion of this type of schedule would, in ComReg view be appropriate, having regard to the reasonable needs of postal service users.
97. Details of An Post’s bulk mail services, including bulk mail USO services and Non USO services, are detailed in two brochures<sup>17</sup> published by An Post namely (1) “*Bulk Discounts for Mailers – Volumes of 200 items upwards*” and (2) “*Bulk Discounts for Mailers – Volumes of 2000 items upwards*”. The information presented in both “Bulk Discounts for Mailers” brochures is set out in a clear, easy to understand way for postal service users, and includes graphical representations of the limits in mail format, information regarding the size dimensions that mail items in the applicable services must conform to as well as relevant tariffs. These are good examples of the way in which the overview schedules could be presented.
98. Accordingly ComReg is of the preliminary view that “*Section E – Universal Postal Service*” of the proposed Terms and Conditions must be amended to include comprehensive user-friendly schedules for each universal postal service with all applicable provisions related to each service, to include:

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<sup>16</sup> For example, New Zealand Post’s ‘Postal Users’ Guide’ provides an example of where Terms and Conditions for each service are provided alongside the Terms and Conditions applicable to the use of New Zealand Post’s services more generally.

<http://www.nzpost.co.nz/sites/default/files/uploads/shared/postal-users-guide.pdf>; or Australia Post Australia Post - <http://auspost.com.au/media/documents/Schedule-10A.pdf>

<sup>17</sup> See An Post’s ‘Bulk Discounts for Mailers – Volumes of 200 items upwards’ - [http://www.anpost.ie/AnPost/Downloads/Anpost/New/200\\_items\\_upwards\\_Bulk\\_Discounts\\_For\\_Mailers\\_An\\_Post.pdf](http://www.anpost.ie/AnPost/Downloads/Anpost/New/200_items_upwards_Bulk_Discounts_For_Mailers_An_Post.pdf); and ‘Bulk Discounts for Mailers – Volumes of 2000 items upwards’ - [http://www.anpost.ie/AnPost/Downloads/Anpost/New/2000\\_items\\_upwards\\_Bulk\\_Discounts\\_For\\_Mailers\\_An\\_Post.pdf](http://www.anpost.ie/AnPost/Downloads/Anpost/New/2000_items_upwards_Bulk_Discounts_For_Mailers_An_Post.pdf)

- Summary of key features;
- Prohibitions and restrictions;
- Reference to the relevant charges;
- Service requirements; and
- Applicable compensation.

### 3.2.8.2 Single Piece - Letters

99. Condition E.2(1)(i) of the proposed SP T&Cs provides that the “*Single Piece – Letters*” service:

*“has a transit time objective of next working day delivery for Postal Packets to be delivered to a postal address within the State;”*

100. Condition E.2(1)(i) of the proposed SP T&Cs is incomplete as it should fully and accurately reflect the Regulations<sup>18</sup>. A full and accurate reflection would be appropriate having regard to the reasonable needs of postal service users.

101. ComReg is of the preliminary view that prior to it approving the proposed Terms and Conditions, condition E.2(1)(i) of the proposed SP T&Cs needs to be amended to state:

*“has a transit time objective of*

- *next working day delivery to a postal address within the State;*
- *three working days for delivery to addresses within the European Union;*
- *up to nine working days in respect of delivery to all other Foreign addresses.”*

### 3.2.8.3 Single Piece - Large Envelopes

102. Condition E.3(i) of the proposed SP T&Cs provides that: the “*Single Piece - Large Envelopes*” service:

*“has a transit time objective of next working day delivery for Large Envelopes to be delivered to a postal address within the State;.....”*

103. Condition E.3(i) of the proposed SP T&Cs is incomplete as it should fully and accurately reflect the Regulations<sup>19</sup>. A full and accurate reflection would be appropriate having regard to the reasonable needs of postal service users.

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<sup>18</sup> Regulation 3(1)(a) of the Regulations

<sup>19</sup> Regulation 3(1)(b) of the Regulations

104. ComReg is of the preliminary view that prior to it approving the proposed Terms and Conditions, condition E.3(i) of the proposed SP T&Cs needs to be amended to state:

*“has a transit time objective of*

- *next working day delivery to a postal address within the State;*
- *three working days for delivery to addresses within the European Union;*
- *up to nine working days in respect of delivery to all other Foreign addresses.”*

#### 3.2.8.4 Single Piece - Packets

105. Condition E.4(a) of the proposed SP T&Cs provides that the “*Single Piece – Packets*” service:

*“has a transit time objective of next working day delivery for Packets within the State”*

106. Condition E.4(a) of the proposed SP T&Cs is incomplete as it should fully and accurately reflect the Regulations<sup>20</sup>. A full and accurate reflection would be appropriate having regard to the reasonable needs of postal service users.

107. ComReg is of the preliminary view that prior to it approving the proposed Terms and Conditions, condition E.4(a) of the proposed SP T&Cs needs to be amended to state:

*“has a transit time objective of*

- *next working day delivery to a postal address within the State;*
- *three working days for delivery to addresses within the European Union;*
- *up to nine working days in respect of delivery to all other Foreign addresses.”*

#### 3.2.8.5 Single Piece - Parcels

108. Condition E.5(i) of the proposed SP T&Cs provides that the “*Single Piece – Parcels*” service:

*“has a transit time objective of next working day delivery for Parcels to be delivered to a postal address within the State;”*

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<sup>20</sup> Regulation 3(1)(c) of the Regulations

109. Condition E.5(i) of the proposed SP T&Cs is incomplete as it should fully and accurately reflect the Regulations<sup>21</sup>. A full and accurate reflection would be appropriate having regard to the reasonable needs of postal service users.
110. ComReg is of the preliminary view that prior to it approving the proposed Terms and Conditions, condition E.5(i) of the proposed SP T&Cs needs to be amended to state:

*“has a transit time objective of*

- *next working day delivery to a postal address within the State;*
- *three working days for delivery to addresses within the European Union;*
- *up to nine working days in respect of delivery to all other Foreign addresses.”*

### 3.2.8.6 Single Piece - Secure Post (Insured)

111. Condition E.7 of the proposed SP T&Cs provides that the “*Single Piece – Secure Post (Insured)*” service is:

*“A single piece service for the insurance of Postal Packets tendered to An Post for transmission under any of the services listed at E.2 to E.5 inclusive, provides for the payment of Charges by postage stamp, postal franking machine, or other reasonable methods.”*

112. ComReg is concerned that condition E.7 of the proposed SP T&Cs does not clearly set out the different levels of insurance cover offered and compensatory amounts that would be applicable for each level of insurance. The inclusion of this information would in ComReg’s view be appropriate having regard to the reasonable needs of postal service users.
113. ComReg is of the preliminary view that Condition E.7 of the proposed SP T&Cs should be amended to provide clear information setting out the different levels of insurance cover and compensatory amounts applicable to each service.

