



Commission for  
**Communications Regulation**

# **Draft Postal Strategy Statement 2018 – 2020**

**Draft for Consultation**

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# Content

Executive Summary .....	5
Our remit .....	5
Trends and Challenges .....	6
Strategic Intentions .....	7
1. Introduction.....	10
Our remit.....	10
Our strategy .....	11
2. Trends and Challenges .....	13
Trends:.....	13
1) A continued decline in mail volumes .....	13
2) A significant threat to letter volumes arising from electronic substitution ....	14
3) Changing mix of mail and speed of delivery.....	17
4) Continued competition and growth in the packets and parcels sector.....	18
Challenges: .....	23
1) The financial and liquidity situation facing An Post, given its statutory designation as the sole universal postal service provider .....	23
2) Limited scope for further significant price increases.....	28
3) Urgent need to reduce costs in line with mail volume declines .....	30
4) Need to reduce losses (by negotiating better terminal dues agreements) on International Inbound mail.....	31
5) Responding to the changing demand dynamics of the postal sector .....	33
3. ComReg’s Strategic Intent .....	35
Seek to ensure the provision of a universal postal service.....	36
Promote the interests of postal service users .....	36
Facilitate the development of competition and innovation.....	37
4. Seek to ensure the provision of a universal postal service .....	38
5. Promote the interests of postal service users .....	45
6. Facilitate the development of competition and innovation .....	49
Annex 1: Vision, role, mission, and values.....	51
Annex 2: The Economic and Legal Framework .....	52
The economics of postal services .....	52
The legal framework.....	54
An overview of our areas of responsibility.....	56
Submitting Comments .....	57

# Index of Figures

Figure 1. An Post has lost almost half of its mail volumes since 2007.....	13
Figure 2. % change in An Post’s domestic mail volumes.....	14
Figure 3. Electronic substitution by SMEs: 2013 - 2016 .....	16
Figure 4. Access to Internet at home .....	17
Figure 5. Next day delivery is less than half of An Post’s mail.....	18
Figure 6. Top 2 criteria for choosing packet/parcel provider .....	19
Figure 7. What would you like to see parcel and packet operators do differently in the future?.....	19
Figure 8. Universal postal service packets and parcels are very small part of An Post’s universal postal service volumes .....	20
Figure 9. Universal postal service domestic packet volume decline .....	21
Figure 10. Ireland has high cross border purchases.....	22
Figure 11. Mails is the loss making part of An Post – Retail (Post Offices) and Subsidiaries are profitable.....	23
Figure 12. The universal postal service is the loss making part of An Post’s Mails .....	24
Figure 13. The split of losses within the universal postal service.....	25
Figure 14. An Post Company cash has fallen 95% since 2008 .....	26
Figure 15. Stamped letter has increased in price by 82% since 2012 .....	28
Figure 16. An Post stamped letter price versus pricing in Europe .....	29
Figure 17. % change in Revenue, Costs, and Volumes at An Post Mails .....	30
Figure 18. 2016 split of universal postal service losses .....	31
Figure 19. 2016 International Inbound losses .....	32
Figure 20. ComReg Strategic Framework.....	35
Figure 21. Current universal postal service specification.....	40
Figure 22. Three categories of postal services which are subject to regulation .....	55

## Executive Summary

ComReg is required by legislation to produce a Postal Strategy Statement. Previous strategy statements have considered a two-year horizon reflecting the requirements of the legislation establishing the Commission for Communications Regulation (“ComReg”) and the immediacy with which action arising from the implementation of the Communications Regulation (Postal Services) Act 2011 (as amended) (“Postal Act”) had to be addressed. While this Postal Strategy Statement is for the two year period 2018 – 2020, we have decided on this occasion to take a longer, five-year, perspective in developing our strategy. This will enable us to take into account longer term developments and to begin developing our thinking on what the role of regulation might be in dealing with issues that might arise in the future, while still meeting our statutory functions and objectives. In what follows:

- we summarise our remit;
- we then identify some of the principal trends and challenges that are likely to shape the postal sector over the next five years;
- we then set out our three statements of strategic intent and the related programmes of work which ComReg intends to undertake over the period 2018 - 2020.

### Our remit

Our remit to regulate the postal sector comes directly from legislation, in particular from the European Postal Services Directive<sup>1</sup> and the Postal Act. The Postal Act fully opened the Irish postal market to competition in August 2011 and designated An Post as the sole universal postal service provider until 2023, with the option for ComReg to consider a review in 2018. As the postal market is fully liberalised, our remit set by the Postal Act is largely limited to the universal postal service. The Postal Act sets out in general terms the universal postal service that An Post is required to provide.

With regard to competition, our remit is to facilitate the development of competition and innovation in the market for postal service provision, subject to ensuring the availability of a universal postal service. Central to ComReg’s regulatory role is the principle that well-functioning markets deliver optimal outcomes in terms of price, quality, choice, and access.

In general, our remit is largely a two-part role:

- (1) A consumer protection role for postal services generally by monitoring and ensuring postal service providers comply with the obligations required of them under the Postal Act or by ComReg. ComReg’s role is with regard to postal services not agreed by negotiated contract, to ensure that the interests of postal service users, both senders and receivers, are promoted and protected. This includes:

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<sup>1</sup> The objectives for postal services regulation have been implemented in EU law through the European Postal Services Directive - Directive 97/67/EC. This directive established a regulatory framework for European postal services and was amended by Directive 2002/39/EC and Directive 2008/6/EC.

- ensuring appropriate codes of practice are drawn up and implemented;
- ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body independent of the parties involved; and
- consulting and co-operating with the Competition and Consumer Protection Commission (“CCPC”) who is responsible for the enforcement of a wide range of consumer legislation.

(2) A wider regulatory role with regard to the universal postal service. The European Postal Services Directive and the Postal Act require that these universal postal services are regulated in terms of aspects of pricing, quality, and access.

Our remit does not include:

- other various non-postal services that are provided by postal service providers;
- other various non-postal services provided at post offices;
- Eircode - this is the responsibility of the Department of Communications, Climate Action and Environment (“DCCA”).

With this remit in mind, this document sets out our postal strategy for the period 2018 - 2020. In setting our postal strategy, we have assessed the trends and challenges facing the postal sector over the next five years.

## Trends and Challenges

We have identified **four** principal trends which are likely to shape the postal sector over the next five years.

- 1) A continued decline in mail volumes
- 2) A significant threat to letter volumes arising from electronic substitution
- 3) Changing mix of mail and speed of delivery
- 4) Continued competition and growth in the packets and parcels sector.

Given these trends, we have identified **five** principal challenges for the postal sector:

- 1) The financial and liquidity situation facing An Post, given its statutory designation as the sole universal postal service provider
- 2) Limited scope for further significant price increases
- 3) Urgent need to reduce costs in line with decline in mail volumes
- 4) Need to reduce losses (by negotiating better Terminal Dues agreements) on International Inbound mail
- 5) Responding to the changing demand dynamics of the postal sector.

## Strategic Intentions

The trends and challenges identified impact on and require action by a number of different parties, mainly An Post itself, as An Post handles most of the post in Ireland, particularly letters. For many of these challenges, ComReg has no role or remit. Where ComReg has a role or remit in addressing certain of these challenges we have considered these in developing our three statements of strategic intent, describing what we hope to achieve over the next five years through the use of the regulatory powers that we have been provided by the Oireachtas.

### Strategic Intention 1: Seek to ensure the provision of a universal postal service

ComReg's statutory function includes ensuring the provision of a universal postal service that meets the reasonable needs of postal service users. To meet our legal mandate, **our strategic intention is to act within our powers set by the Oireachtas to seek to ensure that there is a universal postal service that meets the reasonable needs of postal service users.**

Strategic Intent 1:	There is a universal postal service that meets the reasonable needs of postal service users
What does this look like?	<ul style="list-style-type: none"> <li>• There is a 'de minimis' universal postal service that meets the reasonable and changing needs of postal service users</li> <li>• The universal postal service provider complies with the statutory and regulatory requirements of providing the universal postal service</li> </ul>

With regard to this strategic intention, ComReg's goals are to:

- Understand the reasonable needs of postal service users
- Review the specification of the universal postal service
- Consider designation of universal postal service provider(s)
- Monitor compliance with the requirements of providing the universal postal service
- Review and report on the consequences of the repeal of the price cap for universal postal services.

## Strategic Intention 2: Promote the interests of postal service users

ComReg's second strategic intention is that **postal service users can choose and use postal services with confidence**.

Strategic Intent 2:	Postal service users can choose and use postal services with confidence
<p><b>What does this look like?</b></p>	<ul style="list-style-type: none"> <li>• Universal postal services are available, where there is no effective competition, that meet the reasonable needs of postal service users</li> <li>• Postal service provider(s) comply with the statutory and regulatory requirements of providing a postal service</li> <li>• Vulnerable users are protected</li> <li>• Postal service users are empowered through clear and adequate information and effective redress</li> <li>• Postal service users are treated fairly by postal service providers</li> <li>• Postal service users, both senders and receivers, derive maximum benefit in terms of choice, price and quality</li> </ul>

Our strategy emphasises the role of informed decision-making by postal service users, and has the following strategic goals:

- Empower postal service users by ensuring the availability of appropriate information on postal services and cross border parcel services
- Empower postal service users by ensuring the availability of complaints and redress procedures
- Protect postal service users by ensuring postal service users, both senders and receivers, derive maximum benefit in terms of choice, price and quality.

## Strategic Intention 3: Facilitate the development of competition and innovation

ComReg's third strategic intention is to facilitate the development of **competition and innovation in the provision of postal services**. All postal service providers will need to be flexible and innovative to adapt to likely further declines in postal letter volumes or to take advantage of any new opportunities that may arise in the changing postal sector.



<b>Strategic Intent 3:</b>	<b>Regulation facilitates the development of competition and innovation in the provision of postal services by using appropriate regulatory intervention within our remit</b>
<b>What does this look like?</b>	<ul style="list-style-type: none"><li>• Postal service users are aware of and can avail of competing postal service providers</li><li>• Competing postal service providers bring innovations to the sector both in terms of products and process to the benefit of postal service users</li></ul>

ComReg's strategy is to:

- Facilitate the development of the postal sector by delivering on our legal remit;
- Provide information regarding the provision of postal services in Ireland.

# 1. Introduction

## Our remit

The Postal Act fully opened the Irish postal market to competition in August 2011. With regard to competition<sup>2</sup>, our remit set by the Postal Act, is to facilitate the development of competition and innovation in the market for postal service provision, subject to ensuring the availability of a universal postal service. The universal postal service required by the Postal Act<sup>3</sup> means that on every working day, except in such circumstances or geographical conditions as ComReg considers exceptional, there is at least one clearance and one delivery to the home or premises of every person in the State and that the following services are provided:

- the clearance, sorting, transport and distribution of “postal packets”<sup>4</sup> up to 2 kilograms in weight;
- the clearance, sorting, transport and distribution of parcels both within the State and from other Member States up to 20 kilograms in weight;
- a registered items service;
- an insured items service within the State and to and from all Universal Postal Union (“UPU”) countries;
- postal services, free of charge, to blind and partially-sighted persons.

In general, our remit for the regulation of postal services is largely a two-part role:

- (1) A consumer protection role for postal services generally by monitoring and ensuring postal service providers comply with the obligations imposed on them by the Postal Act and by ComReg. This role is limited to “postal services”<sup>5</sup> provided by authorised postal service providers<sup>6</sup>.
- (2) A wider regulatory role with regard to universal postal services, which are a subset of postal services, as they do not face effective competition. Our legal remit is to ensure a universal postal service that meets the reasonable needs of postal service users. In Ireland, the universal postal service consists largely of the posting of single-piece letters, largely by small and medium-sized enterprises (“SMEs”). As there is no effective competition for the universal postal services, the European Postal Services Directive and the Postal Act require that these universal postal services are regulated in terms of:

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<sup>2</sup> Unlike the electronic communications sector regulated by ComReg, ComReg does not have competition law powers in the postal sector.

<sup>3</sup> Also known as the Universal Service Obligation (“USO”)

<sup>4</sup> The Postal Act defines a “postal packet” as meaning an item addressed in the final form in which it is to be carried by a postal service provider and includes a letter, parcel, packet or any other article transmissible by post.

<sup>5</sup> “Postal services” are services involving the clearance, sorting, transport and distribution of postal packets. ComReg has decided that “Document Exchange” and “Express and Courier services” and the delivery of unaddressed advertising material lack certain constituent features by which to be deemed “postal services”.

<sup>6</sup> There are currently 13 authorised postal service providers. See <https://www.comreg.ie/industry/postal-regulation/authorised-postal-providers/authorised-postal-providers-register/>

- **Price:**  
Ensuring that the prices of such universal postal services are, among other things, cost oriented (reflective of the efficient cost of providing the service) and affordable.
- **Quality:**  
Ensuring that such universal postal services are provided at a reasonable quality that meet the reasonable needs of postal service users.
- **Access:**  
Ensuring that such universal postal services can be easily accessed by all across the entire State.

Our remit does not include:

- other various non-postal services that are provided by postal service providers;
- other various non-postal services provided at post offices;
- Eircode - this is the responsibility of DCCAIE.

## Our strategy

Previous strategy statements have adopted a two-year horizon reflecting the explicit requirements of the legislation and the immediacy with which action arising from the implementation of the Postal Act had to be addressed. We have decided on this occasion to take into account a longer, five-year, perspective. This enables us to take into account longer term developments and to begin developing our thinking on what the role of regulation might be in dealing with issues that might arise in the future while still meeting our statutory functions and objectives, particularly to:

- i. ensure the provision of a universal postal service;
- ii. promote the interests of postal service users; and
- iii. facilitate the development of competition and innovation.

For each of these areas, we have developed a statement of strategic intent, and goals that support the strategic intent.

<b>Strategic Intentions 2018-2023</b>		
<b>1.</b>	<b>Seek to ensure the provision of a universal postal service</b>	<b>There is a universal postal service that meets the reasonable needs of postal service users</b>
<b>2.</b>	<b>Promote the interests of postal service users</b>	<b>Postal service users can choose and use postal services with confidence</b>
<b>3.</b>	<b>Facilitate the development of competition and innovation</b>	<b>Where required, regulation facilitates the development of competition and innovation in the provision of postal services</b>

In what follows, we identify some of the principal trends and challenges that are likely to shape the postal sector over the next five years. We then set out our three statements of strategic intent in the context of our overall strategic framework. Then, chapter by chapter, in relation to each of the three strategic intentions, we set out the related particular programmes of work which ComReg intends to undertake over the period 2018 - 2020.

## 2. Trends and Challenges

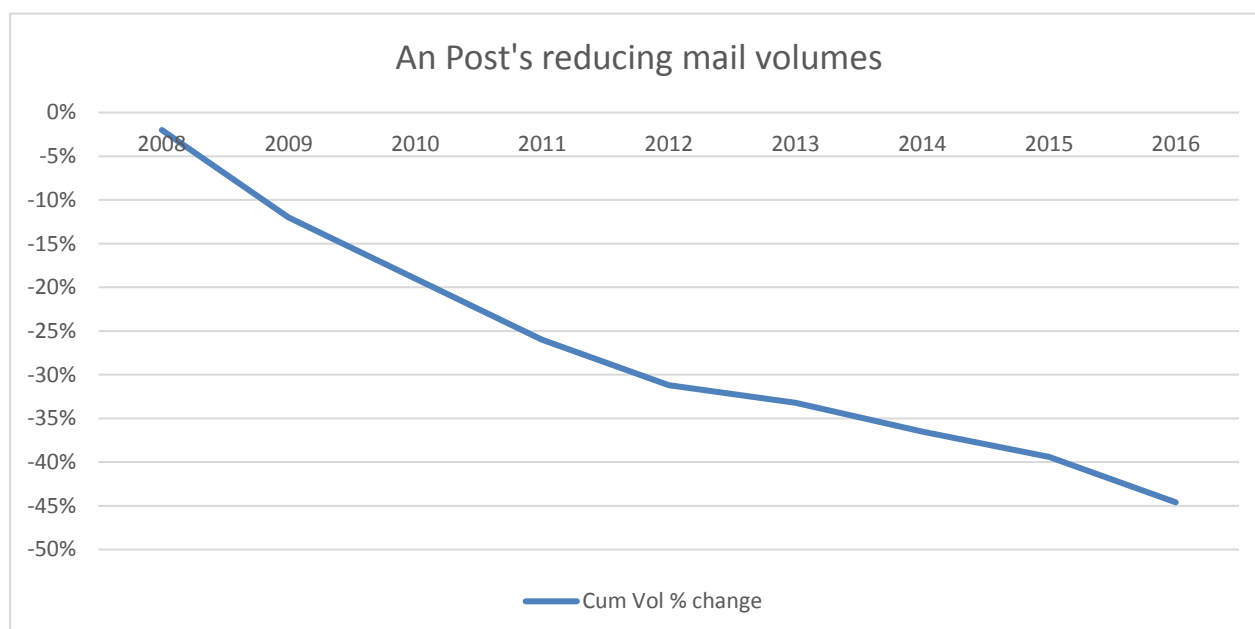
To assist in informing and developing our strategic intentions for this strategy statement, we have identified four principal trends which are likely to shape the postal sector and pose challenges to it in the coming years.