### 3.2.8.7 Special Facilities – Private Boxes (also known as ‘PO Box’) and Bags and includes caller’s service

114. Condition E9.1 of the proposed SP T&Cs indicates that the “*Private Boxes (also known as ‘PO Box) (sic) and Bags...*” service, also includes a “*caller’s service*”.
115. As the “*caller’s service*” (as ComReg understands this term) is not a universal postal service, it should not be included within the SP T&Cs.

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<sup>21</sup> Regulation 3(1)(d) of the Regulations

116. ComReg is of the preliminary view that references to the “*caller’s service*” in condition E9.1 must be deleted.

### 3.2.9 Charges and Payment

#### 3.2.9.1 Transmission of Underpaid Mail

117. “*Part VI Additional Charges*” of the Schedule of Charges<sup>22</sup> provides that there is a handling charge for delivering underpaid postcards, letters, large letters, packets and incoming cross border postal packets, and for delivering underpaid parcels.

118. ComReg recognises the extra work incurred by An Post collecting charges due from postal service users who underpay for postal packets. ComReg is supportive of An Post highlighting to postal service users the handling charges for underpaid postal packets, so as to ensure the reasonable needs of postal service users is met by making them aware the outcome of transmitting by post a postal packet that is underpaid.

119. However ComReg is concerned that the fact of these charges is not referenced in the Terms and Conditions. This amounts to a lack of transparency for postal service users which is not appropriate having regard to the reasonable needs of users.

120. Accordingly ComReg is of the preliminary view that the proposed Terms and Conditions must be amended by inserting reference to the handling charges for delivering underpaid postcards, letters, large letters, packets and incoming cross border postal packets, and for delivering underpaid parcels in the proposed Terms and Conditions in condition B.6 of the Terms and Conditions.

#### 3.2.9.2 Refund administrative charge

121. Condition B.6(4)(b) of the proposed SP T&Cs provides that:

*“Refunds will be subject to an administrative Charge which shall be set out in the Schedule of Charges.”*

122. An Post did not make ComReg aware of this proposed charge prior to ComReg’s decision regarding the price cap<sup>23</sup>, and to date ComReg has not approved an administration charge for the issuing of refunds for universal postal services and therefore such a charge is not specified in the Schedule of Charges. No charge has previously been imposed in such instances so this proposed charge would be new.

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<sup>22</sup> Approved by ComReg and effective from 21 July 2014

<sup>23</sup> ComReg 14/59 and D05/14 available at:

<http://www.comreg.ie/fileupload/publications/ComReg1459.pdf>

123. ComReg considers that charges cannot be referenced within the Terms and Conditions without such charges having been approved. Reference to a charge which does not exist is confusing for postal service users and amounts to a lack of transparency for postal service users. The introduction of such a charge would, in effect, make an explicit provision for any refund to be reduced. This would not in ComReg's view be appropriate having regard to the reasonable needs of users.
124. Accordingly ComReg is of the preliminary view that the Terms and Conditions should be amended by deleting condition B.6(4)(b) of the proposed Terms and Conditions.

### 3.2.9.3 Deposit payable by Consignor of Postal Packets

125. Condition B.6(6) of the proposed Terms and Conditions provides that:

*“An Post may require the Consignor of Postal Packets to which these Terms and Conditions apply to pay such amount, as it may prescribe from time to time, by way of security for Charges payable. An Post may refuse or return at its reasonable convenience Postal Packets if the amount so prescribed is not paid to An Post.”*

126. ComReg is unclear as to what this term means and therefore could not approve it. ComReg is also concerned that condition B.6(6) permits An Post to charge “such amount, as it may prescribe from time to time” and so the basis for calculating this amount is not prescribed causing a lack of transparency for postal service users.
127. ComReg is concerned that condition B.6(6) permits An Post to either refuse to transmit by post certain postal packets, or return postal packets which are to be transmitted by post under a universal postal service. This would not be appropriate having regard to An Post's universal service obligations.
128. Accordingly ComReg is of the preliminary view that An Post must either amend this term by deleting it or make amendments which clarify the condition. In particular, the services to which this condition is applicable and amount of the deposits required should be clearly stated.

### 3.2.9.4 Collecting undelivered Registered (Proof of Delivery) postal packets charge

129. Condition E.6 (5) of the proposed SP T&Cs provides that in the event an addressee needs to collect an undelivered “Registered (Proof of Delivery)” postal packet”, he/she may do so

*“subject to payment of the Charges specified in the Schedule of Charges.”*



130. An Post did not make ComReg aware of this proposed charge prior to ComReg's decision regarding the price cap<sup>23</sup>, and to date ComReg has not approved a charge of this nature. No charge has previously been imposed in such instances so this proposed charge would be new.
131. ComReg considers that charges cannot be referenced within the Terms and Conditions without such charges having been approved. Reference to a charge which does not exist is confusing for postal service users and amounts to a lack of transparency for postal service users. This would not in ComReg's view be appropriate having regard to the reasonable needs of users.
132. Accordingly ComReg is of the preliminary view that the Terms and Conditions should be amended by deleting condition E.6(5) of the proposed SP T&Cs.

### 3.2.10 Acceptance Issues

#### 3.2.10.1 Provision of a return address on postal packets

133. Condition B.4 of the proposed Terms and Conditions provides, amongst other things, that:

*“(c) Every Postal Packet **should** bear a return postal address” (emphasis added)....*

134. Condition B.4 of the proposed SP T&Cs further provides that:

*“(c) Every Postal Packet which is a Parcel addressed to a postal address outside the State shall bear a return postal address both on the Postal Packet itself and on the Dispatch Note affixed to the Parcel as required by the Universal Postal Union....*

*To assist in the handling of Postal Packets which cannot be delivered the return address **shall** therefore appear in the top left hand corner on the address side of each Postal Packet or to the left of the address on a Postal Packet in roll form.” (emphasis added)*

135. Condition E.2(5) of the proposed BM T&Cs provides that for all universal service bulk mail:

*“A return address **shall** be on the front of the envelope in the top left hand corner” (emphasis added).*

136. There will be cases where either the sender or addressee will not want the name and address of the sender disclosed for reasons relating to the

confidentiality of correspondence. The European Postal Directive<sup>24</sup> details that the confidentiality of correspondence is an “Essential Requirement”<sup>25</sup> and requires that universal service provision must guarantee compliance with the essential requirements<sup>26</sup>.

137. In relation to the proposed SP T&Cs, it is ComReg’s preliminary view that An Post should amend condition B.4 to indicate that postal service users are not required to put a return address on the envelope (except in relation to a *“Parcel addressed to a postal address outside the State”*).
138. In relation to the proposed BM T&Cs ComReg is of the preliminary view that the requirements of condition B.4 and condition E.2.5 in relation to return addresses should be consistent. This will increase transparency and be appropriate having regard to the reasonable needs of postal service users. Therefore the identified text in both condition B.4 and condition E.2.5 of the BM T&Cs should be amended to state:

*“Every Postal Packet should bear a return postal address”*

### 3.2.11 Delivery Issues

#### 3.2.11.1 Undelivered and undeliverable Postal Packets

139. Condition C.3 (3) of the proposed Terms and Conditions provides that:

*“.....Where the postperson is unable to deliver **for whatever reason** a “Return to Sender” adhesive label is completed and attached to the Postal Packet prior to be (sic) returned” (emphasis added)*

140. ComReg is concerned that the text *“for whatever reason”* appears to indicate that postpersons have full discretion as to the reasons which would result in them being *“unable to deliver”*. This is not appropriate having regard to An Post’s universal service obligations and the reasonable needs of postal service users.
141. ComReg is of the preliminary view that the typographical error *“to be returned”* should be corrected and that the text *“for whatever reason”* in condition C.3(3) must be deleted.

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<sup>24</sup> Directive 97/67/EC, as amended by Directive 2002/39/EC and Directive 2008/6/EC

<sup>25</sup> Article 2 (19)

<sup>26</sup> Article 5

### 3.2.11.2 Underpaid postage to be paid by addressee

142. Condition C.3(4) of the proposed Terms and Conditions is titled “*An Post powers to include right to open Postal Packets*” and provides that:

*“Underpaid Postal Packets shall on delivery, be subject to the Charges specified in the Schedule of Charges or may be refused, detained, deferred, withheld, returned or disposed as prescribed under Section 47 of the 2011 Act.”*

143. ComReg agrees that it is appropriate for An Post to levy charges for underpaid postal packets on the recipient of that postal packet. ComReg does not consider it appropriate that An Post reserve to itself the right to refuse, detain, defer, withhold, return or dispose of underpaid postal packets. This is not provided for in section 47 of the 2011 Act. This text would in essence allow An Post the right to treat underpaid mail as it wished and disregard its universal service obligation to deliver postal packets. ComReg does not consider that such a provision is appropriate having regard to the reasonable needs of users and in respect of the provision of the universal service.

144. ComReg is of the preliminary view that condition C.3(4) of the proposed Terms and Conditions must be amended by deleting the following text:

*“or may be refused, detained, deferred, withheld, returned or disposed as prescribed under Section 47 of the 2011 Act.”*

### 3.2.11.3 An Post’s powers to open postal packets

145. Condition C.3(5) of the proposed Terms and Conditions is titled “*An Post powers to include right to open Postal Packets*” and provides that:

*“An Post may refuse, detain, defer, withhold, return, dispose of and open Postal Packets in exercise of its powers under Section 47 of the 2011 Act.*

*Postal Packets may be opened by an officer of An Post under Section 47(3) of the 2011 Act where the name and address of the sender cannot be ascertained from the cover, when such Postal Packets are deemed to be:*

- *Undeliverable in accordance with section 47(4) of the 2011 Act;*
- *Awaiting collection ‘poste restante’ (addressed ‘care of’ a Post Office or ‘General Delivery’) and not collected;*
- *Due for collection and not collected and **there is no external return address visible**; or*
- *Not in compliance with the Terms and Conditions for the transmission of Postal Packets (e.g. **unpaid or underpaid Postal Packet where there is no external return postal address visible**).* “

*Postal Packets may also be opened by an officer of An Post, notwithstanding the fact that the name and address of the sender appear on the cover, under Section 53(4) of the 2011 Act -*

- *Pursuant to any of the powers as to the transmission of Postal Packets as set out in Section 47 of the 2011 Act;*
- *Pursuant to a direction given by the Minister under Section 110 of the Postal and Telecommunications Services Act of 1983 as applied by Section 54 of the 2011 Act; or*

*Under other lawful authority (e.g. at the direction of a Customs Officer).”  
(emphasis added)*

146. Firstly, the title of this condition is unclear and grammatically incorrect. ComReg considers that it should therefore be amended. ComReg suggests the title “An Post’s powers to open Postal Packets”.
147. Secondly, condition C.3(5) references section 47(3) of the 2011 Act but supplements this text with text not contained in section 47(3) of the 2011 Act in a way that greatly (and inappropriately) extends An Post’s powers.
148. ComReg does not consider that An Post is (or should be) entitled to open a postal packet simply because it is “*unpaid or underpaid*” and “*has no external return postal address visible*”. In these circumstances An Post is still able (and still obliged under its universal service obligation) to deliver the postal packet to the addressee (and levy the appropriate charges, as referenced in condition C3.(4) of the proposed Terms and Conditions).
149. The text emphasised in the quotation from C.3(5) above, if approved by ComReg, would give An Post new and very extensive powers to open postal packets pursuant to section 47(3).
150. Furthermore, ComReg is concerned that if it were to approve the proposed C.3(5) it would result in a significant increase in An Post’s general power pursuant to section 47(1) of the 2011 Act.
151. Section 47(1) of the 2011 Act provides that
- “A postal service provider may refuse, detain, defer, withhold, return or dispose of any postal packet - .... (a) which does not comply with..(i) its terms and conditions as to the transmission of postal packets”*
152. Condition C.3(5) of the proposed Terms and Conditions provides that “*unpaid or underpaid Postal Packet where there is no external return postal address visible*” are not in compliance with the Terms and Conditions. When read in conjunction with section 47(1) of the 2011 Act this statement has far-reaching

consequences, as if postal packets are not in compliance with the Terms and Conditions, An Post may “*refuse, detain, defer, withhold, return or dispose of any postal packet*”.

153. The practical implication of ComReg approving this aspect of condition C.3(5) would be that if a postal packet were underpaid and no “*external return postal address [is] visible*”, An Post could refuse, detain, defer, withhold, return or dispose of this postal packet. This is a very wide discretion for An Post. It would mean that in circumstances where a postal packet was correctly addressed but was underpaid (even by a small amount), An Post would be entitled to dispose of this packet at its discretion with no obligation to deliver it. An Post is in these circumstances is obliged to deliver the postal service packet (and entitled to levy the appropriate charge for this). Even if there were no postal address visible, An Post would be obliged to open the packet to attempt to ascertain the address prior to disposing of the item.
154. For the avoidance of doubt, ComReg is of the view that the fact that postal packets are underpaid with no external return postal address visible does not mean that those postal packets are “not in compliance with the terms and conditions as to the transmission of postal packets” for the purposes of either section 47(1) or section 47(3).
155. ComReg considers that it cannot approve Terms and Conditions which give An Post this wide-ranging discretion as to what they can do to items in transmission by post. ComReg notes that even if there is no return address on a postal packet, it is still capable of being delivered. An Post is obliged to deliver this postal packet pursuant to its universal service obligation. Furthermore, An Post has obligations to both the sender and the recipient of the postal packet. Condition C.3(5) would represent a fundamental change to how post has always been treated in Ireland and in commonwealth countries i.e. as the property of the addressee.
156. The passage taken from C.3(5) also references section 53(4) of the Terms and Conditions. Section 53(4) is presented in C.3(5) as providing An Post with a power to open postal packets. This is inaccurate. Section 53(4) of the 2011 Act is not a stand-alone power but rather a “carve out” of the prohibition on individual persons on opening of postal packets and mail bags in section 53 of the 2011 Act.
157. For the reasons outlined above, ComReg considers condition C.3(5) not to be appropriate having regard to An Post’s universal service obligations, the reasonable needs of users and would likely have a significantly adverse effect on postal service users.