### Trends:

#### 1) A continued decline in mail volumes

According to An Post, its volumes have fallen by 45% since 2007 and An Post is forecasting further mail volume declines<sup>7</sup>.

**Figure 1. An Post has lost almost half of its mail volumes since 2007**



Source: ComReg analysis of An Post's audited Annual Reports

Therefore, An Post will shortly have lost half of its mail volumes since 2007. A decline of this magnitude would typically require a postal operator to re-assess the provisioning and design of its postal network to ensure that it continues to be effective and efficient in the delivery of its services.

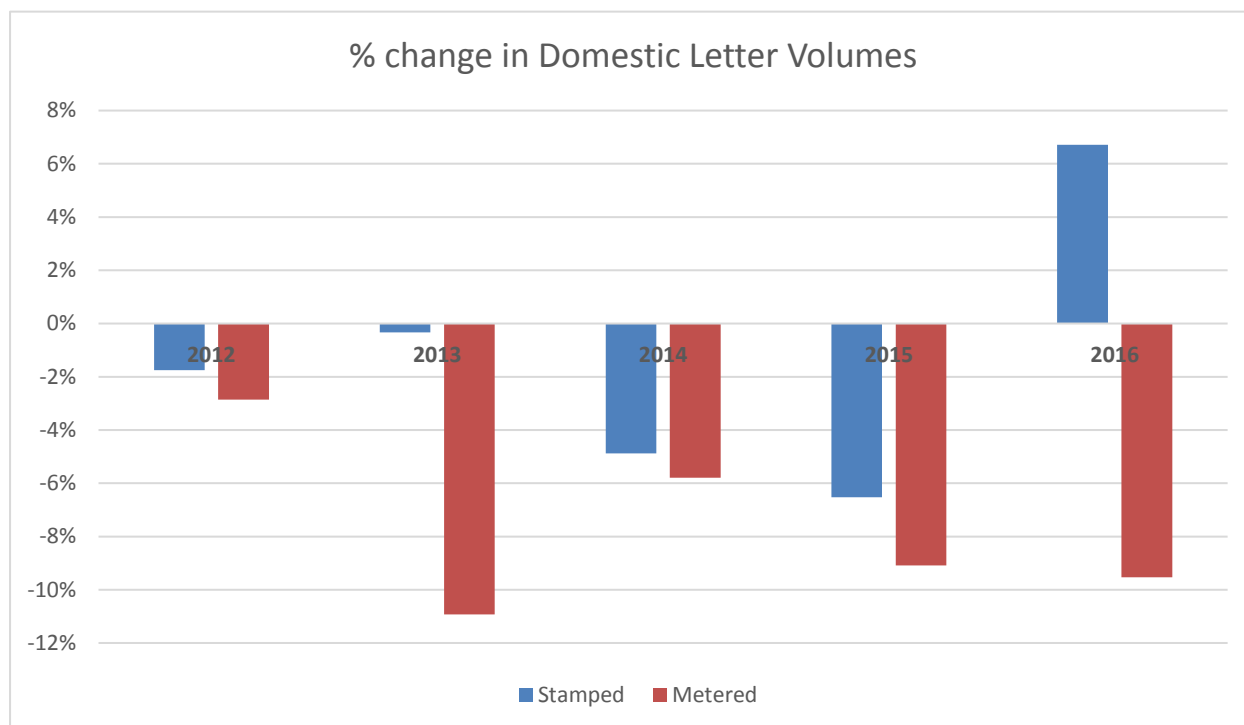
However, according to An Post's audited 2016 Regulatory Accounts, domestic stamped letter volumes increased by 7% in 2016. This is a reversal of the trend to date and contrary to An Post's statement made to the Oireachtas Joint and Select

<sup>7</sup> Estimating 6-10% decline for 2017 – Source: An Post

Committee on Communications, Climate Action and Environment to support the repeal of the price cap<sup>8</sup>.

The greatest clarity possible regarding changes in mail volumes at An Post is paramount for all stakeholders.

**Figure 2. % change in An Post's domestic mail volumes**



Source: ComReg analysis of An Post's audited Regulatory Accounts

## 2) A significant threat to letter volumes arising from electronic substitution

It is generally accepted that the decline in letter volume is due in part to increasing digitalisation and availability of electronic substitutes. Customer communications that in the past would have been sent by post are now widely available through Government and company websites and other electronic facilities. For example, many utility bills and bank statements are now not posted but are instead notified to customers via email / available online. Therefore, the greatest threat to An Post's traditional postal business does not come from other providers of postal services but lies beyond it – i.e. substitutable electronic methods of communication. Furthermore, once a portion of mail business has been lost to an electronic substitute it is likely to be a permanent loss. In this case, business customers would likely have re-

<sup>8</sup> On 17 January 2017, An Post appeared before the Oireachtas Joint and Select Committee on Communications, Climate Action and Environment ("JOC") and informed the JOC that An Post had experienced a significant decline in its traditional mail volumes in 2016, largely in the third quarter of 2016. See <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/committeetakes/CC22017011700002#E00225>

engineered their internal processes to take account of the switch to an electronic substitute.

In Ireland, approximately 80% of postal transactions are business-related and the top 30 large postal service users (e.g. banks, utilities, government) account for the majority of mail sent, mainly bulk and metered letter. According to research commissioned by ComReg<sup>9</sup>, amongst large mailers, there is a large focus on postal costs. Expenditure on postal services is closely monitored and budgeted for as postal costs incurred by these organisations can be significant. An Post's annual price increases have created a general discontent amongst many larger users<sup>10</sup>, who indicated that they expect future price increases. As a result and in anticipation, these mailers are exploring ways to reduce their dependence on post. Private sector organisations that were interviewed for the research appear to be particularly active in this respect, and some have already achieved very large reductions in volumes in recent years, by switching customers to electronic alternatives, especially in relation to statements, invoices and bills. Some stated that electronic substitution can bring additional benefits. For example, staggered electronic billing patterns used by utilities can be used to smooth:

- cash flow, as electronic billing can provide better delivery certainty and customers on electronic billing are more likely to use direct debits (perhaps through use of discounting or other incentives).
- incoming calls to call centres, as staggered electronic billing can be set to match call centre capacity.

Furthermore, this research has found that some of these large mailers have expressed concerns at their over reliance on An Post. For example, industrial action at An Post could potentially impact future mail flows, thus presenting risks to large mailers' cash flows as their bills/invoices would be delayed, causing resultant delays in payments pending those bills/invoices being received by post. Such concern was identified as another reason to explore avenues for further electronic substitution so as to reduce reliance on An Post.

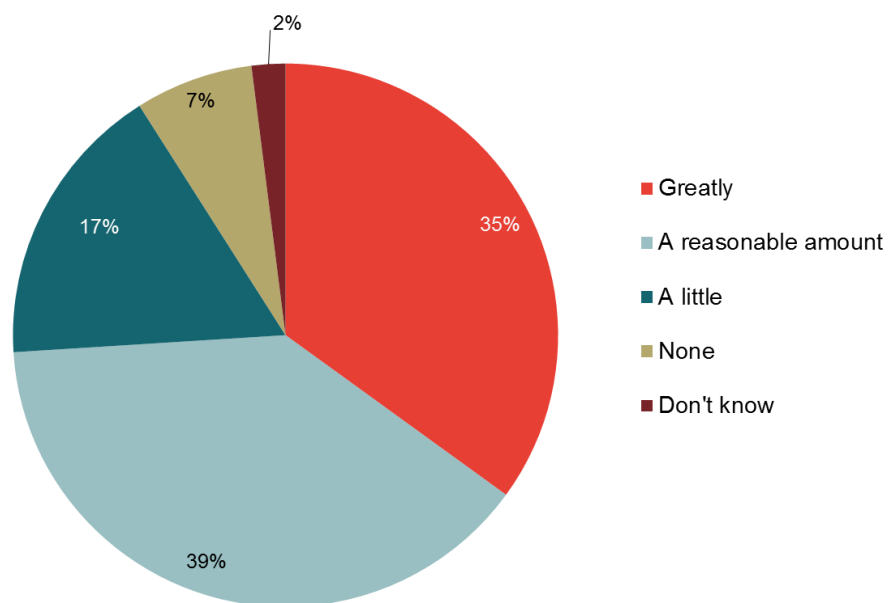
However, it is not just the large mailers looking at electronic alternatives. SMEs account for a significant portion of traditional mail (mainly metered and stamped letter) and according to the research conducted for ComReg, a significant portion of SMEs' communications have already moved to electronic substitutes – see Figure 3. Again, with the significant price increases made by An Post on stamped and metered letters in 2017, this move to electronic substitutes may intensify.

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<sup>9</sup> ComReg Document No. 16/107 @ <https://www.comreg.ie/publication/research-postal-users-needs/>

<sup>10</sup> Statement from 2016 (see ComReg Document No. 16/107) – general discontent before the significant price increases made by An Post in 2017

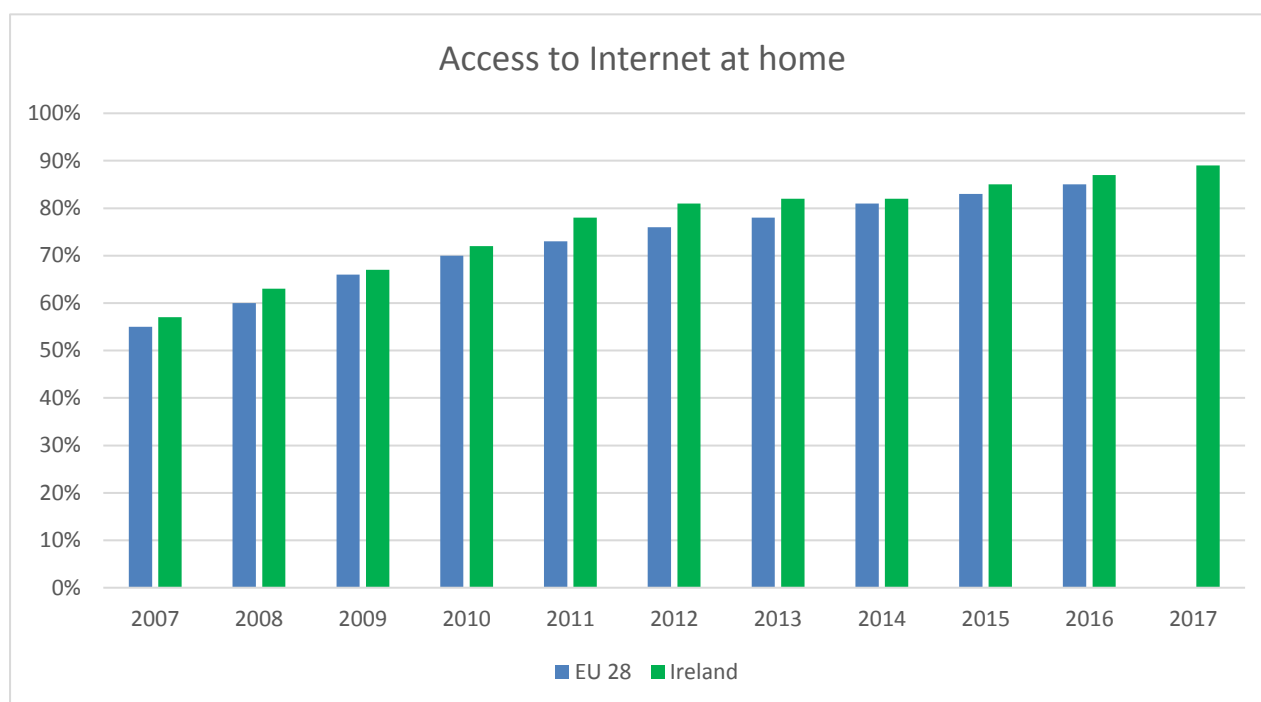
**Figure 3. Electronic substitution by SMEs: 2013 - 2016**



Source: Figure 21: Frontier Report 'Research on Postal Users' Needs' – ComReg Document No. 16/107  
 Question: To what extent have you substituted your traditional mail with electronic communications such as email in the last three years?. Respondents were offered the following options: None, A little, A reasonable amount, Greatly.

The changing technological environment also makes the creep of e-substitution more pervasive. In Figure 4 for example, the proportion of households in Ireland with access to the internet has increased to 89%.



**Figure 4. Access to Internet at home**

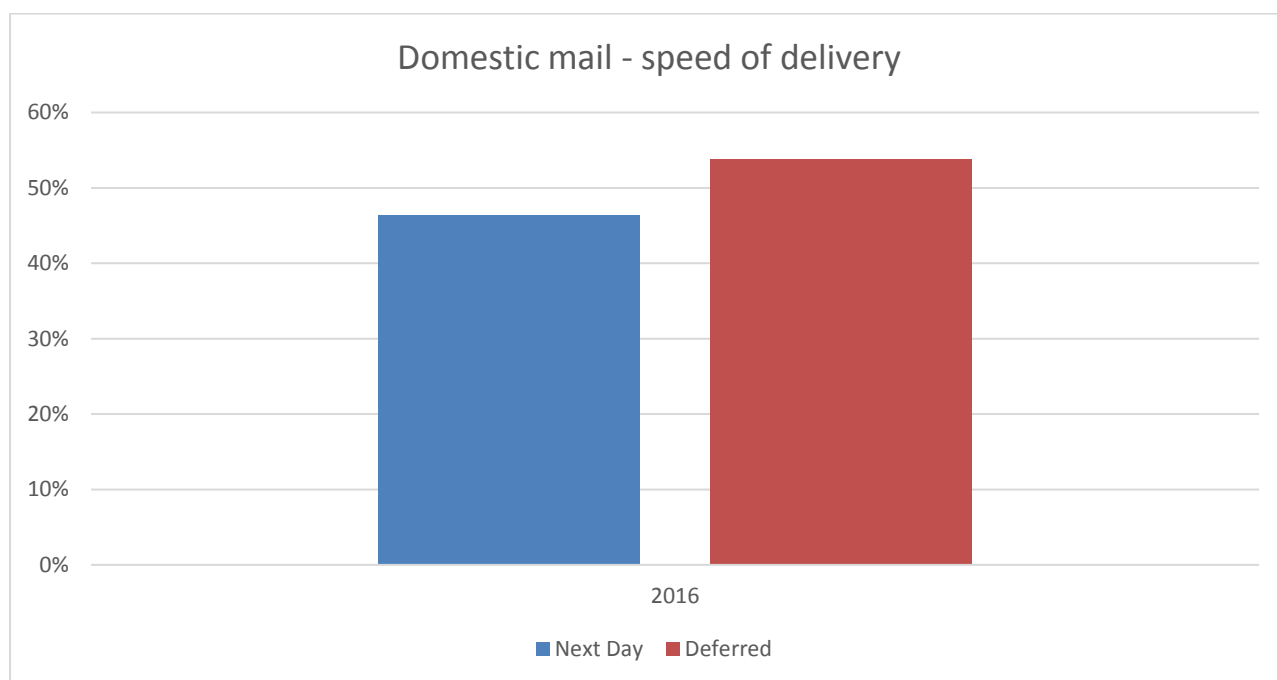
Source: ComReg analysis of European Commission Digital Scoreboard, CSO Ireland Information Society Statistics

Such changes mean that mail senders are more likely than ever to get traction with their customers when they try to switch to cheaper electronic communications methods, especially if such cost savings, in whole or part, are passed onto the customer.