158. ComReg is of the preliminary view that condition C.3(5) of the proposed Terms and Conditions should be amended so as to quote directly from section 47 of the 2011 Act. ComReg is of the preliminary view that An Post should not reference section 53 of the 2011 Act in the manner which it does and that it should delete this reference.

#### 3.2.11.4 Postal Packet with no Return Address

159. Condition C.3(6) of the proposed SP T&Cs is titled “*Postal Packet with no Return Address*” and provides:

*“Where the name of the sender cannot be ascertained from the cover of a Postal Packet or its contents, the Postal Packet may be retained under Section 47 of the 2011 Act pending a claim from the sender or addressee. In the absence of any claim within*

*(a) a period of one (1) month of receipt of the Postal Packet; or*

*(b) three (3) months of posting the Postal Packet for delivery in the State; or*

*(c) six (6) months of posting for a delivery outside the State,*

*the Postal Packet may be disposed of by An Post”*

160. Condition C.3(6) An Post gives itself the power to retain a postal packet in circumstances where “*the name of the sender cannot be ascertained from the cover of a Postal Packet or its contents*”. ComReg considers that this power is inappropriate as in these circumstances the postal packet could be delivered to the addressee. This condition is not appropriate having regard to the reasonable needs of postal service users.

161. ComReg is of the preliminary view that Condition C.3(6) should be deleted.

#### 3.2.11.5 Retention periods and access points to collect undeliverable mail

162. Condition C.3(2) of the proposed SP T&Cs provides that:

*“Postal Packets which it has not been possible to deliver shall be retained for collection at a local office notified on the docket for the following periods:*

- *3 Working Days for Registered (Proof of Delivery) Postal Packets and for Secure Post (Insured) Postal Packets*
- *5 Working Days for Standard Postal Packets*
- *16 Working Days for all Postal Packets from outside the State*
- *3 months for Poste Restante*

*The instructions for retrieving the Postal Packet, including the times and place of collection, are indicated on the docket.”*

163. ComReg is mindful that in setting these timelines it is necessary for An Post to balance the needs of all postal service users (in particular the needs of recipients who may be away on business or holiday and the needs of senders of postal packets who need to know whether a letter has been delivered or not) whilst also minimising the cost of handling and storage for An Post.
164. ComReg considers that the retention periods specified by An Post are reasonable, if on each “Working Day” the relevant local office is open for a minimum of 8 hours. ComReg considers that it would not be in the interests of the reasonable needs of postal service users if the postal packet were available for collection on the number of “Working Days” specified but for a period of less than 8 hours.
165. Therefore ComReg considers the text in condition C.3(2) of An Post’s SP T&Cs must be amended to indicate that Registered (Proof of Delivery) Postal Packets, Secure Post (Insured) Postal Packets, and Standard Postal Packets will be held and available for collection for a minimum of 8 hours on each “Working Day” from each local office where undelivered postal packets are held.

### 3.2.11.6 Return to Sender

166. ComReg is of the view that the proposed Terms and Conditions are deficient in that they do not detail a return to sender procedure.
167. Postal packets which are undeliverable should be afforded the return to sender treatment.
168. ComReg is concerned that no timeframe for returning mail to sender is specified in the Terms and Conditions. This means that there is a lack of transparency for postal service users. This would not in ComReg’s view be appropriate, having regard to the reasonable needs of users.
169. ComReg is of the view that postal packets should be returned to the sender on the working day following the day on which delivery to the addressee was unsuccessful. This reflects the next working day delivery requirement of all postal packets. However ComReg recognises that returning mail to the sender on the next working day may not always be possible. Additional work may be required, for example should a return address not be provided on the outer face of the envelope. Therefore, ComReg is of the preliminary view that postal packets that do not have a return address visible on the outer face of the envelope, should be returned to sender within 10 days of the date the postal

packet was accepted for transmission by post. This amendment would, in ComReg's view, be appropriate to meet the reasonable needs of postal service users.

170. Accordingly ComReg is of the preliminary view that section C of the proposed Terms and Conditions should must be amended to include the following condition:

“Where the name of the sender cannot be ascertained from the cover of a Postal Packet or its contents it will be returned to sender within 10 days of the date on which the Postal Packet was accepted for transmission by post.”

### 3.2.11.7 Delivery

171. Condition B.3 “*Postal Addressing*” of the proposed Terms and Conditions provides that:

*“A Postal Packet shall be delivered in accordance with Section 6(3) of the 2011 Act, provided the door aperture or delivery box is deemed to be a secure location, unless the addressee has requested an alternative service (e.g. Redirection Service or Mailminder Service).”*

172. Condition C.3(1) of An Post's proposed SP T&Cs provides that:

*“...In apartment and office buildings, where a bay of delivery boxes is provided in the lobby, An Post **may** deliver to each individual box provided that it has been granted physical access by the owner or management company to the building...”* (emphasis added)

173. ComReg is of the view that the current text of condition B.3 should be amended to reflect the fact that postal service users can avail of alternative arrangements that have been mutually agreed, such as the collection from delivery offices, without the payment of a fee<sup>27</sup>.

174. The current text of condition B.3 appears to attempt to restrict the delivery of postal packets to those addressees who have a door aperture or delivery box which An Post deems to be a secure location. ComReg considers that An Post cannot limit the statutory obligation to deliver in section 6(3) of the 2011 Act in this way.

175. As such ComReg is of the preliminary view that in order to meet the reasonable needs of users the text of condition B.3 needs to be amended to read as follows:

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<sup>27</sup> Decision No 4 of 03/50 <http://www.comreg.ie/fileupload/publications/ComReg0350.pdf>



“A Postal Packet shall be delivered in accordance with Section 6(3) of the 2011 Act, unless the addressee has requested an alternative service (e.g. Redirection Service or Mailminder Service) or alternative arrangements, that have been mutually agreed, are in place.”

176. ComReg is of the preliminary view that where An Post has been granted physical access by the owner or management company to a building and therefore has access to the bay of delivery boxes, An Post is under a legal obligation to deliver and accordingly the text of condition C.3(1) needs to be amended to indicate that delivery “shall” (not “may”) be provided.

## 3.2.12 Complaints and Redress

### 3.2.12.1 Complaints procedures

177. Condition D.2(1) of the proposed SP T&Cs provides that:

*“Any claim for damage or delay to a Postal Packet must be made in writing to An Post...”*

178. ComReg considers that the phrase “*claim for damage or delay*” is too narrow and may be misleading for postal service users. The title of condition D.2(1) references “*complaints*” and condition D.3 is titled “*Compensation for Loss, Damage or Delay*”. Therefore ComReg considers that it would be clearer for postal service users if the phrase “*complaints or claims for loss, damage or delay*” were used in place of the phrase “*claim for damage or delay*” in condition D.2(1).
179. The 2011 Act does not restrict the channels (in writing, by phone, by email, through websites etc.) that postal service users can make a complaint related to loss, theft, damage or quality of service through.
180. ComReg is concerned that condition D.2(1) restricts the ways that postal service users can submit claims for damage and delay, and as such does not meet the reasonable needs of postal service users.
181. Accordingly ComReg is of the preliminary view that the text identified from condition D.2(1) needs to be amended to provide that:

“Any claim for complaints or claims for loss, damage or delay with regard to a postal packet can be made to An Post. Such complaints or claims can be made in person, by telephone, or in writing (regular post or email) and can be made to An Post’s dedicated customer service team, and to personnel in An Post offices where there are customer service facilities.”

### 3.2.12.2 Compensation

182. An Post has for a number of years provided postal service users with compensation in the event of the loss, damage or delay of postal packets. An Post has also noted its agreement in principal with the compensatory principle recommended by ComReg<sup>28</sup>.

#### (i) Compensation for delay of Secure Post (Insured)

183. Condition D3(4) of the proposed SP T&Cs relating to “*Secure Post (Insured) Postal Packets*”<sup>29</sup> provides:

*“Subject to Section D.3 (6) if any article of pecuniary value enclosed in, or forming part of, a Secure Post (Insured) Postal Packet, is lost or damaged whilst in the custody of An Post, An Post shall pay compensation.....*

*(a) The amount of compensation payable shall be no greater than the value declared by the sender or €25.00 if no value has been declared or the cost of replacement or reproduction of the packaging whichever is the lesser.”*

184. This means that compensation may be less than the minimum compensatory principle recommended by ComReg. ComReg does not consider this to be appropriate having regard to, in particular, the reasonable needs of users. ComReg is of the preliminary view that the text “*or the cost of replacement or reproduction of the packaging whichever is the lesser*” should be deleted.

185. ComReg is concerned that condition D.3(4) of the proposed SP T&Cs does not specify that compensation for quality of service failures (including delay) is also applicable. An Post is required to provide remedies and redress (including reimbursement or compensation, or both, as appropriate) in relation to complaints from postal service users in relation to, amongst other things, quality of service (section 43(1) of the 2011 Act). Furthermore compensation for delay

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<sup>28</sup> As acknowledged in An Post’s response to ComReg Consultation 13/40 “*An Post believes that its current Code of Practice, the Customer Charter and associated “Getting it Sorted” guide, meets with these requirements and with a few modifications will be fully compliant with section 43 of the 2011 Act. Therefore, in principle, An Post agrees with the proposals in relation to the Guidelines for the Code of Practice.*”

<sup>29</sup> Universal Service element only

is provided for in such is An Post's own published complaints and redress procedures and in ComReg's recommendations in 14/06<sup>30</sup>.

186. Accordingly ComReg is of the preliminary view condition D.3 (4) should be amended to provide that compensation for delay is also available.

(ii) Compensation for delay in presenting documentation to Customs Authorities

187. Condition D.3(6)(e) of the proposed SP T&Cs provides for various exclusions of liability for contents, including paragraph (e), which provides that compensation will not be paid:

*"..in respect of the failure or delay of An Post in presenting documentation to any Customs Authority;"*

188. ComReg does not consider it appropriate that An Post, via the proposed Terms and Conditions gives itself the entitlement to withhold compensation to a postal service user due to a failure or delay by An Post presenting documentation to a Customs Authority. ComReg does not consider this to be appropriate having regard to the reasonable needs of postal service users.

189. Accordingly ComReg is of the preliminary view that condition D.3(6)(e) needs to be amended by deletion from the proposed SP T&Cs.

(iii) Compensation for damage to Documents

190. Condition D3(6) of the proposed SP T&Cs provides an exclusion of liability for damage to certain contents, specifying, amongst other things, that compensation shall not be paid:

*"...(c) in respect of damage to Postal Packets containing eggs, soft fruit, Liquids, glass, Documents or any article of an Exceptionally Fragile nature;..."*

191. Section F.1 of the proposed Terms and Conditions defines "Document" as:

*"items bearing manuscript, typed or printed text contained on (i) paper, parchment, vellum or similar material or (ii) in electronic form, on and/or retrievable from, whether directly or indirectly, any media storage device, including but not limited to any form of computer, USB key, CDs, DVD and/or any other device capable of storing content and/or documents;"*

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<sup>30</sup> An Post's 'Getting it Sorted' advises "An Post will pay compensation for items lost, damaged or substantially delayed in the post (7 days within Ireland; 10 days for international items). Proof of posting may be required to be eligible for such compensation. Generally, these payments are made in the form of complimentary stamps and cover no more than the cost of postage and directly associated costs."

192. ComReg is concerned that condition D3(6)(c) of the proposed SP T&Cs excludes liability for damage to “*Documents*”, which is broadly defined and indeed much of what is actually transmitted by post can be classified as a “*Document*”. This appears to exclude compensation for damage in the majority of cases. ComReg does not consider this to be appropriate having regard to the reasonable needs of postal service users.
193. ComReg is of the preliminary view that condition D3(6)(c) of the SP T&Cs must be amended to remove the reference to “*Documents*” .

Q. 1 Do you agree / disagree with ComReg’s preliminary views? Please explain your response.

Q. 2 Are there other amendments to the proposed SP T&Cs or the proposed BM T&Cs you think are required prior to ComReg approving these? Please provide a detailed explanation in your response.

## 4 Conclusion and Next Steps

194. In finalising its views on what amendments (if any) are required to An Post's proposed Terms and Conditions, ComReg will consider all the views of respondents to this consultation. However, a consultation is not equivalent to a voting exercise and ComReg alone will make the final decisions, having had regard to all relevant information before it.