### 3) Changing mix of mail and speed of delivery

Most mail is sent by large mailers availing of deferred delivery bulk mail service, largely An Post's "Bulk No.11"<sup>11</sup>, which is not a universal postal service. The deferred delivery bulk mail service is increasingly seen as an attractive option capable of satisfying business requirements. While mailers availing of the deferred delivery bulk mail service must accept a 2-3 days delivery delay, relative to the cost of the next day delivery services, the associated costs are much lower at 57 cent per letter, a cost saving of c.40% relative to the price of a stamped letter. As a result, currently half of all post is not sent using next day delivery even though the postal network continues to be provisioned for next day delivery with the associated costs.

<sup>11</sup> [http://www.anpost.ie/NR/rdonlyres/FE18274F-E2EB-4C3D-AF2C-D3A6701357F8/0/2017\\_BulkMail2000.pdf](http://www.anpost.ie/NR/rdonlyres/FE18274F-E2EB-4C3D-AF2C-D3A6701357F8/0/2017_BulkMail2000.pdf)

**Figure 5. Next day delivery is less than half of An Post's mail**

Source: ComReg analysis of An Post's audited Regulatory Accounts

#### 4) Continued competition and growth in the packets and parcels sector

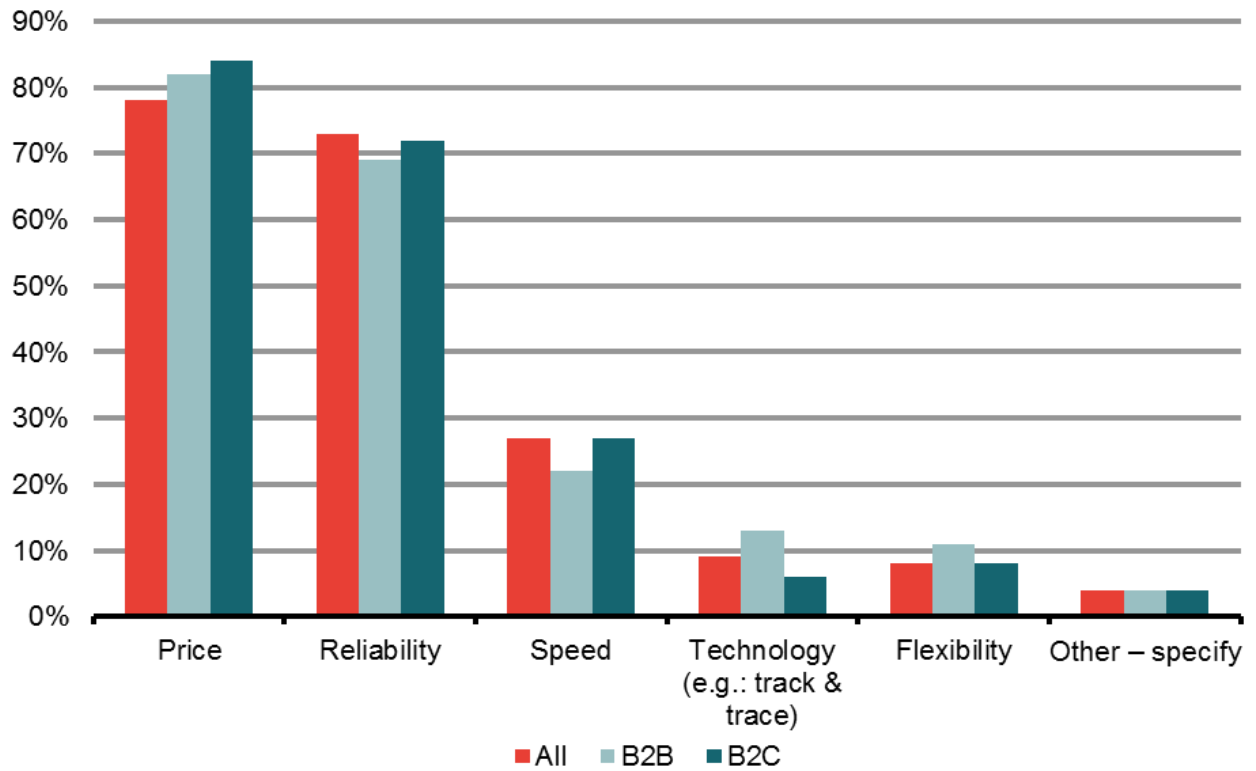
The delivery of packets (small parcels) and parcels is a growing sector with e-commerce being the driver of growth. According to research commissioned by ComReg<sup>12</sup>, this sector is growing by 2-4% overall with Business to Consumer growth estimated to be 6-8% per annum, largely due to the growth in e-commerce.

Most packets and parcels originate with 'Business to Consumer' large mailers who use commercially negotiated services. As a result, the vast majority of packets and parcels in this sector are not subject to regulation by ComReg, with ComReg's remit largely limited to universal postal service packet and parcels which are single piece and low volume services.

This research conducted for ComReg has shown that price and reliability are the two key determinants of choosing a provider to deliver packets / parcels. Furthermore, this research found that buyers of postal services for packet and parcels would like to see lower prices.

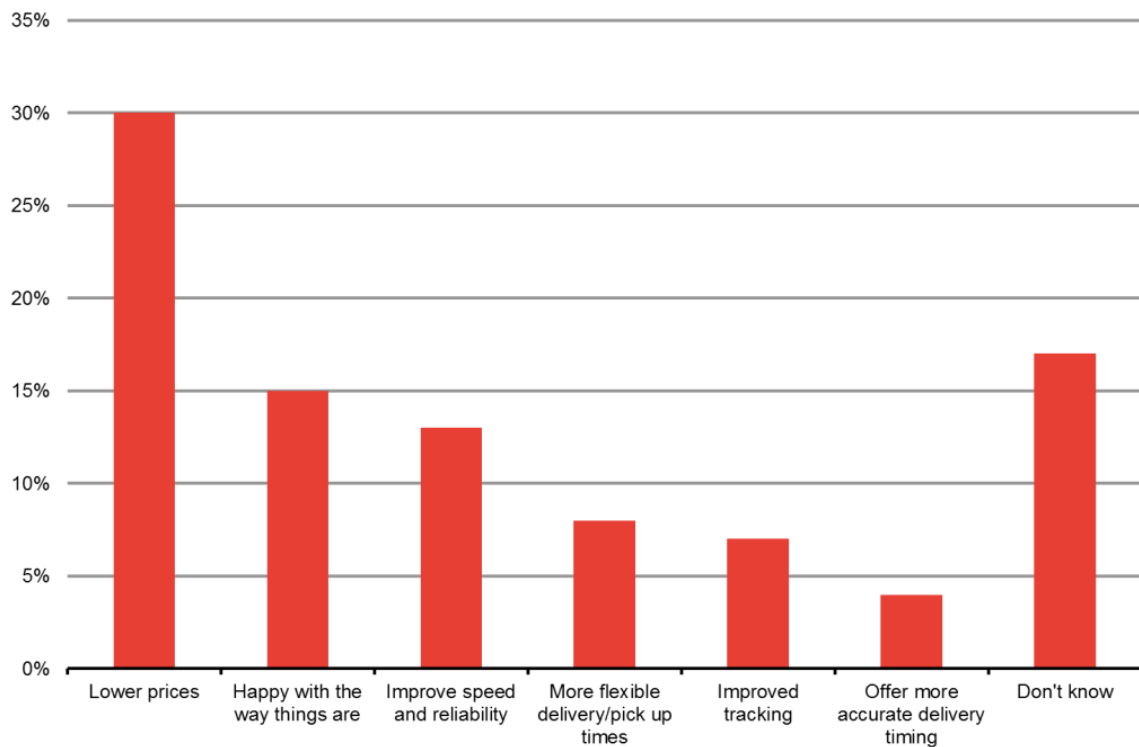
<sup>12</sup> ComReg Document No. 15/47 @ <https://www.comreg.ie/csv/downloads/ComReg1547.pdf>

**Figure 6. Top 2 criteria for choosing packet/parcel provider**



Source: Figure 14: Frontier Report 'The packets and parcel sector in Ireland' – ComReg Document No. 15/47

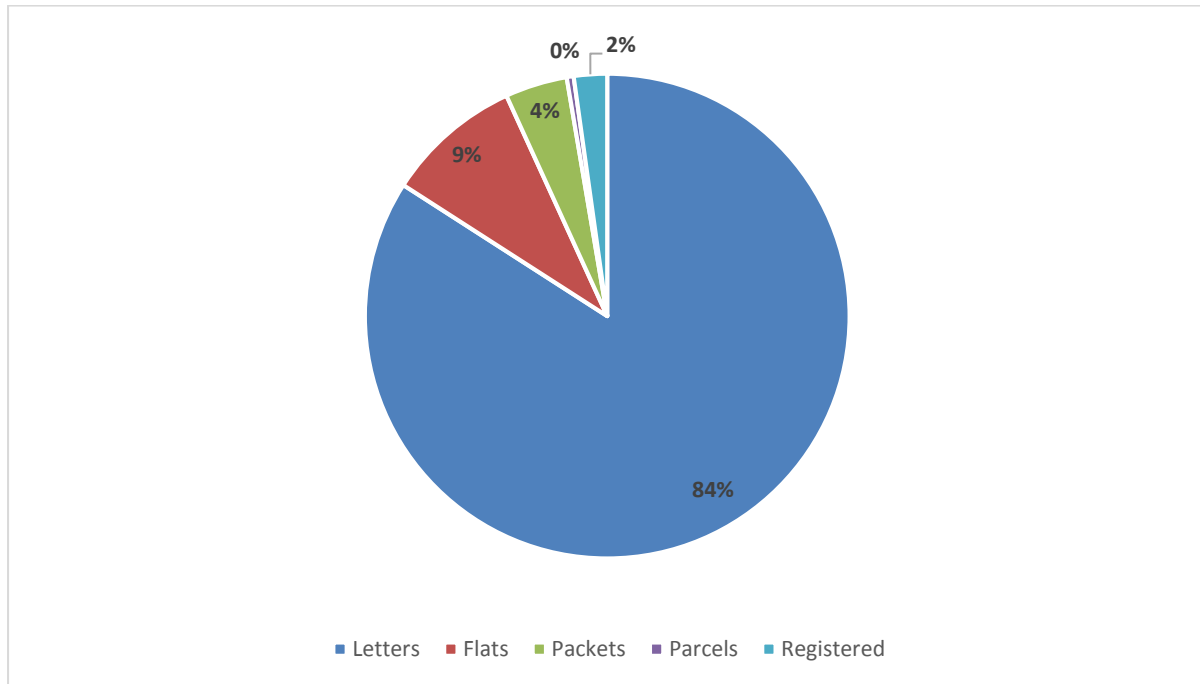
**Figure 7. What would you like to see parcel and packet operators do differently in the future?**



Source: Figure 18: Frontier Report 'The packets and parcel sector in Ireland' – ComReg Document No. 15/47

The research also found that most pricing in the packets and parcels sector is set by commercial negotiation with the large senders (e.g. large retailers). As a result, the universal postal service for packets and parcels provides only a very small part of An Post’s mail business, less than 5%.

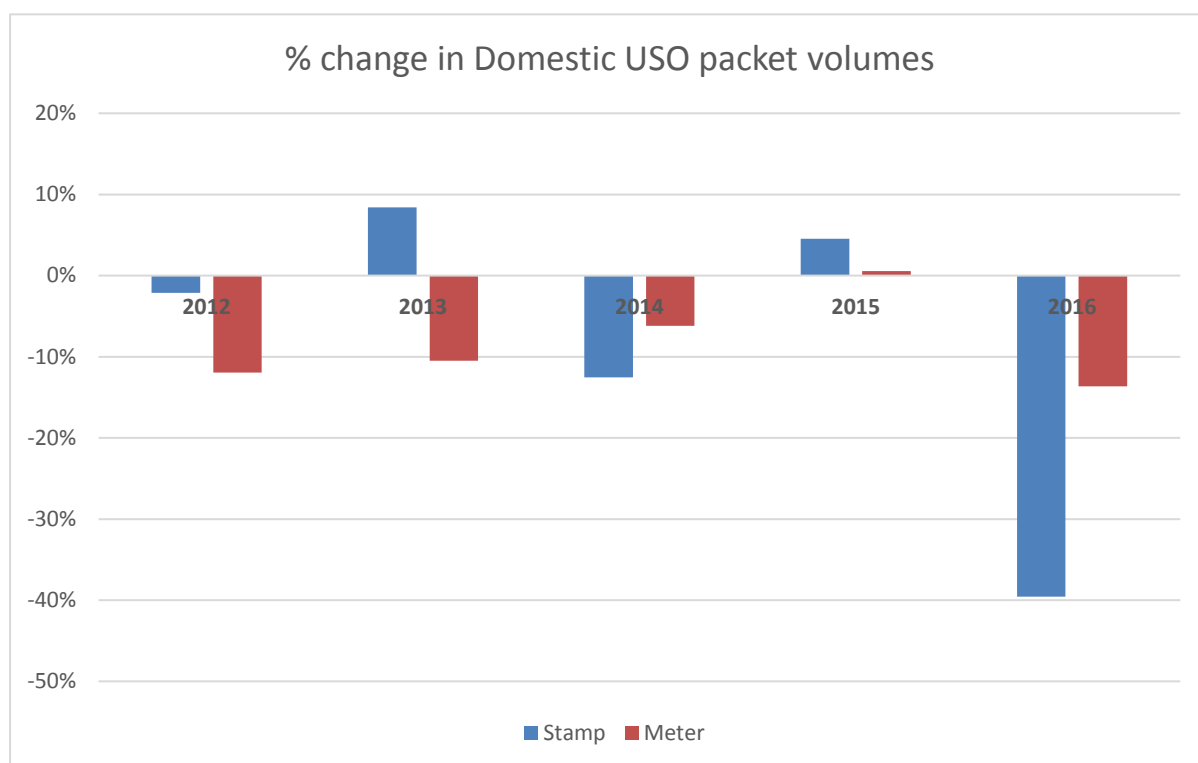
**Figure 8. Universal postal service packets and parcels are very small part of An Post’s universal postal service volumes**



Source: ComReg analysis of An Post’s audited 2016 Regulatory Accounts – “flats” are larger envelopes and typically unfolded letters, therefore, letters are 9 in 10 of universal postal service volumes

An Post’s universal postal service packets has been experiencing a serious decline in volume, a 40% decline on stamped packet volumes and a 27% decline on metered packet volumes, since 2012 – see Figure 9. This is surprising given the growth generally in packet sending, and may indicate more attractive competitive alternatives for postal service users to send their single piece packets domestically.

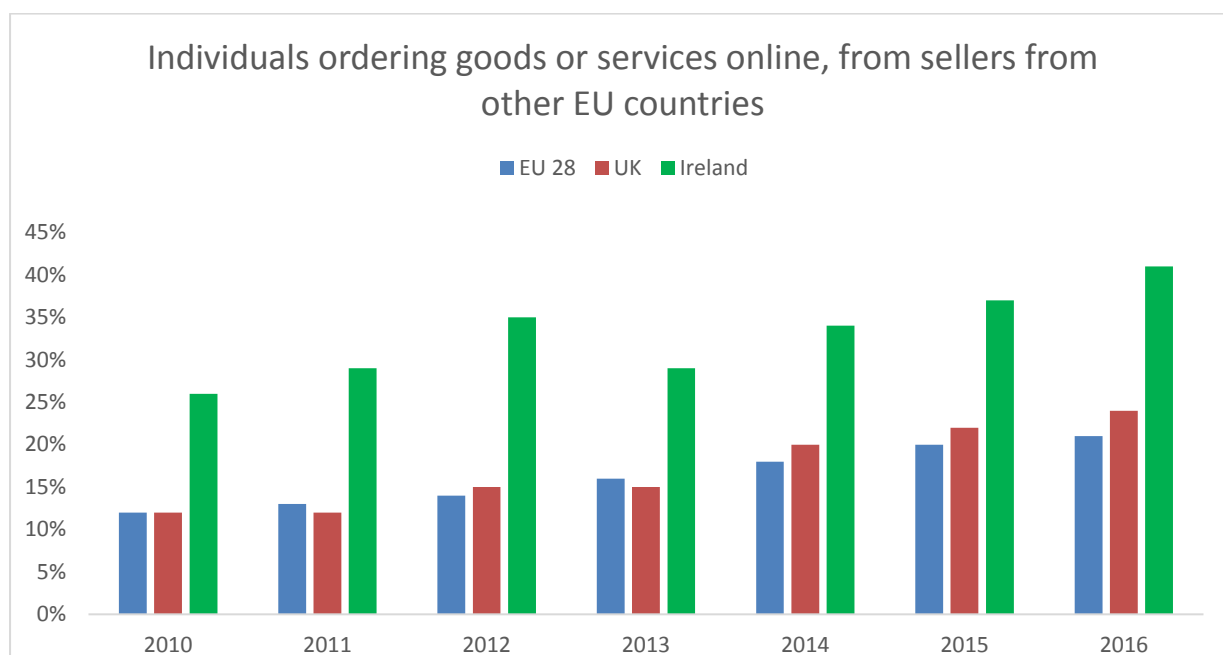
**Figure 9. Universal postal service domestic packet volume decline**



Source: ComReg analysis of An Post’s audited 2016 Regulatory Accounts

Also, of particular interest, in Ireland, according to the CSO<sup>13</sup>, over two thirds (67%) of persons who bought or ordered goods or services online in the previous 12 months used sellers from other EU countries, an increase of 9% on the same period in 2016. Online purchasing from sellers from the rest of the world also increased – 30% compared with 23% of persons buying online in 2016.