### 4.1 Submitting comments

195. The consultation period will run until 5pm on 20 May 2015, during which time ComReg welcomes written comments on any of the issues raised in this consultation.

196. It is requested that comments be referenced to the relevant question numbers and/or paragraph numbers from this document. Where views are provided, please provide a supporting rationale for your comments, including if possible, an indication of the broader impact of any changes proposed.

197. As it is ComReg's policy to publish all responses in order to make them available for inspection, responses to consultations should be provided as non-confidential documents, with any information for which confidentiality is claimed (e.g. commercially sensitive information) supplied in a separate annex. In this respect, please refer to ComReg's Consultation Procedures (ComReg 11/34) and ComReg's guidelines on the Treatment of Confidential Information (ComReg 05/24).

198. We request that electronic submissions be submitted in an unprotected format so that they can be appended into the ComReg submissions document for publishing electronically.

199. All responses to this consultation should be clearly marked:- "Reference: Consultation 15/37", and sent by post, facsimile or e-mail to arrive on or before 5pm, 20 May 2015, to:

Ms. Ciara O'Donovan  
Commission for Communications Regulation  
Block DEF, Abbey Court  
Abbey Street  
Freepost  
Dublin 1  
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## Annex: 1 Summary Legal Basis

200. Section 22 of the 2011 Act provides that An Post shall give to the Commission a statement in writing<sup>31</sup> of the Terms and Conditions and the charges made by it in respect of the universal postal service provision<sup>32</sup> (save in so far as those charges may otherwise be agreed between the USP and a postal service user), and that ComReg shall<sup>33</sup>, approve, with or without amendment, the Terms and Conditions notified to it.
201. Section 24(2) of the 2011 provides that *“The terms and conditions shall be such as to ensure compliance with the obligations imposed on the universal postal service provider by or under the Communications Regulation Acts 2002 to 2011 in respect of the provision of a universal postal service and shall include—*
- (a) the terms and conditions in accordance with which a postal service user may avail of the postal services concerned, and*
- (b) terms and conditions relating to, and its procedures for dealing with, complaints made by postal service users relating to the universal postal service provision.”*
202. Section 24(3) of the 2011 Act provides that *“For the purposes of approving terms and conditions under section 22(2) or 23(1), the Commission, shall consider whether the terms and conditions are appropriate having regard to the obligations imposed on the universal service provider by or under the Communications Regulation Acts 2002 to 2011 in respect of the provision of a universal postal service and the reasonable needs of users, and do not have a significantly adverse effect on postal service users.”*
203. Section 10(1)(ba) of the Communications Regulation Acts 2002 to 2011 (“the 2002 Act”), as inserted by section 9 of the 2011 Act gives ComReg the statutory function to ensure the provision of a universal postal service that meets the reasonable needs of postal service users. Section 12(1)(c) of the 2002 Act, as amended by section 10 of the 2011 Act, sets out ComReg’s statutory objectives in exercising that function, which include:
- *“to promote the development of the postal sector and, in particular, the availability of a universal postal service within, to and from the State at an affordable price for the benefit of all postal service users”*

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<sup>31</sup> not later than 21 days after the coming into operation of the 2011 Act

<sup>32</sup> ComReg issued its Response to Consultation and ComReg’s consent to change the charges of certain postal services within the scope of the universal postal service relating to postal packets weighing less than 50 grams (See [ComReg Doc. No. 13/21](#)) on 1 March 2013

<sup>33</sup> within 6 months of the coming into operation of the 2011 Act

- *“to promote the interests of postal service users within the Community”*

204. In addition, section 12(2A) of the 2002 Act, as inserted by section 10 of the 2011 Act sets out "reasonable measures" which ComReg shall take aimed at achieving the above objectives including:

*“ (a) establishing such monitoring and regulatory procedures for the purposes of ensuring compliance by postal service providers with the obligations imposed on them by or under the Communications Regulation Acts 2002 to 2011 as are necessary to secure the provision of a universal postal service,*

*(b) ensuring that postal service users may avail of a universal postal service that meets their reasonable needs,*

*(c) in so far as the facilitation of competition and innovation is concerned, ensuring that postal service users derive maximum benefit in terms of choice, price and quality, and*

*(d) in so far as the promotion of the interests of postal service users within the Community is concerned—*

*(i) 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, and*

*(II) consulting and cooperating with the National Consumer Agency as appropriate,*

*and*

*(ii) addressing the needs of specific social groups, in particular, disabled postal service users.”*

205. Section 16 of the Communications Regulation (Postal Services) Act 2011 (“2011 Act”) sets out a general description of the *“universal postal service”* which the designated USP is required to provide.

206. Section 16(9) of the 2011 Act required ComReg to *“...make regulations specifying the services to be provided by a universal postal service provider relating to the provision of a universal postal service”*.

207. Section 21(1) of the 2011 Act provides, amongst other things, that a USP is required to provide a universal postal service with *“identical services to postal*

*service users under comparable conditions” and that it should “comply with the terms and conditions of its universal postal service provision published”.*



## Annex: 2 Drafting errors

SP/BM	Reference	Erroneous Text	Issues
SP T&Cs	B.4 (1)(c)	Numbering within the subsection B.4.(1) is incorrect as the numbering starts at (c);	Numbering incorrect and inconsistent.
BM T&Cs	B.4	The numbering is not consistent between the proposed SP T&Cs and proposed BM T&Cs;	Review of the numbering to ensure accuracy needed.
SP T&Cs	B.8(1)	References Section B.8.4	Section number is B.8(4) however this is " <i>Definitions relating to Prohibited Items</i> ". It should reference the " <i>Prohibitions</i> " which is condition B.8(5)5.1
BM T&Cs	B.5	<i>"Where Charges are prepaid by the Frank Impression on the Postal Packet shall be in the top-right hand corner of the address side of the Postal Packet."</i>	There appears to be some text missing in this definition.
SP T&Cs BM T&Cs	B.8 (5)(5.1) B.8 (5)(5.1)	Numbering within the subsections of condition 5.1 is incorrect; (a) is repeated;	The condition beginning " <i>Consisting of, or containing</i> " should be numbered (c) and a review of the numbering to ensure accuracy should be carried out. The sentence " <i>The following items may not be included in a Postal Packet.</i> " should read "The following items may not be included in a Postal Packet; items"
SP T&Cs	B.8(1)(5)(5.1) (a)(i)	References sub-section 4 of this section	We infer that sub-section 4 relates to B.8(4) " <i>Definitions relating to Prohibited Items</i> ". These are definitions not items.
SP T&Cs	C.2	<i>"...destinations for An Post customers can be found the An Post website..."</i>	"on" is missing before "the"/after "found"

<b>SP/BM</b>	<b>Reference</b>	<b>Erroneous Text</b>	<b>Issues</b>
<b>SP T&amp;Cs</b>	C.3(6)	<i>"...the Postal Packet may be retained..."</i>	Section 47 of the 2011 Act uses the term "detained" not " <i>retained</i> ".
<b>SP T&amp;Cs</b>	D.3(4)(e)	<i>"... (Insured) Postal Packet, be lost, stolen or damaged"</i>	"is lost" should be used instead of " <i>be lost</i> "
<b>SP T&amp;Cs</b>	D.3(4)(e)	<i>"Provided that:- ....."</i>	An "and" or an "or" is required at the end of section (i) to inform postal service users whether both provisions apply or whether just section (i) or section (ii) applies.
<b>SP T&amp;Cs</b>	E.5(ii)	<i>"...provides for the payment of Charge..."</i>	"a" is missing before " <i>Charge</i> "/after " <i>of</i> "
<b>SP T&amp;Cs</b>	F9.3	<i>"Poste Restante"</i> - This references F9.3	The condition referenced should be E.9.3
<b>SP T&amp;Cs</b>	F9.4	<i>"MailMinder Service"</i> - This references F9.4	The condition referenced should be E.9.4
<b>SP T&amp;Cs</b>	F.1	<i>"Paper Money"</i>	"or" is required at the end of point (d) to align with BM T&Cs
<b>SP T&amp;Cs</b>	F.1	<i>"Working Day"</i> - There are formatting issues with listing	Use bullet list to align with BM T&Cs
<b>SP T&amp;Cs</b>	F.1	<i>"Postal Services for the Blind"</i> - This references F.8.	The condition referenced should be E.8
<b>BM T&amp;Cs</b>	E.2	<i>"the terms and conditions listed in this Section E.1...."</i>	The section referenced should be E.2
<b>SP T&amp;Cs</b>	E.7(3)	<i>"All Postal Packets..."</i>	This should state "All Secure Post (Insured) Postal Packets..."
<b>SP T&amp;Cs</b>	E.7(4)	<i>"The sender of the Postal packet must ensure that the Postal Packet..."</i>	This should state "The sender of the Secure Post (Insured) Postal Packet must ensure that the Secure Post (Insured) Postal Packet ..."
<b>SP T&amp;Cs</b>	E9.2	Redirection (Residential and Business)	There are several duplicated section headings within this section. These need to be deleted.
<b>SP T&amp;Cs</b>	E9.3(3)	<i>"....in that behalf."</i>	This should state "in that respect."

## Annex: 3 Consistency issues between proposed SP T&Cs and proposed BM T&Cs

Reference	Text	Issues
A.2	<p>SP T&amp;Cs: <i>A number of technical terms appear throughout these Terms and Conditions with which the customer may not be familiar. Their meanings are explained in the list of definitions set out in Sections B and F</i></p> <p>BM T&amp;Cs: <i>Terms used in these Terms and Conditions are defined in the list of definitions set out in Sections B and F.</i></p>	The condition appears to have the same meaning in both the SP T&Cs and the BM T&Cs but the wording is different. Recommend making consistent by using the text from the SP T&Cs in the BM T&Cs.
B.4	<p>SP T&amp;Cs: Subsections are included</p> <p>BM T&amp;Cs: Subsections are not included</p>	Inconsistency in numbering.
B.6(9)	<p>The text in <b>bold</b> appears in the proposed BM T&amp;Cs but is not included in the proposed SP T&amp;Cs.</p> <p><i>“Fraudulent or improper use of postage stamps or <b>Franking Impression</b></i></p> <p><i>Any non postage stamp <b>or impression</b> or label or design, likely to be mistaken for a postage stamp <b>or Franking Impression</b>, shall not be affixed or printed on the address side of a Postal Packet. Postage stamps which have been cancelled shall not be used to prepay a Postal Packet. Where a Postal Packet is found to bear any non postage stamp, <b>impression</b>, label, design or cancelled postage stamp it shall be dealt with and charged as an unpaid Postal Packet or otherwise dealt with as determined by An Post...</i></p>	<p>The condition appears to have the same meaning in both the SP T&amp;Cs and the BM T&amp;Cs but the wording is different.</p> <p>Recommend making consistent by using the text from the BM T&amp;Cs in the SP T&amp;Cs.</p>

Reference	Text	Issues
B.7(1)(d)	<p>The text in <b>bold</b> appears in the proposed BM T&amp;Cs but is not included in the proposed SP T&amp;Cs</p> <p><i>“Charges can be prepaid in such other manner as An Post may from time to time prescribe <b>provided that Postal Packets bearing a Ceadúnas or Franking Impression and Postal Packets intended for impression by a Franking Machine shall be accepted only at designated places and within such hours and under and subject to such rules, conditions and restrictions as An Post shall from time to time prescribe.</b>”</i></p>	<p>Inconsistency in text. Recommend making consistent by using the text from the BM T&amp;Cs in the SP T&amp;Cs</p>
B.8(5)5.2(f)	<p>The text in <b>bold</b> appears in the proposed BM T&amp;Cs but is not included in the proposed SP T&amp;Cs</p> <p><i>“...or by inconvenient proximity to the <b>mark or marks</b> or stamp or stamps used in the payment of postage..”</i></p>	<p>Inconsistency in text. Recommend making consistent by using the text from the BM T&amp;Cs in the SP T&amp;Cs</p>
C.3(2)	<p>The text in <b>bold</b> appears in the proposed BM T&amp;Cs but is not included in the SP T&amp;Cs</p> <p><i>“Postal Packets which it has not been possible to deliver shall be retained for collection at a local <b>Post Office</b> notified on the docket for the following periods...”</i></p>	<p>Inconsistency in text. Recommend making consistent by using the text from the SP T&amp;Cs in the BM T&amp;Cs and the term “post office” which is defined in the 2011 Act.</p>
C.4(2)	<p>The following text is not included in the SP T&amp;Cs</p> <p><i>“Postal addresses on undeliverable Postal Packets returned to the sender will be covered by a removable label indicating reasons for non-delivery. Undeliverable Postal Packets originating outside the State may either bear such a label or have the address struck out while remaining legible.”</i></p>	<p>Inconsistency in text. Recommend making consistent by including this text in in SP T&amp;Cs</p>

Reference	Text	Issues
B.4	<p>The following text is not included in the BM T&amp;Cs:</p> <p><i>“Every Postal Packet which is a Parcel addressed to a postal address outside the State shall bear a return postal address both on the Postal Packet itself and on the Dispatch Note affixed to the Parcel as required by the Universal Postal Union”</i></p>	Inconsistency in text.
	<p>There is a discrepancy between the proposed SP T&amp;Cs and proposed BM T&amp;Cs in how postal packets which have had a franked impression applied are referred to e.g. <i>“Meter Franked”</i> in SP T&amp;Cs and <i>“Franked”</i> in BM T&amp;Cs; <i>“Franking Machine Impression”</i> in SP T&amp;Cs and <i>“Franking Impression”</i> in BM T&amp;Cs.</p>	Inconsistency in text.