<sup>13</sup> <http://www.cso.ie/en/releasesandpublications/er/iss hh/information society statistics-households2017/>

**Figure 10. Ireland has high cross border purchases**

Source: ComReg analysis of European Commission Digital Scoreboard

This high level of cross border purchase is of interest as it could lead to further competition in the delivery of packets and parcels in Ireland. For example, who delivers a cross-border packet / parcel in Ireland is dependent on the choice made by the overseas parcel delivery operator used by the cross border seller – does the overseas parcel delivery operator deliver the cross-border parcels themselves to Ireland or does the overseas parcel delivery operator hand over to an Irish operator for delivery? With increased volumes of cross-border parcels coming into Ireland, the overseas parcel delivery operator may now have sufficient volume to decide to deliver these parcels to Ireland and to not hand over to an Irish parcel delivery operator for delivery. In this regard the UPS takeover of Nightline/Parcel Motel<sup>14</sup> is of interest.

The exit of the UK from the EU will likely bring challenges for parcel delivery service providers regarding the delivery of packets and parcels to and from the UK. However, it is unclear what these will be as much will depend on whether the UK will be part of the European Single Market or the European Customs Union or neither. Challenges regarding the delivery of packets and parcels to and from the UK could include custom declaration procedures and the collection of VAT and custom duties, where required.

<sup>14</sup> <http://www.nightline.ie/news/item/ups-to-acquire-ireland-based-nightline-logistics-group/>

## Challenges:

These principal trends pose a number of significant challenges for the postal sector over the next five years, though they largely require action by An Post, as An Post:

- accounts for most of the mail in the postal sector, largely letter correspondence; and
- is currently the sole designated universal postal service provider.

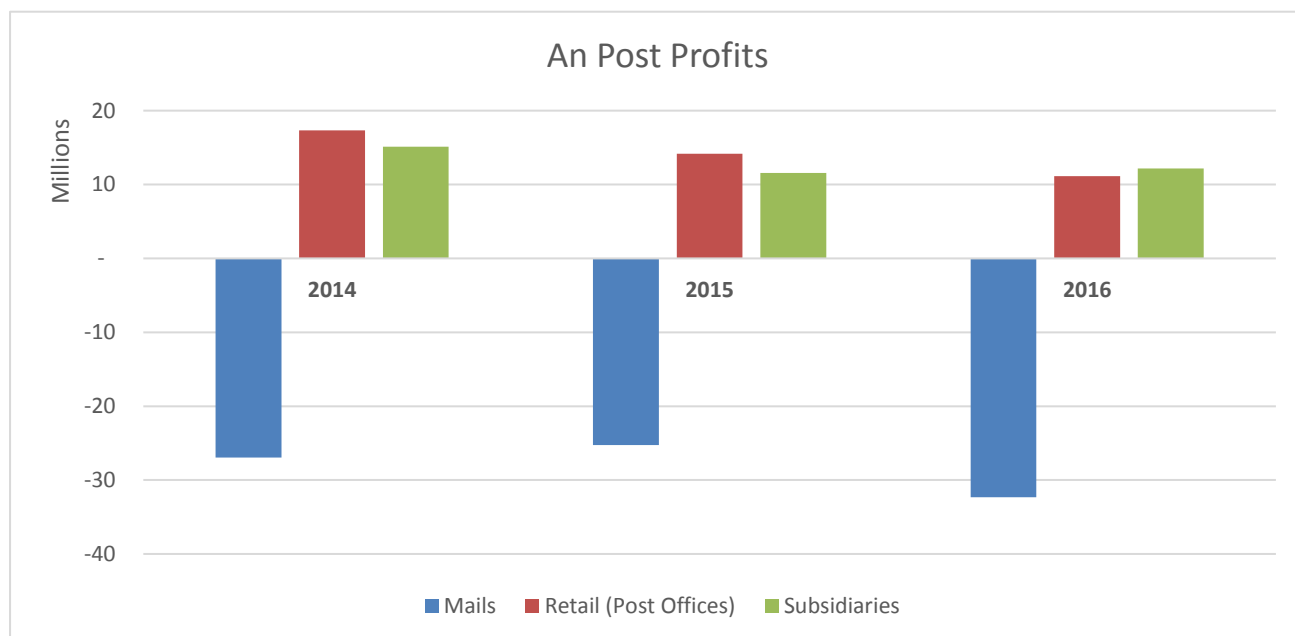
### 1) The financial and liquidity situation facing An Post, given its statutory designation as the sole universal postal service provider

Under the Postal Act, An Post is designated as the sole universal postal service provider until 2023, with the option for ComReg to consider a review in 2018.

#### Financial Situation

With regard to the financial situation facing An Post, An Post’s audited regulatory accounts show that it continues to make losses (at an overall level) on the provision of the universal postal service. An Post’s other businesses, the Retail (Post Offices) network and its subsidiaries<sup>15</sup>, are each profitable.

**Figure 11. Mails is the loss making part of An Post – Retail (Post Offices) and Subsidiaries are profitable**

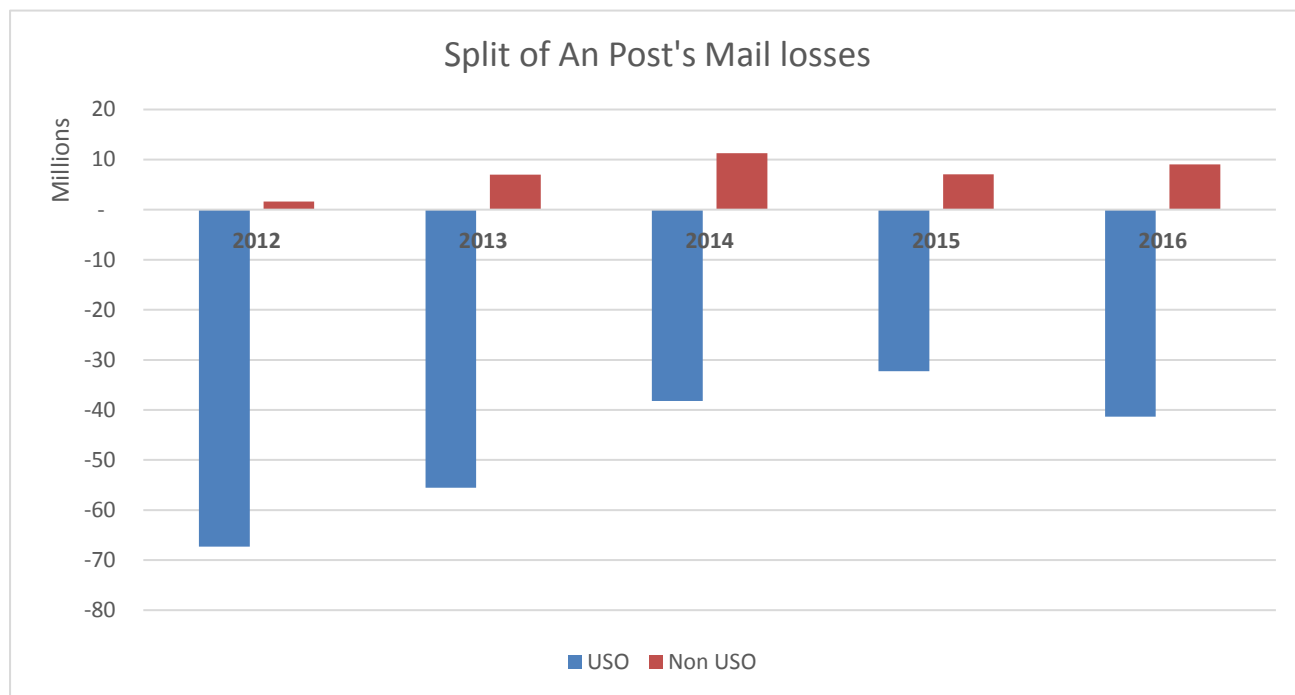


Source: ComReg analysis of An Post’s audited Regulatory Accounts

<sup>15</sup> For example, the Gift Voucher Shop, Air Business UK, and Post Insurance

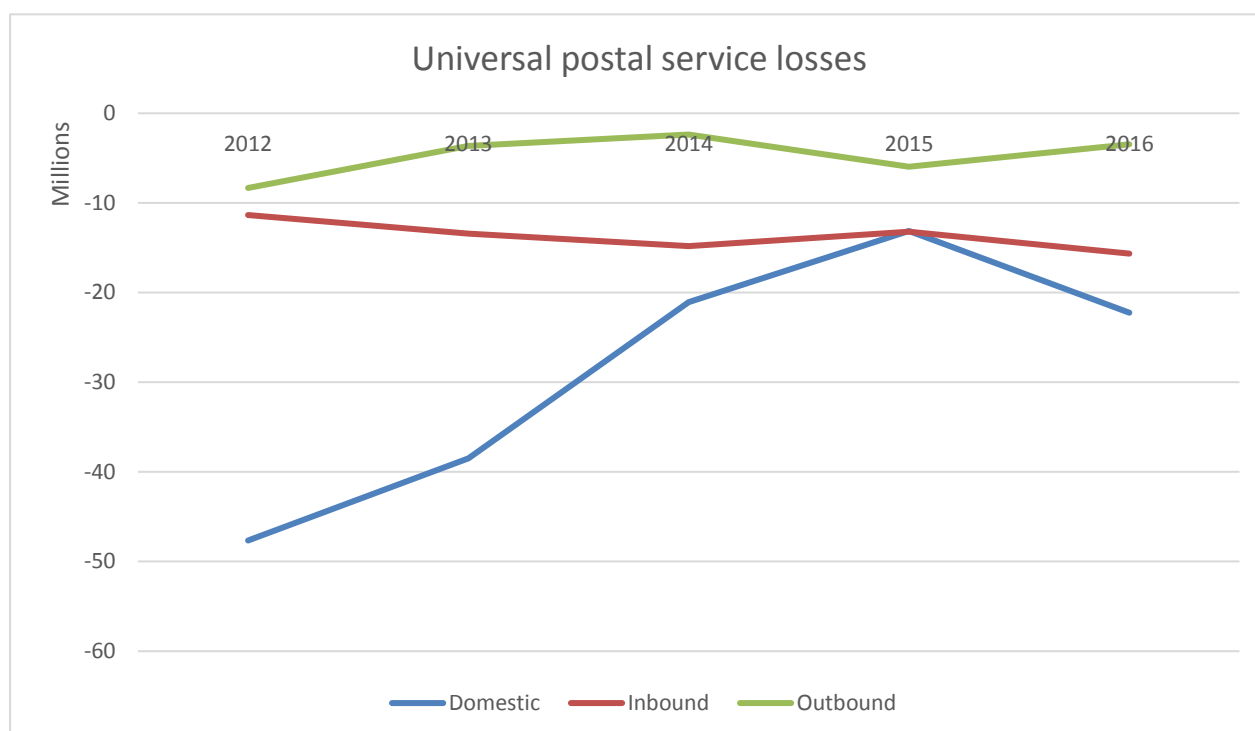
According to An Post's audited 2016 Regulatory Accounts, the universal postal service element of the Mails business is loss-making, while the non-universal postal service part is profitable.

**Figure 12. The universal postal service is the loss making part of An Post's Mails**



Source: ComReg analysis of An Post's audited Regulatory Accounts



**Figure 13. The split of losses within the universal postal service**

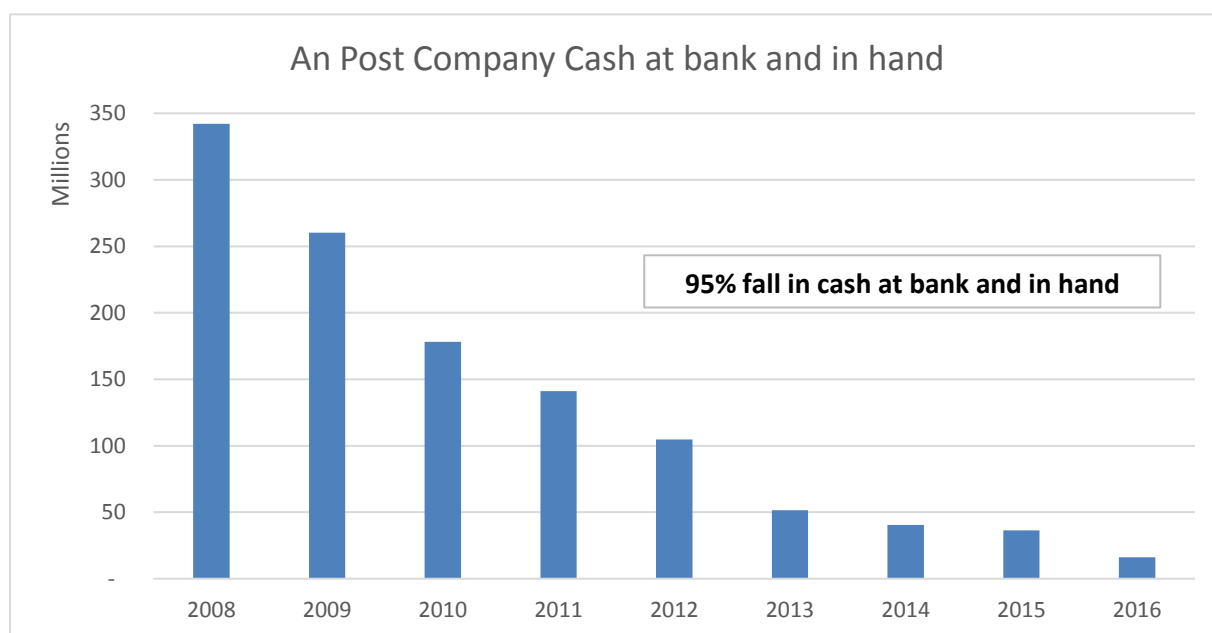
Source: ComReg analysis of An Post's audited Regulatory Accounts

Within the universal postal service, ComReg, based on its analysis of An Post's audited Regulatory Accounts and data/evidence provided by An Post finds that these losses are largely as a result of losses on incoming international mail and inefficiency. These are explored further as separate challenges.

### **Liquidity Situation**

An Post's letter mail volumes continue to decline. The consequential decline in universal postal service revenues coupled with the failure to adjust related costs, means, among other things, that there has been a significant decrease in An Post's cash balances. The liquidity crisis that An Post faces has been steadily developing over several years<sup>16</sup>. Though ComReg has no prudential function with regard to An Post, ComReg is very concerned by the liquidity situation facing An Post as currently there are no alternative universal postal service provider(s) to provide the universal postal service. This liquidity crisis means that regulatory monitoring at this time is particularly important, given that a lack of liquidity could jeopardise An Post's ability to provide the universal postal service.

<sup>16</sup> ComReg has publicly noted these concerns since 2012. See ComReg Document Nos. 12/138, 13/21, 14/59, 15/135, 16/53, 16/81, 17/06.

**Figure 14. An Post Company cash has fallen 95% since 2008**

Source: ComReg analysis of An Post's audited Annual Reports

An Post and its shareholders are currently putting in place plans to address the financial and liquidity situation<sup>17</sup>. The State has already stepped in by repealing the price cap on universal postal services in March 2017<sup>18</sup>. This allowed An Post to increase its prices on universal postal services by up to 40% in April 2017, following more modest price increases under the price cap. This repeal removed ComReg's role in approving such price increases.

However, An Post now states<sup>19</sup>, despite these significant price increases, it will return to loss making within 12 months, given the continued declines in mail volumes. Consequently, the significant price increases in 2017 seem unlikely to have ensured the continued survival of An Post. If An Post, on foot of its severe liquidity situation, ceases to be able to provide postal services, ComReg, given its statutory function to ensure a universal postal service that meets the reasonable needs of postal service users, must consider other arrangements for the provision of the universal postal service. This would need to be examined at the time.