## Annex: 4 Definitions issues

SP/BM	Reference	Erroneous Text	Issues
SP T&Cs BM T&Cs	B.5(1) B.5	Meter Impression Franked/Frank Impression	Not defined terms. The defined term is " <i>Franking Impression</i> ". The defined term should be used
SP T&Cs	B.6(1)	Postal Services for the Blind or Partially Sighted	Not a defined term. The defined term is " <i>Postal Services for the Blind</i> ". The defined term should be used.
SP T&Cs BM T&Cs	B.6(10)	VAT	Not a defined term. This term needs to be defined and used consistently.
SP T&Cs BM T&Cs	B.7	Service	Not a defined term and therefore it appears that it should be lower case.
SP T&Cs	B.7(4)	Franking Meter Impressions	Not a defined term. The defined term is " <i>Franking Impression</i> ". The defined term should be used.
SP T&Cs BM T&Cs	B.8(5)5.6	Cash and Coins;	"Cash" is not a defined term. Perhaps " <i>Paper Money</i> " is meant and, if so, that term should be used.
SP T&Cs BM T&Cs	B.8(5)5.6	Bank Drafts	Not a defined term and therefore it appears that it should be lower case.
SP T&Cs BM T&Cs	B.9(2)	Country	Not a defined term and therefore it appears that it should be lowercase.
SP T&Cs BM T&Cs	B.9(4)(a)	EU	Not a defined term as the defined term is " <i>Europe</i> ". The defined term should be used.
BM T&Cs	B.9(4)(c)(ii)	Mail Centre	Not a defined term and therefore it appears that it should be lowercase.
SP T&Cs BM T&Cs	C.2; E.2.(2)(b)(iii)	Foreign	The defined term relates to use regarding a Postal Packet; however in this condition it is related to destination. Suggest rephrasing condition C.2 so it is in keeping with the defined term.

SP/BM	Reference	Erroneous Text	Issues
SP T&Cs BM T&Cs	E.4(2)(e) and C.3(3); C.3(10).	Customs authorities; Customs; Customs Charges; customs	Defined term is “ <i>Customs Authority</i> ”. The defined term should be used, where appropriate, and elsewhere the term should be lower case.
SP T&Cs BM T&Cs	C.3(5)	‘General Delivery’	In inverted commas and capitalised but not a defined term. Inverted commas should be deleted. Lowercase should be used or the term defined, as appropriate.
SP T&Cs	D.3(7)	Fragile Articles; fragile	The defined term is “ <i>Fragile</i> ”. Lowercase should be used for ‘articles’ and uppercase for ‘fragile’, if the defined term is being referenced.
SP T&Cs	D.3(8)	postage stamps	Referred to as just ‘stamps’ elsewhere. Suggest use of terms be made consistent.
SP T&Cs	E.1	Universal Service Obligation	Defined term is “ <i>USO</i> ” and should be used, if appropriate. ;
SP T&Cs	E.4(2)	“Posting of Books Abroad up to 5Kg”	In inverted commas and capitalised but not a defined term. Lowercase should be used or the term defined if necessary.
SP T&Cs	E.6(3)	“All Proof of Delivery Postal Packets...”	The defined term is “ <i>Registered (Proof of Delivery) Postal Packet</i> ”. The defined term should be used.
SP T&Cs	E.8(1)(a)	Postal Packets for the Blind and partially sighted persons	The defined term is “ <i>Postal Packets for the Blind</i> ” and should be used consistently.
SP T&Cs	E9.1	Delivery Services Unit	Capitalised but not a defined term. Lowercase should be used or the term defined, if appropriate
SP T&Cs	E9.1(1)-(15) E9.2(B)(3)	PO Box; PO box; PO Box/caller’s service; PO Box/Caller’s Service etc.	Capitalised but not a defined term and referred to inconsistently. Suggest defining the term PO Box and ensuring consistency in use.
SP T&Cs	E9.1(11)	Freepost	The defined term is “ <i>Freepost Service</i> ”. The defined term should be used.

SP/BM	Reference	Erroneous Text	Issues
SP T&Cs	E9.2(A)(2); F9.4(11)	Limit on Liability	Capitalised but not a defined term. Lowercase should be used or the term defined if appropriate
SP T&Cs	E9.2(A)(2)	Service	Capitalised but not a defined term. Lowercase should be used or the term defined if appropriate
SP T&Cs	E9.2(A)(7)	Service	Capitalised but not a defined term. This appears to be referencing the defined term " <i>Redirection Service</i> "; Lowercase should be used or the term defined if appropriate.
SP T&Cs	E9.2(A)(8)	Courier Post	Capitalised but not a defined term. Lowercase should be used or the term defined if appropriate.
SP T&Cs	E9.2(A)(11)	Redirection	Capitalised but not a defined term. This appears to be referencing the defined term " <i>Redirection Service</i> "; Lowercase should be used or the term defined if appropriate.
SP T&Cs	E9.2(A)(13)	Customer	Capitalised but not a defined term. Lowercase should be used or the term defined if appropriate
SP T&Cs	E9.2(A)(13)	the Company	Capitalised but not a defined term. Lowercase should be used or the term defined if appropriate
SP T&Cs	E9.2(A)(13)	Terms and Conditions	Capitalised but not a defined term. Lowercase should be used or the term defined if appropriate
SP T&Cs	E9.2(B)(1); E9.2(B)(4)	Company Secretary; Director	Capitalised but not defined terms. Lowercase should be used or the term defined if appropriate
SP T&Cs	E9.2(B)(3)	Residential	Capitalised but not a defined term. Lowercase should be used or the term defined if appropriate
SP T&Cs	E9.2(B)(5)	Notice of Appointment of Liquidator	Capitalised but not a defined term. Lowercase should be used or the term defined if appropriate



<b>SP/BM</b>	<b>Reference</b>	<b>Erroneous Text</b>	<b>Issues</b>
<b>SP T&amp;Cs</b>	E9.2(B)(6)	Deed of Appointment	Capitalised but not a defined term. Lowercase should be used or the term defined if appropriate
<b>SP T&amp;Cs</b>	E9.6(1)	Annual Licence	Capitalised but not a defined term. Lowercase should be used or the term defined if appropriate.

# Questions

## Section

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- Q. 1 Do you agree / disagree with ComReg’s preliminary views? Please explain your response. .... 44
- Q. 2 Are there other amendments to the proposed SP T&Cs or the proposed BM T&Cs you think are required prior to ComReg approving these? Please provide a detailed explanation in your response..... 44