There are likely alternatives to the provision of the universal postal service. Possibilities arise in the provision of the following services, for example:

- **Packets and parcels:** This universal postal service has an annual revenue of almost €70m. ComReg's research on the packets and parcel sector has demonstrated that there are many alternative packet and parcel delivery providers that operate in this competitive sector that could offer reasonable alternatives for postal service users; indeed 7 in 10 packets/parcels are already delivered through such channels.

<sup>17</sup> See statements by DCCAE and An Post at Joint Committee on Communications, Climate Action and Environment Debate on 17 January 2017

<sup>18</sup> <http://www.irishstatutebook.ie/eli/2017/act/3/enacted/en/print>

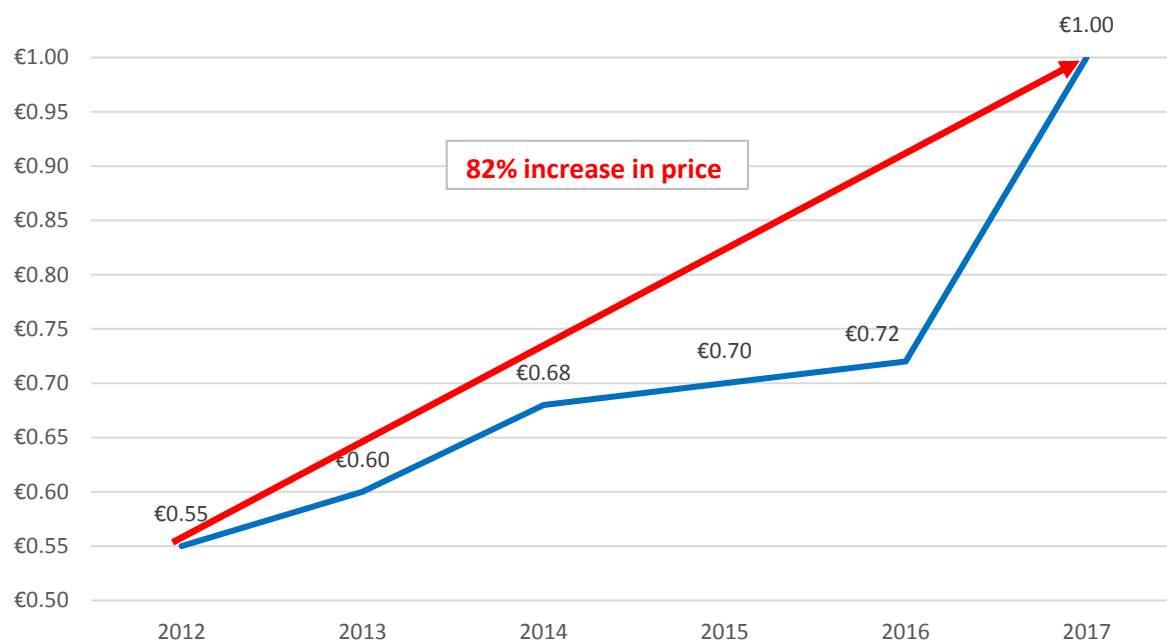
<sup>19</sup> "An Post: The Future" – An Post Postnews April / May 2017

- **Registered items service:** This universal postal service has an annual revenue of almost €40m. Some existing postal service providers already provide a service similar to the registered items service i.e. a 'signed for' type service. In addition, there are express and courier services, which are provided at a similar price to registered post and can provide a "proof of delivery" for the postal service users. Similarly, postal service users could use packet/parcel delivery providers as such services offer "proof of delivery". In short, there are a number of reasonable alternatives for postal service users.
- **Letters:** This universal postal service has an annual revenue of almost €180m and the provision of this service would also present opportunities for postal service providers to offer the non-universal letter postal service, which has an annual revenue of almost €130m, for a total of over €300m in annual revenue in the delivery of letters. Some existing postal service providers already provide a letter service, largely deferred delivery and not next day. However, in the event there are exceptional circumstances arising, postal service users are more likely to accept a letter postal service that is not next day given that email / express and courier services / registered items service by alternative providers would be available for urgent correspondence. If deferred delivery of letters is acceptable, and it already is for large mailers who account for most mail sent, it is likely that the market could meet the demand for deferred delivery of letters. This could be by existing postal service providers or a new postal service provider, or even a universal postal service provider from another European state.

## 2) Limited scope for further significant price increases

An Post made significant price increases, of up to 40%, during 2017. As a result, the price of the domestic stamped letter has increased by over 80% since 2012.

**Figure 15. Stamped letter has increased in price by 82% since 2012**



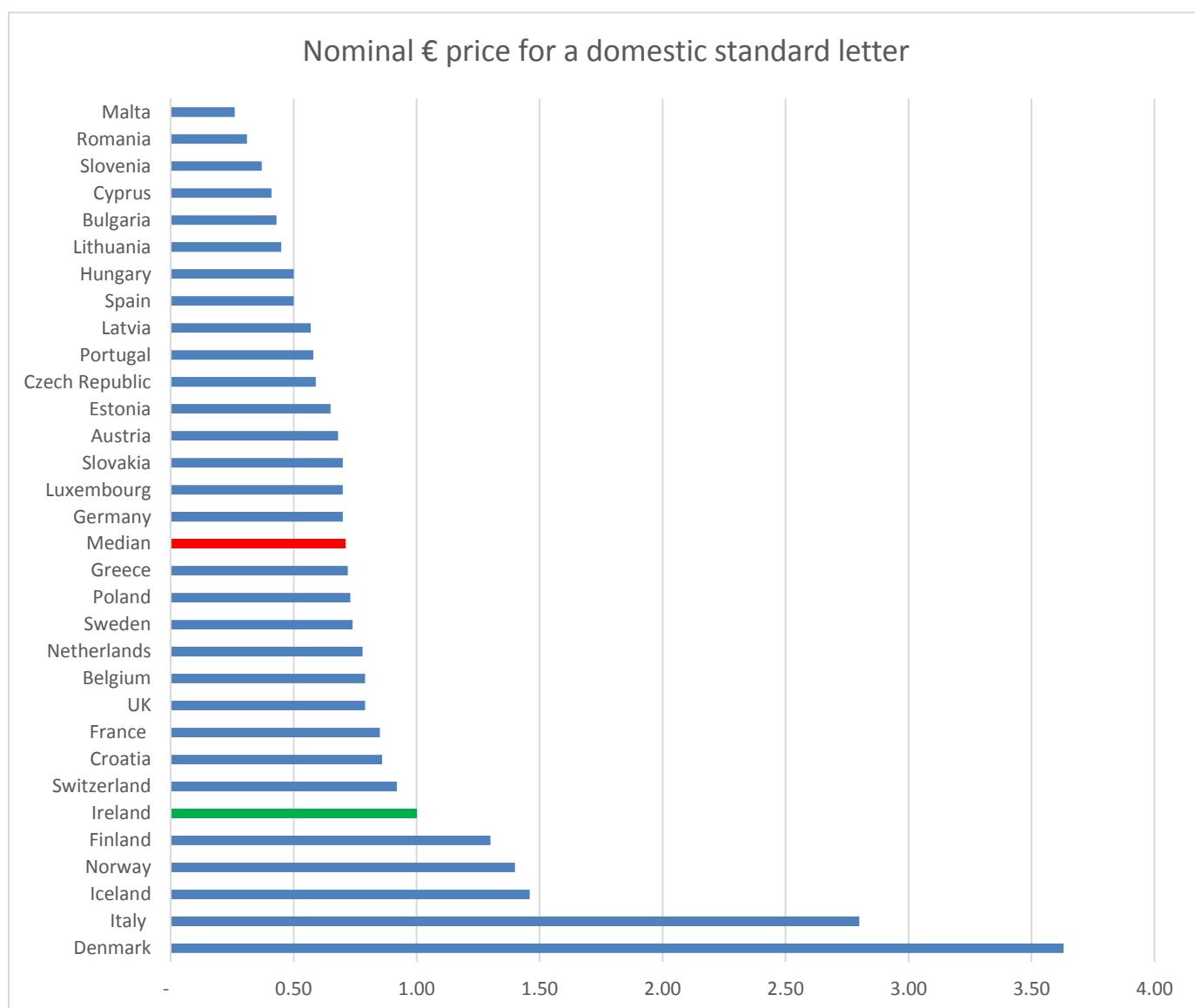
Source: ComReg analysis of An Post price increases of domestic stamped letter

ComReg considers that given the significant price increases made by An Post, which put An Post's prices above European norms<sup>20</sup> (see Figure 16), and given that large senders of post are very sensitive to price increases<sup>21</sup>, that there is very limited scope for future significant price increases. Furthermore, in some other European states, for example Denmark and Italy, there is a cheaper deferred delivery service (delivery within 2-3 days) for single piece mail. This option is currently not available to Irish postal service users for their single piece stamped and metered mail.

<sup>20</sup> According to the recent report by Deutsche Post on the nominal prices for a domestic stamped letter, Ireland is now the sixth most expensive in Europe for domestic stamped letter – see [Deutsche Post 'Letter prices in Europe' – 16<sup>th</sup> Edition – March 2017](http://www.dpdhl.com/en/media_relations/media_library/documents/letter_price_survey_europe.html) @ [http://www.dpdhl.com/en/media\\_relations/media\\_library/documents/letter\\_price\\_survey\\_europe.html](http://www.dpdhl.com/en/media_relations/media_library/documents/letter_price_survey_europe.html)

<sup>21</sup> ComReg Document No. 16/107 @ <https://www.comreg.ie/publication/research-postal-users-needs/>

**Figure 16. An Post stamped letter price versus pricing in Europe**



Source: Deutsche Post 'Letter prices in Europe' – 16<sup>th</sup> Edition – March 2017

As the majority of mail is sent by large mailers (utilities, financial services, Government), with significant price increases, these mailers can choose cheaper options<sup>22</sup>, including electronic substitution. Such electronic options, if adopted, would lead to a significant and catastrophic permanent decline in mail volume.

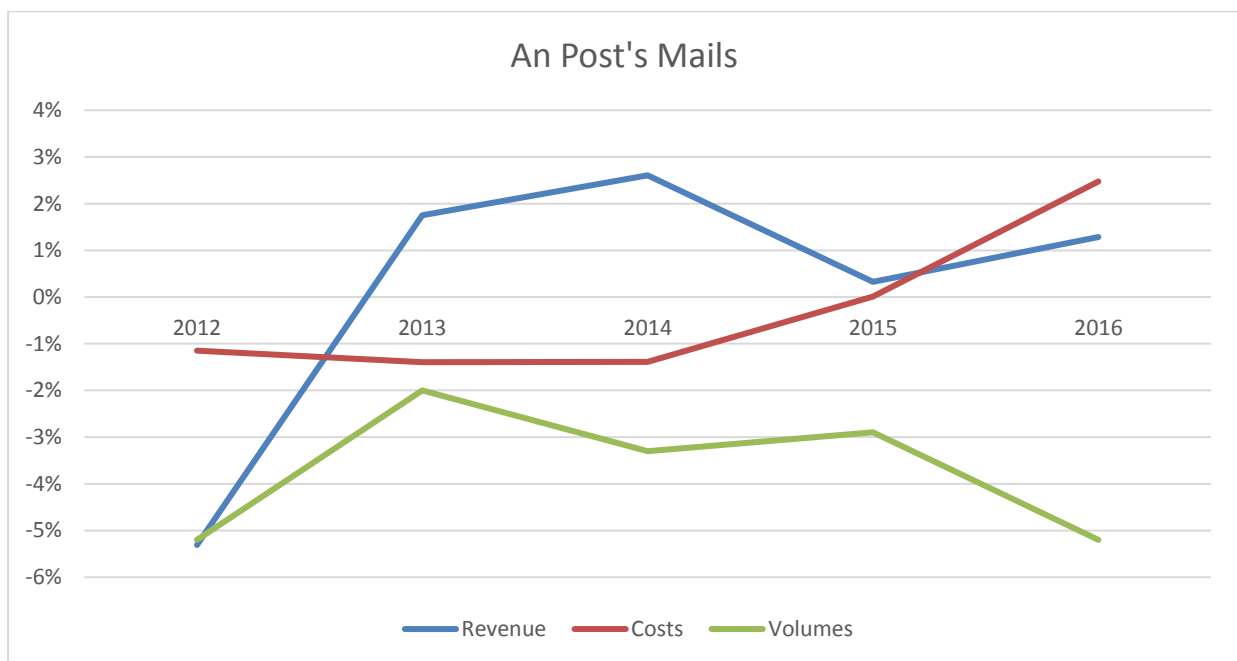
<sup>22</sup> For example, since 2014, a lot of An Post's bulk mail has moved to its cheapest bulk mail product, that is only 3 cents cheaper for allowing mail to be delayed by a further day, for a total 3 day delay in posting.

### 3) Urgent need to reduce costs in line with mail volume declines

According to An Post, its volumes have fallen by 45% since 2007 and it is currently forecasting further volume declines. However, its costs have not fallen in line with this volume decline.

ComReg’s price cap had put in place an incentive for An Post to become cost efficient, however, that price cap is now repealed. ComReg’s price cap noted that An Post, based on internal benchmarking within An Post, was up to 22% inefficient. An Post acknowledged “that there has been a significant underachievement of the 2% p.a. target savings in the first two years of the price cap control”<sup>23</sup>. This is evidenced in Figure 17 which shows costs are increasing year-on-year at An Post’s Mails business even though its volumes are declining.

**Figure 17. % change in Revenue, Costs, and Volumes at An Post Mails**



Source: ComReg analysis of An Post’s audited Regulatory Accounts

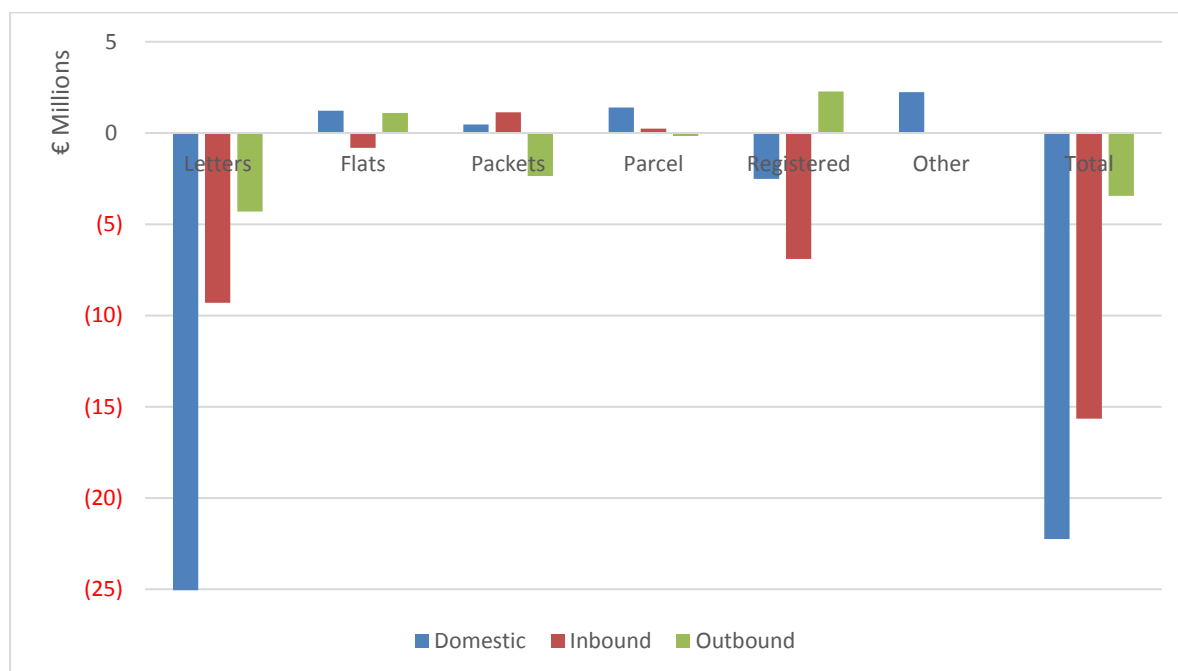
Following the repeal of the price cap, the challenge is for An Post to deliver cost efficiency so as to ensure the financial viability of An Post into the future.

<sup>23</sup> An Post letter dated 14 September 2016 @ <https://www.comreg.ie/publication/request-post-review-price-cap/>

#### 4) Need to reduce losses (by negotiating better terminal dues agreements) on International Inbound mail

As ComReg noted following its review in 2016<sup>24</sup>, An Post's losses in the international inbound segment (mail posted abroad for delivery in Ireland) of the universal postal service account for almost 40% of its total losses in providing the universal postal service.

**Figure 18. 2016 split of universal postal service losses**



Source: ComReg analysis of An Post's audited Regulatory Accounts

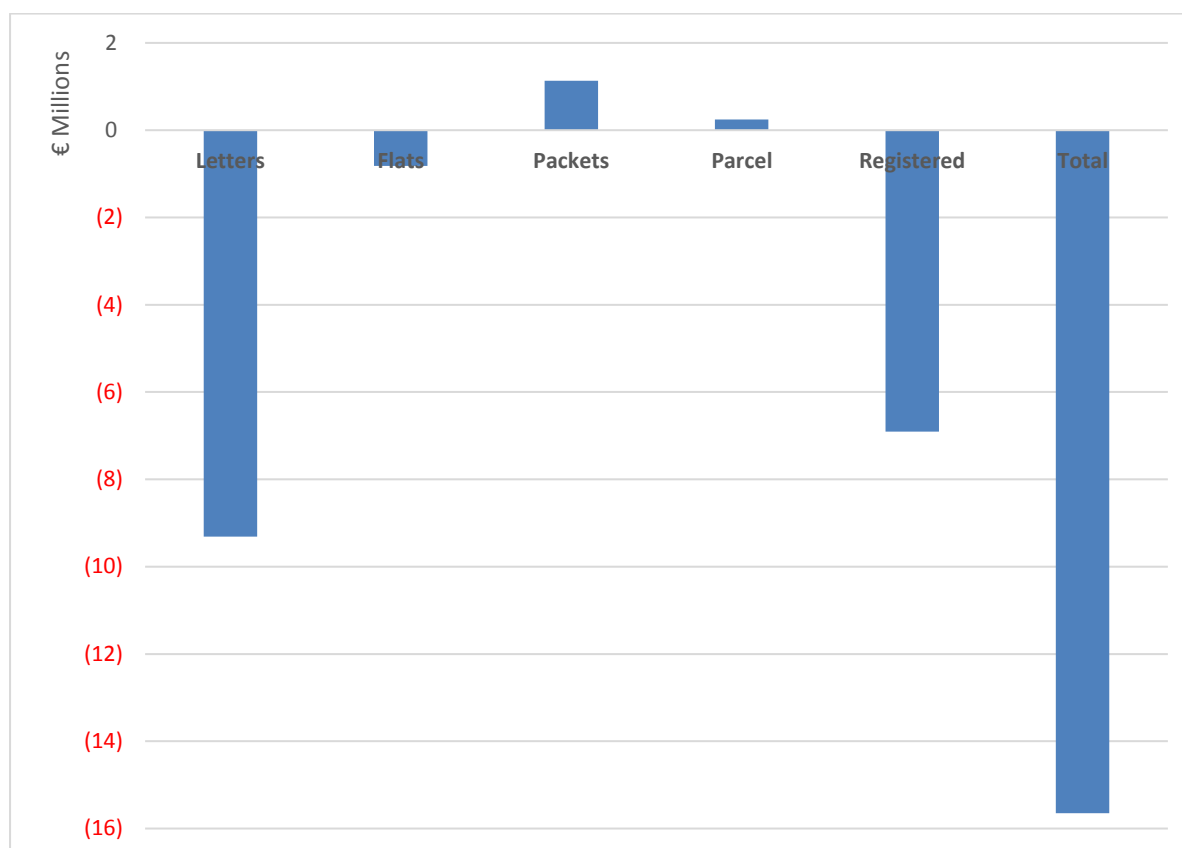
The impact of these losses on International Inbound mail is of even greater concern given An Post's overall financial and liquidity position. An Post's losses in international inbound mail (primarily in letters and registered items and not in packets and parcels) will continue unless:

- action is taken on new terminal dues multi-lateral agreements to increase revenues. There may be a role for the State in these multi-lateral negotiations.
- action is taken by An Post to reduce its costs to an efficient level<sup>25</sup>.

<sup>24</sup> ComReg Document No. 16/53 @ <https://www.comreg.ie/publication/an-posts-losses-on-international-inbound-mail-in-the-universal-postal-service/>

<sup>25</sup> ComReg, in its 2014 price cap decision, noted that An Post, based on internal benchmarking, was up to 22% inefficient.

**Figure 19. 2016 International Inbound losses**



Source: ComReg analysis of An Post's audited Regulatory Accounts

An Post's ability to negotiate increased terminal dues tariffs is constrained. The UPU provides for what are essentially default terminal dues rates which apply in the absence of any individual agreements between postal operators (multilateral or bilateral). However, the default UPU rates are already lower than the rates under the European multi-lateral agreement or under any bilateral agreement to which An Post is party. Because the default UPU rates do not reflect An Post's actual costs, it may be difficult for An Post to negotiate increased rates which would cover its actual costs.

Additionally, the multilateral terminal dues agreement for inbound mail for Europe limits terminal dues rate increases to a small percentage amount, per annum. This is important as An Post's domestic prices increased significantly in 2017 (c.40% on domestic stamped letter) and by significantly more than the maximum allowed under the European multilateral agreement. As a result, it will take decades for all of the domestic price increase (82% increases since 2012) to be fully reflected in higher terminal dues rates under the European multilateral agreement. Essentially, international users posting to Ireland are enjoying a better or almost subsidised rate than Irish postal service users. However, ComReg understands that one European state has negotiated a higher terminal dues rate to reflect higher domestic price increases, demonstrating that negotiation is possible. Moreover, there are no equivalent automatic price adjustment mechanisms in any of the bilateral agreements negotiated by An Post. An Post must remedy this.



Therefore this challenge requires action to be taken by An Post and the State with the aim of ameliorating losses in international inbound mail. ComReg's role is limited by legislation to a compliance role, requiring An Post, as the current universal postal service provider, to cover its costs in processing and delivering international inbound mail within the universal postal service from other EU Member States only. Therefore ComReg's role does not include UPU rates (as these apply for rest of world, outside EU) and any bi-lateral rates agreed with the UK, following UK's exit from the EU in due course.

## **5) Responding to the changing demand dynamics of the postal sector**

The postal sector is changing and the postal needs of consumers and businesses are shifting rapidly, in particular with increased e-commerce and increased online communication. As a result, there is a changing demand dynamic, particularly in the mix of services (more parcel and less letters) and on requirements for delivery certainty (less letters at next day delivery). Postal service providers are responding to this challenge of changing demand dynamics.

ComReg has a statutory objective to promote the development of the postal sector. Given this and the changing demand dynamic, ComReg will explore through market research how consumer and business postal needs and preferences are evolving as such information is important to fully understand the sector. ComReg will publish this research so that all can benefit from its findings. Such research, where appropriate:

- will assist in informing future regulatory decisions by ComReg
- could be used to inform wider policy issues for the postal sector.

For example, an issue for the universal postal service is that the Postal Act defines the universal postal service to mean that on every working day, except in such circumstances or geographical conditions as ComReg considers to be exceptional, there is at least one delivery to every home or premises of every person in the State. However, most post is sent by large mailers (utilities, financial services, government) who do not use 'next day' delivery, but defer their mail to be posted over 2-3 days to avail of the cheapest price available. Therefore, currently less than half of An Post's mail is for next day delivery. However, An Post's postal network remains predominately provisioned for this declining 'next day' delivery, with associated cost.

Other EU States, for example Denmark, are examining solutions to this challenge.

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## Universal postal service in Denmark

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Denmark has good broadband across the country. In 2009 an electronic mailbox was introduced for every citizen. Almost every letter mail by Government, utilities, financial services, medical and educational providers now is electronic to this electronic mailbox. As a result, priority (next day delivery) letter mail decreased significantly and today accounts for very little mail volume. If letter mail is sent, it is predominately sent via a non-priority service that allows up to 5 days for the mailing of a letter.

Given these declines in letter mail volumes and the increase in packet/parcel delivery from e-commerce, the universal postal service is more focussed on ensuring a packet and parcel delivery service that meets the needs of postal service users, where there is no effective competition for this. The universal postal service packet and parcel offers a next day delivery option, letters can be sent via this option too at the price of a packet.

Less focus and less volume on next day delivery has afforded Post Denmark the opportunity to re-design mail collection and delivery, reducing cost commensurate with mail volume decline, thereby becoming more efficient.

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### 3. ComReg’s Strategic Intent

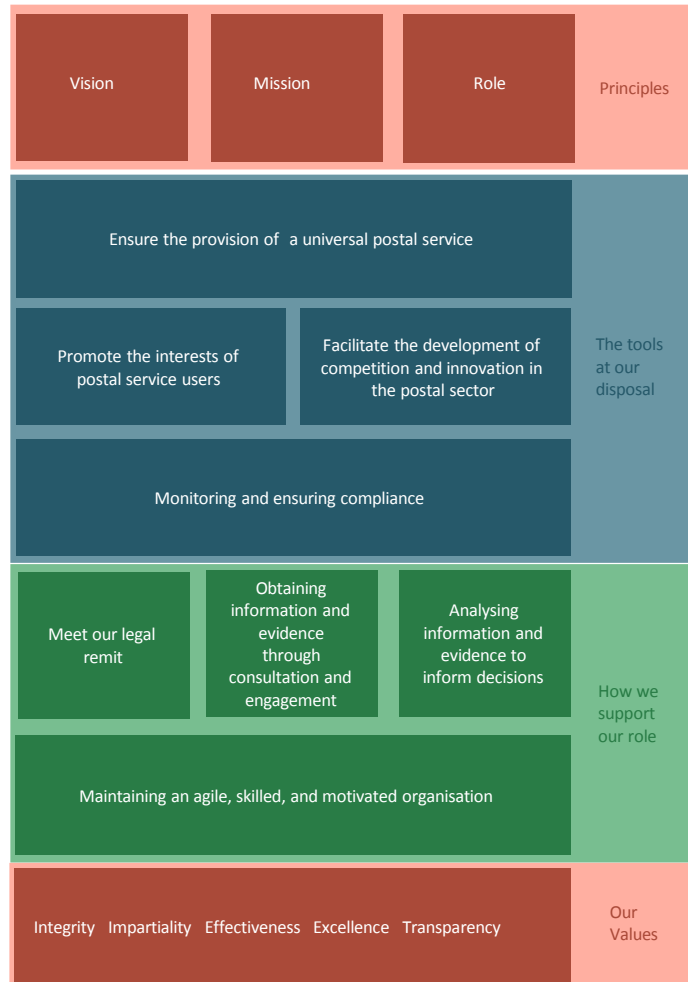
ComReg’s vision, role and mission was set in its ECS Strategy Statement (ComReg Document No. 17/31) and is summarised in Annex 1 of this document.

For postal regulation, the tools we have to deliver our role and mission can be categorised into four broad areas:

- Ensuring the provision of a universal postal service
- Promote the interests of postal service users
- Facilitate the development of competition and innovation in the postal sector, and
- Monitoring and ensuring compliance.

Underpinning our ability to deliver is our legal remit, obtaining and analysing information and evidence, and the development of our organisation. This relationship is captured in our strategic framework which is illustrated in Figure 20 below.

**Figure 20. ComReg Strategic Framework**



The trends and challenges identified in Chapter 2 require action by a number of different parties, mainly by An Post, as An Post accounts for most of the post in the postal sector, particularly letter correspondence. For many of these challenges,

ComReg has no role or remit. Where ComReg has a role or remit in addressing certain of these challenges we have considered these in developing our three statements of strategic intent, describing what we hope to achieve over the next five years through the use of the tools at our disposal.

## Seek to ensure the provision of a universal postal service

ComReg has a statutory function to ensure the provision of a universal postal service that meets the reasonable needs of postal service users. Furthermore, ComReg has a statutory objective to promote 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. ComReg recognises that a co-ordinated and clear regulatory framework relating to the provision of universal postal services is beneficial in providing regulatory certainty so that universal postal service provider(s) can take the necessary actions to ensure and provide a stable provision of the universal postal service. The strategic intention associated with this role is to act within our powers set by the Oireachtas to seek to ensure that there is **a universal postal service that meets the reasonable needs of postal service users.**

Strategic Intent 1	
<b>Seek to ensure the provision of a universal postal service</b>	There is a universal postal service that meets the reasonable needs of postal service users

## Promote the interests of postal service users

ComReg has a statutory objective to promote the interests of postal service users. In particular, ComReg must ensure a high level of protection for postal service users in their dealings with postal service providers. Most post is sent by large mailers (utilities, financial services, Government) and such postings are typically conducted in accordance with a negotiated contract, with terms and conditions, including dispute resolution, set by those contracts. Therefore, ComReg does not have a role with regard to such mail. ComReg's role is primarily with regard to the remainder of mail that is not conducted in accordance with a negotiated contract, to ensure that the interests of those postal service users are promoted and protected.

Protecting and informing consumers involves setting rules to ensure that postal service users can access basic services and that they are armed with the information they need to engage with the postal sector with confidence. With this in mind, ComReg considers that ensuring the availability of clear and transparent information can greatly empower postal service users to respond directly to situations they consider to be less than satisfactory. Nevertheless, ComReg must always be ready to step in with firm action focused on rectifying any unfair or unreasonable treatment of postal service

users. The strategic intention associated with this role is that **postal service users can choose and use postal services with confidence.**

Strategic Intent 2	
Promote the interests of postal service users	Postal service users can choose and use postal services with confidence

## Facilitate the development of competition and innovation

ComReg has a statutory objective to promote the development of the postal sector and to facilitate the development of competition and innovation in postal service provision. The strategic intention associated with this role is that there is **competition and innovation in the provision of postal services.**

Strategic Intent 3	
Facilitate the development of competition and innovation	Regulation facilitates competition and innovation in the provision of postal services by using appropriate regulatory intervention within our remit

In Chapters 4 to 6 we set out the strategic goals associated with each of these three strategic intentions.

## 4. Seek to ensure the provision of a universal postal service

ComReg has a statutory function to ensure the provision of a universal postal service that meets the reasonable needs of postal service users. Furthermore, ComReg has a statutory objective to promote 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.

The universal postal service required by the Postal Act means that on every working day, except in such circumstances or geographical conditions as ComReg considers exceptional, there is at least one clearance and one delivery to the home or premises of every person in the State and that the following services are provided:

- the clearance, sorting, transport and distribution of “postal packets”<sup>26</sup> up to 2 kilograms in weight;
- the clearance, sorting, transport and distribution of parcels both within the State and from other Member States up to 20 kilograms in weight;
- a registered items service;
- an insured items service within the State and to and from all UPU countries;
- postal services, free of charge, to blind and partially-sighted persons.

With regard to the universal postal service, the Postal Act requires ComReg to:

- specify the universal postal service to ensure that the universal postal service develops in response to the technical, economic and social environment and to the reasonable needs of the postal service users;
- consider whether a designation of a universal postal service provider is required, subject to the timeframes and other requirements set by the Postal Act;
- monitor compliance by universal postal service provider(s) with the statutory and regulatory requirements of providing a universal postal service. These requirements include price, access, and quality.

This Chapter sets out ComReg’s strategic goals associated with seeking to **ensure the provision of a universal postal service** with the high level objective of **a universal postal service that meets the reasonable needs of postal service users**.

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<sup>26</sup> The Postal Act defines a “postal packet” as meaning an item addressed in the final form in which it is to be carried by a postal service provider and includes a letter, parcel, packet or any other article transmissible by post.

<b>Strategic Intent 1:</b>	<b>There is a universal postal service that meets the reasonable needs of postal service users</b>
<b>What does this look like?</b>	<ul style="list-style-type: none"> <li>• A 'de minimis' universal postal service that meets the reasonable and changing needs of postal service users</li> <li>• The universal postal service provider complies with the statutory and regulatory requirements of providing the universal postal service</li> </ul>

ComReg recognises that a co-ordinated and clear regulatory framework relating to the provision of universal postal services is beneficial in providing regulatory certainty so that universal postal service provider(s) can take the necessary actions to ensure and provide a stable provision of a universal postal service.

In this respect, in the upcoming period, ComReg will revisit the regulatory framework to ensure the provision of a universal postal service by:

### **(1) Understanding the reasonable needs of postal service users**

The postal sector is changing. There is a changing demand dynamic, particularly in the mix of services (more parcel and less letters) and on requirements for delivery certainty (less letters at next day delivery). Postal service providers are responding to this challenge.

ComReg has a statutory function to ensure the provision of a universal postal service that meets the reasonable needs of postal service users. Consequently, ComReg will, following a public consultation, take a view on what the reasonable needs of postal service users are. This understanding and view would be based on market research and other evidence available to ComReg. This understanding and view on the reasonable postal service user needs, together with other available evidence, will assist in informing future regulatory decisions by ComReg on the universal postal service. It may also be of use to other stakeholders involved in the development of the postal sector.

### **(2) Reviewing the specification of the universal postal service**

In ComReg Document 12/81 (D08/12, SI 280 of 2012), following a public consultation, ComReg set a 'de minimis' universal postal service to meet postal service users' reasonable needs that would not be met by competition. This approach aimed to minimise the regulatory burden on An Post, the current universal postal service provider, as it is only subject to detailed regulatory control in relation to its universal postal services. By setting a 'de minimis' universal postal service, the current sole universal postal service provider enjoys the appropriate level of regulatory freedom and commercial flexibility in the delivery of its other postal services.

**Figure 21. Current universal postal service specification**

Requirements set by the State under the Postal Act	Specification set by ComReg under SI 280 of 2012 <sup>27</sup>
Clearance, sorting, transport of postal items up to 2kg.	SI 280 specifies 3 formats of items with minimum dimensions and maximum weight: Letters up to 100g, Large Envelope up to 500g and packets up to 2kg. SI 280 specifies payment by stamp and meter.
Clearance, sorting, transport of postal parcels at least up to 10kg (if not specified: 20kg).	Clearance, sorting, transport of postal parcels at least up to 20kg.  SI 280 requires the provision of specific products: <ul style="list-style-type: none"> <li>■ PO Box</li> <li>■ Redirection</li> <li>■ Poste Restante</li> <li>■ MailMinder</li> <li>■ Business Reply</li> <li>■ Freepost</li> </ul>
Minimum one clearance and one delivery to every premise every working day	SI 280 requires the provision of a domestic service for items deposited in bulk: <ul style="list-style-type: none"> <li>■ For “Delivery only” – which refers to a D+1 service</li> <li>■ For “Deferred Delivery” – which refers to a D+n service</li> </ul> The SI 280 requires the provision of an international service for items deposited in bulk.
Sorting, transport and distribution of postal parcels from other member states up to 20kg.	SI 280 specifies the speed of delivery in setting out the transit time standards of all single piece services <ul style="list-style-type: none"> <li>■ D+1 within state</li> <li>■ D+3 within EU</li> <li>■ D+9 to all other foreign addresses</li> </ul>
A registered service and an insured service.	-
A single piece service provided free of charge to the postal service user for the transmission of postal services to blind and partially-sighted persons.	-

Source: S.I. No. 280 of 2012 and Postal Act:

Note: “-” indicates that S.I. No. 280 adds no further regulation to the Postal Act

Given the evolving dynamics of the postal sector, and to minimise any cost in providing a universal postal service, ComReg will revisit the specification of the universal postal service to assess whether it can be further refined.

ComReg will commission research to assist it in assessing what specification of the universal postal service may be required to meet the reasonable needs of postal service users. If any change to the specification is proposed, ComReg will set out its

<sup>27</sup>

Available at [http://www.comreg.ie/csv/downloads/SI\\_280\\_of\\_2012.pdf](http://www.comreg.ie/csv/downloads/SI_280_of_2012.pdf)



preliminary views in a public consultation, and any responses, including other available evidence, will be considered in advance of any decision by ComReg to revise the specification of the universal postal service.

### **(3) Reviewing the designation of universal postal service provider(s)**

The Postal Act designated An Post as the sole universal postal service provider until 2023. However, the Postal Act also set out an option to review that designation in August 2018, at which point ComReg may decide to:

- i. continue the designation of An Post as universal postal service provider;
- ii. with the prior consent of the Minister, designate one or more than one postal service provider as a universal postal service provider;
- iii. with the prior consent of the Minister, decide that no such designation is required.

As set out earlier, given the grave financial and liquidity situation facing An Post, and given the development of the postal sector since the enactment of the Postal Act in 2011, there is merit in reviewing the universal postal service provider designation. For example, in Germany, there is no designated universal postal service provider, with the universal postal service being provided through normal competition, an approach which also minimises the regulatory burden on postal operators generally, and Deutsche Post, the incumbent, in particular. For the benefit of postal service users and for the State, there is benefit in reviewing whether other postal service provider(s) are designated to provide the universal postal service, in whole or part. For example, other postal service provider(s) could be designated to provide a registered items service. Any decision by ComReg in this regard would be subject to engagement with authorised postal service providers and, as required by the Postal Act, the prior consent of the Minister.

### **(4) Monitoring for compliance with requirements of providing the universal postal service**

Arising from the Postal Act, a universal postal service provider is required:

- To provide a universal postal service in accordance with the obligations imposed by or under the Postal Act;
- To provide identical services to postal service users under comparable conditions; and
- To comply with the terms and conditions of its universal postal services provision.

Pursuant to the Postal Act, where ComReg is of the opinion that a universal postal service is failing, or has failed, to comply with any of the universal postal service requirements, it may issue a direction to a universal postal service provider to ensure compliance.

In this respect, ComReg will continue to monitor universal postal service provider(s) compliance with regulatory obligations, either in response to complaints, or following investigations on its own initiative. ComReg may then take appropriate enforcement

action, as necessary, to remedy any non-compliance.

This is particularly important because a universal postal service provider, as provided for by the Postal Act, is immune from liability in respect of loss or damage suffered by a postal service user because of:

- Any failure or delay in providing, operating or maintaining a universal postal service, or
- Any failure, interruption, suspension or restriction of a universal postal service.

ComReg's monitoring in respect of universal postal service provision will include the following:

### **Pricing**

ComReg is tasked to ensure that a universal postal service provider's pricing of its universal postal services comply with the tariff requirements of the Postal Act which are:

- Prices must be affordable and be such that all postal service users may avail of the services provided;
- Prices must be cost-oriented, that is to say, that prices must take account of, and reflect the efficient costs of, providing the postal service or part of the postal service concerned;
- Prices must comply with the uniform tariff requirement which applies throughout the State to any postal service provided at a single piece tariff;
- Tariffs must be transparent and non-discriminatory.

ComReg must carry out this task following, and not in advance of, a universal postal service provider increasing the prices of its universal postal services. In the event that ComReg was to find that prices of universal postal services are not compliant, for example, they are not affordable or do not reflect efficient cost, ComReg's intervention is limited to the issue of a direction to the universal postal service provider to ensure compliance.

### **Regulatory accounts**

ComReg will continue to monitor compliance by a universal postal service provider with the 2017 Accounting Direction<sup>28</sup>. The audited regulatory (separated) accounts are critical information for ComReg to assess how the universal postal service is performing financially, for assessing universal postal services' prices for compliance with the cost orientation tariff requirement of the Postal Act, and for other regulatory requirements.

### **Quality of service**

Quality of service standards are necessary to ensure that postal service users receive the appropriate priority postal service for which they have paid. ComReg will continue to monitor compliance by a universal postal service

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<sup>28</sup> Document No. 17/06 (D02/17) dated 20 January 2017

provider against the current standard<sup>29</sup>.

### **Terms and conditions for universal postal services**

A universal postal service provider meets its universal postal service in accordance with its terms and conditions. As required by the Postal Act, such terms and conditions must not have a significantly adverse effect on postal service users and must meet their reasonable needs. Where a universal postal service provider proposes to amend its terms and conditions for its universal postal service, we will consider the reasonable needs of postal service users and ensure that the amended terms and conditions do not have a significant adverse effect on users.

### **Complaint and redress procedures**

As required by the Postal Act, a universal postal service provider must draw up and implement a code of practice setting out procedures, standards and policies with respect to the handling of complaints from postal service users, in particular, complaints, relating to loss, theft, damage or quality of service. We will monitor universal postal service provider(s) complaints and redress procedures for compliance.

### **Terminal dues**

As required by the Postal Act, in order to ensure the cross-border provision of the universal postal service, a universal postal service provider is required to ensure that its agreements on terminal dues for cross-border mail within the EU complies with the following requirements:

- a) Terminal dues shall be fixed to the costs of processing and delivering incoming cross-border mail;
- b) Levels of remuneration shall be related to the quality of service achieved;
- c) Terminal dues shall be transparent and non-discriminatory.

We will monitor universal postal service provider(s) compliance with these requirements.

### **Any net cost claim arising from the provision of the universal postal service**

As required by the Postal Act, if a universal postal service provider makes a claim arising from the provision of the universal postal service, ComReg would in accordance with its Decisions D09/13<sup>30</sup> and D15/13<sup>31</sup>, determine whether any request for funding for the net costs (if any) of providing the universal postal service (a) represents a net cost to the universal postal service provider (b) represents an unfair financial burden on the universal postal service provider.

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<sup>29</sup> See <https://www.comreg.ie/publication/comreg-reports-91-next-day-delivery-performance-post-2016/> for latest finding that An Post delivered 91% of single piece priority mail on the next working day following the day of posting. ComReg first introduced independent monitoring of the quality of the universal postal service in 2003 and at that time just 71% of single piece priority mail was being delivered on the next working day. The rate of next-day delivery has therefore improved by 20 percentage points - a rate of improvement of 28% - since 2003.

<sup>30</sup> 'Response to Consultation and ComReg's determination on the form and the manner of any net cost request by the universal postal service provider under section 35 of the 2011 Act' dated 25 July 2013

<sup>31</sup> 'Response to Consultation and Decision on how to assess and finance any unfair financial burden on the universal postal service provider' dated 4 December 2013

In determining whether there is a net cost, ComReg is required to take account of whether the universal postal service was provided in a cost-efficient manner. In making any claim to seek funding for its net costs, An Post would set out how it would re-optimize its postal operation in the absence of the universal postal service requirements – i.e. it would identify the changes to postal services that An Post would make if it operated on an unconstrained commercial basis. This would be informed by An Post's own commercial knowledge and reflects how An Post would seek to reorganise its postal operations, absent the current universal postal service requirements, so as to maximise profits. If An Post makes any such net cost request, ComReg would publish a non-confidential version of An Post's request and would consult publicly on the matter to seek the views of interested parties and to set out ComReg's preliminary views.

#### **(5) Reviewing and reporting on any consequences from the repeal of the price cap**

In March 2017, the Postal Act was amended to repeal the legislative section for the price cap<sup>32</sup> and ComReg's price cap decision. The amended Postal Act<sup>33</sup> requires ComReg to undertake a review of any consequences, including for terminal dues, of the repeal and report to the Minister on that review by September 2019. Consequently, ComReg is in the process of gathering information and data in order to undertake the review of any consequences of the repeal.

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<sup>32</sup> The price cap set a maximum level by which the universal postal service provider could increase the prices of certain of its universal postal services, for example, a letter for sending within Ireland paid for by stamp or meter. This ensured that universal postal services remained affordable, in particular for SMEs.

<sup>33</sup> <http://www.irishstatutebook.ie/eli/2017/act/3/enacted/en/print>

## 5. Promote the interests of postal service users

ComReg has a statutory objective to promote the interests of postal service users, both the senders and receivers of post. Most post is sent by large mailers (utilities, financial services, Government) and such postings are typically conducted in accordance with a negotiated contract, with terms and conditions, including dispute resolution, set by those contracts. Therefore, ComReg does not have a role with regard to such mail.

ComReg's role is primarily with regard to the remainder of mail that is not conducted in accordance with a negotiated contract, to ensure that the interests of those postal service users are promoted and protected. ComReg must ensure a high level of protection for those postal service users in their dealings with postal service providers. This includes:

- ensuring appropriate codes of practice are drawn up and implemented by postal service providers;
- ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body independent of the parties involved;
- consulting and co-operating with the CCPC as appropriate;
- addressing the postal needs of specific social groups, in particular, disabled postal service users.

With this in mind, ComReg considers that ensuring the availability of clear and transparent information can greatly empower postal service users to respond directly to situations they consider to be less than satisfactory.

Nevertheless, ComReg must always be ready to step in with firm action focused on rectifying any unfair or unreasonable treatment of postal service users. Proactive monitoring of obligations and the undertaking of investigations are essential components of our postal service user protection brief. The Postal Act empowers ComReg to give Directions:

- i. where postal service providers, including the universal postal service provider, are found to be non-compliant in relation to their complaints and redress procedures;
- ii. to the universal postal service provider to modify its terms and conditions for its universal postal service or where ComReg is of the opinion that the universal postal service provider is failing, or has failed, to comply with certain requirements of the Postal Act.

Strategic Intent 2:	Postal service users can choose and use postal services with confidence
<p><b>What does this look like?</b></p>	<ul style="list-style-type: none"> <li>• Universal postal services available, where there is no effective competition, that meet the reasonable needs of postal service users</li> <li>• Postal service provider(s) comply with the statutory and regulatory requirements of providing a postal service</li> <li>• Vulnerable users are protected</li> <li>• Postal service users are empowered through clear and adequate information and effective redress</li> <li>• Postal service users are treated fairly by postal service providers</li> <li>• Postal service users, both senders and receivers, derive maximum benefit in terms of choice, price and quality</li> </ul>

This Chapter sets out ComReg’s strategic goals associated with **promoting the interests of postal service users** with the high level objective of ensuring that **postal service users can choose and use postal services with confidence**. In the upcoming period, ComReg will:

**(1) Empower postal service users by ensuring the availability of appropriate information on postal services and cross border parcels services**

We recognise that postal service users must be adequately informed if they are to correctly select postal services that suit both their needs and budget. ComReg engages with postal service providers to help ensure that appropriate information is made available to postal service users. ComReg ensures the provision of appropriate information on postal services by maintaining a register of authorised postal service providers and this is accessible via ComReg’s website<sup>34</sup>. The register contains information such as what postal services are on offer. This information is taken from each postal service provider’s notification to ComReg of the postal services it is or is intending to provide. This information ensures that postal service users are informed of the choices available to them from a range of postal service providers.

As likely to be required by the proposed European regulation on cross border parcels services<sup>35</sup>, when implemented, ComReg will collect the required information on cross border parcel services to be provided by parcel delivery service providers and publish this information, where appropriate.

<sup>34</sup> <https://www.comreg.ie/industry/postal-regulation/authorised-postal-providers/authorised-postal-providers-register/>

<sup>35</sup> Regulation of the European Parliament and of the Council on cross-border parcel delivery services @ <http://data.consilium.europa.eu/doc/document/ST-9674-2017-INIT/en/pdf>

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## Proposed European Regulation on cross border parcels

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According to the European Commission, the aim of the proposal is to increase price transparency and regulatory monitoring of cross-border parcel delivery services. The proposed European Regulation will give national postal regulators, such as ComReg, the data they need to monitor cross-border parcels. The European Commission will publish the public list prices of cross-border parcel providers with the aim of increasing competition and tariff transparency.

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### **(2) Empower postal service users by ensuring the availability of complaints and redress procedures**

Arising from the Postal Act, every postal service provider must implement a code of practice setting out procedures, standards, and policies in respect to the handling of complaints from postal service users, in particular, complaints relating to loss, theft, damage, or quality of service.

ComReg will continue to ensure that the codes of practices set by the respective postal service providers are sufficient and contain appropriate information to secure effective protection of postal service users. As clear and unambiguous codes of practice are critical to protect postal service users, ComReg, under the Postal Act, may direct postal service providers to make such alteration(s) or addition(s) to these codes of practice as ComReg considers appropriate. This measure, where appropriate, helps ensure that postal service providers respect and uphold their obligations to protect postal service users.

ComReg will ensure that the terms and conditions for the universal postal services contain the appropriate information to meet the reasonable needs of postal service users and their right to seek appropriate redress.

In order to protect postal service users, under the Postal Act, ComReg may direct postal service providers to comply with such measures that are required to resolve a dispute between a postal service provider and postal service user(s). This measure, where appropriate, appropriately aids in the redress for unresolved disputes.

### **(3) Protect postal service users by ensuring postal services users, both senders and receivers, derive maximum benefit in terms of choice, price and quality**

#### **Quality:**

Without effective competition, quality of service standards are necessary for single piece universal postal services to ensure that postal service users receive the appropriate service for which they have paid. As required by the Postal Act, ComReg regularly monitors compliance by the universal postal service provider in this regard. Where ComReg is of the opinion that the universal postal service provider has not met

the quality of service standards it may give a direction to the universal postal service provider to take corrective action. This measure helps ensure that the universal service provider respects and upholds its obligations in relation to the quality of service for single piece universal postal service in order to protect postal service users.

**Price:**

The Postal Act requires universal postal service prices to be affordable. This is necessary as there is no effective competition for universal postal services. ComReg is tasked with ensuring that the universal postal service provider complies with this requirement. The following points are pertinent:

- ComReg no longer has an *ex-ante* pricing tool to ensure affordability. The price cap, when in place, ensured universal postal services were affordable. An Post now has pricing freedom on setting the prices of universal postal services and ComReg has no price approval role.
- ComReg can only take compliance action against non-affordable prices after the price changes are made by An Post. Compliance action can take significant time and resources and it would likely take time to reverse non-complaint prices that have taken effect.

**(4) Consult and co-operate with the Competition and Consumer Protection Commission (“CCPC”)**

The CCPC is responsible for the enforcement of a wide range of consumer legislation. As noted in the Postal Act, ComReg will help ensure a high level of protection for postal service users in their dealings with postal service providers by consulting and co-operating with the CCPC as appropriate.



## 6. Facilitate the development of competition and innovation

Central to ComReg's regulatory role is the principle that well-functioning markets deliver optimal outcomes in terms of prices, quality, choice and innovation. In postal regulation, effective competition minimises the specification of the universal postal service as the universal postal service is only required where there is no effective competition.

ComReg has a statutory objective to promote the development of the postal sector and to facilitate the development of competition and innovation in postal service provision.

<b>Strategic Intent 3:</b>	<b>Regulation facilitates competition and innovation in the provision of postal services by using appropriate regulatory interventions within our remit</b>
<b>What does this look like?</b>	<ul style="list-style-type: none"> <li>• Postal service users are aware of and can avail of competing postal service providers</li> <li>• Competing postal service providers bring innovations to the sector both in terms of products and process to the benefit of postal service users</li> </ul>

In this respect, in the upcoming period, ComReg will:

### **(1) Facilitate the development of the postal sector by acting in accordance with our mandate set by legislation**

To develop a competitive and sustainable postal services sector, it is important that postal service providers can compete on a fair basis with the universal service provider to ensure that postal service users derive maximum benefits in terms of choice, price, and quality. ComReg, as sectoral regulator, facilitates this by acting in accordance with its mandate set out in the Postal Act. This includes:

- ensuring that the universal postal service provider does not cross-subsidise by unfairly allocating cost to the regulated universal postal services over the competitive postal services / non-postal services. ComReg has issued an Accounting Direction<sup>36</sup> to An Post to minimise this risk and ComReg will ensure that An Post is in compliance with that Direction;
- liaising and providing assistance to the CCPC where competition law issues arise noting that unlike the electronic communications sector regulated by ComReg, ComReg does not have competition law powers in the postal sector;
- acting in accordance with our dispute resolution procedures with regard to access to the postal network of a universal postal service provider. ComReg will resolve,

<sup>36</sup> <https://www.comreg.ie/publication/universal-postal-service-accounting-obligations-2017-accounting-direction/>

where necessary and appropriate, disputes between postal service providers and a universal postal service provider in relation to access to the postal network of the universal postal service provider;

- acting, as required by the Postal Act, with regard to access to postal infrastructure, such as post office boxes, delivery boxes, post codes or addresses, or arrangements made with others for the provision of any service. Where necessary and appropriate, ComReg may give a direction to a universal postal service provider requiring it to permit access to other postal service providers to its postal infrastructure on such conditions as ComReg may direct for that purpose.

To develop a competitive and sustainable postal services sector also requires regulatory certainty. When making further regulations, in accordance with the Postal Act, ComReg will continue to provide regulatory certainty by providing the timeframe of ComReg's proposed actions in ComReg's annual action plan. Furthermore, where required, ComReg will continue to consult publicly on these actions in order to seek and consider the views of all interested parties.

At an international level, ComReg participates in the European Regulators Group for Postal Services ("ERGP")<sup>37</sup>. ComReg will continue to input into the ERGP and will continue to consider the output of ERGP to ensure that ComReg continues to apply effective and proportionate regulation.

## **(2) Promote the development of the postal sector by continuing to provide information regarding the provision of postal services in Ireland**

ComReg maintains a register of authorised postal service providers and this is accessible via ComReg's website<sup>38</sup>. The register contains each postal service provider's notification to ComReg. This information ensures that postal service users are informed of the choices available to them from a range of postal service providers which, in turn, aids transparency and helps promote the development of the postal sector.

ComReg also commissions research on the postal sector in Ireland, for example, ComReg has commissioned research on the packets/parcel sector and on the needs of postal service users<sup>39</sup>. ComReg considers it essential to explore through research where the postal sector is changing and where innovation in the postal sector has and will occur. ComReg will continue to publish any such research so that all can benefit from its findings.

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<sup>37</sup> The European Regulators Group for Postal Services (ERGP) was established on 10 August 2010. The group serves as a body for reflection, discussion and the provision of advice to the European Commission on postal services. It also aims to facilitate consultation, coordination and cooperation between EU countries and the Commission.

<sup>38</sup> <https://www.comreg.ie/industry/postal-regulation/authorised-postal-providers/authorised-postal-providers-register/>

<sup>39</sup> <https://www.comreg.ie/industry/postal-regulation/research/>

## Annex 1: Vision, role, mission, and values

The vision, role, mission, and values of ComReg were set in the Strategy Statement for ECS 2017 – 2019<sup>40</sup>. For reference, these are set out below:

### ComReg's Vision

**Consumers and businesses in Ireland have affordable, high-quality, and widespread access to communications services and applications that support their social and economic needs.**

### ComReg's Role and Mission

**ComReg's role is to ensure that communications markets operate in the interests of end-users and society.**

**Through effective and relevant regulation, we facilitate the development of a competitive communications sector in Ireland that attracts investment, encourages innovation and empowers consumers to choose and use communications services with confidence.**

### ComReg's Values

- Integrity
- Impartiality
- Effectiveness
- Excellence
- Transparency

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<sup>40</sup> <https://www.comreg.ie/publication/electronic-communications-strategy-statement-2017-2019/>

# Annex 2: The Economic and Legal Framework

## The economics of postal services

The postal sector is largely three segments:

- (1) The sending of correspondence, mainly the mailing of letters; for example, bills, invoices, statements.
- (2) The sending of packets (small parcels) and parcels, mainly associated with e-commerce.
- (3) The receiving of (1) correspondence and (2) packets/parcels above.

### Sending of correspondence

This segment can be further split into two categories:

- (1) Correspondence sent by public (for example post cards, letters). This post accounts for a small % of post on the postal network and generally is not time critical. Substitutes for this post include social media, smart phone messaging and communication apps.
- (2) Correspondence sent by businesses (for example, addressed advertising, invoices, documents, bank cards). This post accounts for most of post on the postal network and is mostly not time critical post, but includes some time critical post. Substitutes for this post include websites, email.

Overall, this segment is in decline. Mail volumes are falling each year, and An Post's mail volumes have decreased by c.45% since 2007<sup>41</sup>; indeed An Post's mail volumes will soon be less than half of the 2007 peak level. Typically, the posting of correspondence is sent in large bulk mailings, for example by utilities (bills), financial services (statements), government. The posting of bulk mail is typically by commercial negotiated contract or by non-universal postal service bulk mail services, for example An Post's Bulk Mail 11 service<sup>42</sup>. Such posting of correspondence by bulk mail is typically not next day delivery, but deferred delivery over 2-3 days to avail of the cheapest prices available. As a result, currently half of An Post's mail is not sent using next day delivery even though its postal network continues to be provisioned for next day delivery with the associated costs.

Given the declining nature of this segment, and other factors, this segment faces limited postal competition, and An Post has maintained a very high share, in particular in the mailing of letters<sup>43</sup>. Other factors include that An Post has a number of competitive advantages such as the reach and ubiquity of the network, brand strength and consumer trust. It can be argued that providing the universal postal service therefore offers the additional competitive advantages of brand / corporate reputation

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<sup>41</sup> Source: An Post Annual Reports 2007 - 2016

<sup>42</sup> [http://www.anpost.ie/AnPost/Downloads/Anpost/2000\\_items\\_upwards\\_Bulk\\_Discounts\\_For\\_Mailers\\_An\\_Post.pdf](http://www.anpost.ie/AnPost/Downloads/Anpost/2000_items_upwards_Bulk_Discounts_For_Mailers_An_Post.pdf)

<sup>43</sup> Even where a business uses a postal alternative to An Post for its correspondence, for example a mail consolidator or other postal service provider for its mailing, this letter mail is typically passed to An Post (in whole or in part) for "last mile" delivery.

enhancements and VAT exemption.

Furthermore, postal competition for sending correspondence is generally a low margin transaction and requires significant volume to be sustainable.

Consequently, switching from post to electronic substitutes has grown; for example, the sending of bills, invoices, statements by email / internet. The cost of electronic substitution mainly arises from a large upfront investment so as to put in place the required systems and minimise ongoing cost thereafter. Therefore, once communication has moved to an electronic alternative, it is likely to be permanently lost from post.

### **Sending of packets and parcels**

This segment is developing strongly. According to research commissioned by ComReg<sup>44</sup>, this segment is growing by 2-4% overall with Business to Consumer growth estimated to be 6-8% per annum, largely due to the growth in e-commerce. This research estimated that in the wider packet and parcel sector in Ireland:

- Eight operators account for about 90% of the volumes of the packet and parcel sector in Ireland, with An Post<sup>45</sup> estimated to be the largest (largely in smaller parcels, packets). Most of these operators are not postal service providers and therefore are not regulated by ComReg.
- Most pricing is negotiated and done on a bespoke basis, except for over-the-counter single piece sales to smaller consumers. There is a significant amount of price discrimination, with large volume senders typically receiving lower prices.
- Senders place most value on price and reliability when choosing packet and parcel operators.

### **Receivers of post (correspondence and packets/parcels)**

This segment can be best considered as two somewhat distinct groupings.

#### **(1) Receivers of correspondence i.e. letters:**

Such receivers do not pay directly for the service and typically do not know when such correspondence is sent, for example, customers of a utility company do not typically know that it takes up to 3 days for their bill to arrive as the utility company has purchased a cheaper, but slower, deferred delivery postal service. Usually, correspondence received is of domestic origin, that is, from Irish based utilities, banks, government.

#### **(2) Receivers of packets/parcels:**

Such receivers typically do have choices as to whether to pay directly for delivery or not. Typically, receivers of packets/parcels only pay for delivery when such receivers opt for an express option. Generally, many

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<sup>44</sup> ComReg Document No. 15/47 @ <https://www.comreg.ie/csv/downloads/ComReg1547.pdf>

<sup>45</sup> An Post estimates it has 25% market share, which it plans to grow – see <http://www.anpost.ie/AnPost/MainContent/About+An+Post/Media+Centre/Press+Releases/2017/World+Wide+Open.htm>

packets/parcels are sent “free delivery” to receivers but the packet/parcel, as a result, can take a number of days to arrive as the sender of the packet/parcel has purchased a slower delivery service at a lower cost to minimise the cost of providing “free delivery” to its customer, the receiver of the packet/parcel. Packets/parcel received are of both domestic and overseas in origin, much of which originates in the UK.

## The legal framework

Our remit to regulate the postal sector comes directly from legislation, in particular from the Postal Act, which transposed the European Postal Services Directive<sup>46</sup> into national law.

There are three categories of postal services which are subject to regulation under the Postal Act:

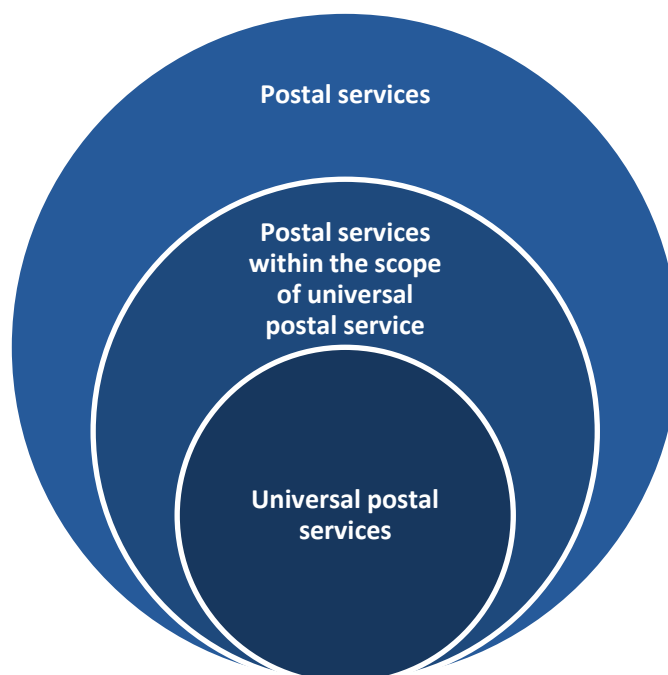
1. The universal postal service as defined by the Postal Act and ComReg regulation, which must be provided exclusively by An Post for the period to 2023, with the option for ComReg to consider a review in 2018.
2. Postal services which fall within the scope of the universal postal service on the basis that they meet any one of the three criteria set out in section 37(1) of the Postal Act and by reference to ComReg’s guidelines<sup>47</sup>. Any postal service provider can provide “postal services within the scope of the universal postal service”. According to section 37(1) of the Postal Act this category does not include document exchange or express or courier services.
3. Other postal services; this being a residual category comprising postal services that are not part of the two previous categories.

These can be represented graphically as follows:

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<sup>46</sup> The objectives for postal services regulation have been implemented in EU law through the Postal Services Directive - Directive 97/67/EC. This directive established a regulatory framework for European postal services and was amended by Directive 2002/39/EC and Directive 2008/6/EC.

<sup>47</sup> ComReg 12/81a @ <https://www.comreg.ie/csv/downloads/ComReg1281a.pdf>

**Figure 22. Three categories of postal services which are subject to regulation**

The Postal Act grants certain rights as well as imposing certain obligations on providers of postal services, depending on the type of service being provided - i.e. whether it is a universal postal service, or a service within the scope of the universal postal service, or a residual category of postal service. The particular type of service being provided thus determines the specific rights and obligations that shall apply to the provider of that service. The Postal Act imposes greater obligations on the universal postal services, with lesser obligations on postal services within the scope of universal postal service, and with lesser obligations again on postal services, largely limited to obligations to protect postal service users.

Of course, any undertaking may also provide services which are not in fact a postal service, as that term is defined in the Postal Act, and which are not subject to any form of regulation by ComReg under the Postal Act<sup>48</sup>.

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<sup>48</sup> Also, all financial and other non-postal services which are provided at "post offices" are outside the definition of "postal services" and therefore such services are outside the regulatory remit of ComReg

## **An overview of our areas of responsibility**

ComReg's statutory functions and objectives in relation to the regulation of postal services are set out in the Postal Act.

### **ComReg's statutory functions** are:

1. To ensure the provision of a universal postal service that meets the reasonable needs of users; and
2. To monitor and ensure compliance by postal service providers with obligations imposed by or under the Postal Act in relation to the provision of postal services.

### **ComReg's statutory objectives** are:

1. 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;
2. To promote the interests of postal service users; and
3. Subject to 1 above, to facilitate the development of competition and innovation in the market for postal service provision.

In order to achieve these statutory objectives, ComReg must take all reasonable measures including the following:

1. Establishing such monitoring and regulatory procedures for the purposes of ensuring compliance by postal service providers with the obligations imposed on them;
2. Ensuring that postal service users may avail of a universal postal service that meets their reasonable needs;
3. 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
4. In so far as the promotion of the interests of postal service users is concerned –
  - a. 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 Competition and Consumer Protection Commission as appropriate.
  - b. Addressing the needs of specific social groups, in particular, disabled postal service users.



## Submitting Comments

The consultation period will run from **25 August 2017** to **25 September 2017** during which ComReg welcomes written comments to its draft Postal Strategy Statement.

Having analysed and considered the comments received, ComReg will review the draft Postal Strategy Statement and update, where appropriate.

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. 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.

**Comments should be submitted by 5pm, 25 September 2017** to:

Mr Stephen Brogan  
Commission for Communications Regulation  
1 Dockland Central  
Guild Street  
Dublin 1  
D01 E4XO  
Ireland  
By email to: [marketframeworkconsult@comreg.ie](mailto:marketframeworkconsult@comreg.ie)