



Office of the Director of
**Telecommunications
Regulation**

CONSULTATION PAPER

Levy on Providers of Postal Services

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1 INTRODUCTION

The European Communities (Postal Services) Regulations, 2000 (S.I. No. 310 of 2000), the "Regulations", designate the Director of Telecommunications Regulation as the National Regulatory Authority for the postal sector.

Under Section 6 of the Telecommunications (Miscellaneous Provisions) Act 1996 (the "Act"), as amended by the Regulations, the Director may make an order ("levy order") imposing a levy on universal service providers¹ for the purposes of meeting expenses properly incurred by the Director in the discharge of her functions in respect of postal services.

The Director's functions in respect of postal services include monitoring compliance by universal service providers with the Regulations relating to:

- A universal service involving the permanent provision of a postal service of a specified quality;
- Tariffs for each of the services provided by a universal service provider which form part of its universal service;
- Agreements on terminal dues for intra-Community cross-border mail to ensure the cross-border provision of the universal service;
- The accounting procedures of a universal service provider;
- Quality-of-service standards for the universal service, paying attention in particular, to routing times and to the regularity and reliability of services.

1.1 Background

Last year the ODTR published a consultation paper 'Levy on Providers of Postal Services, ODTR 01/55' and in response to the Consultation, the Director made a Levy Order (S.I. No. 474 of 2001) under Section 6 of the Telecommunications (Miscellaneous Provisions) Act 1996 (the "Act"), as amended by the Regulations.

At that time estimates of postal regulation expenditure amounted to €2.5m and incorporated an amount of

¹ The Regulations have designated An Post as a universal service provider and the Minister for Communications, Marine and Natural Resources may designate one or more additional postal service providers as a universal service provider having an obligation to provide all or part of the Universal Service.

approximately €1.3m per annum to meet the cost of placing a contract to Monitor Quality of Service. This sum was based on the costs then incurred by An Post in this regard. As announced in the ODTR 3rd Quarterly Report of 2002 (ODTR 02/76) and in the Official Journal of the European Communities (OJEC), a contract has now been entered into between the Director and TNS MRBI to Monitor An Post's Quality of Service for delivery of single-piece priority mail, in accordance with the European Standard, EN 13850.

The value of the contract placed will not exceed €250,000 in each levy year. In light of this revised amount, and a review of other costs it is now estimated that the overall cost of postal regulation for the year July 2002 – June 2003 will be approximately €1.1m.

As set out in ODTR 01/79, Levy on Providers of Postal Services-Response to Consultation, the Director proposes to amend the Postal Levy (No. 2) Order, 2001 to reflect the revised cost of postal regulation. The Director proposes to make a new levy order to cover the levy year July 2002 – June 2003, and for subsequent levy years, so that the provisions of such an order will accurately reflect the currently estimated cost of regulating postal services.

Should there be a need to revise the levy at a later stage, there is provision to review the levy amount in such circumstances.

2 OPERATION OF THE LEVY

The Director proposes to make a revised levy order before the end of 2002 to cover the period July 2002 – June 2003 and subsequent levy years. It will be structured as follows:

- The levy amount shall be that amount necessary for the purposes of meeting expenses properly incurred by the Director in the discharge of her functions in respect of postal services.
- The levy year shall be the financial year of the office of the Director of Telecommunications Regulation/Commission for Communications Regulation.
- The levy amount shall be expressed as a percentage of the relevant turnover of a universal service provider.
- Relevant turnover will be the gross revenue, excluding value-added tax, of the universal service provider in respect of postal services as reported in the financial statements for

the most recent financial year of the universal service provider.

For the period to 30 June 2002 the amount of the levy to be imposed on a universal service provider shall be in accordance with the provisions of the current Postal Levy Order (SI No. 474 of 2001).

For periods commencing on or after 1 July 2002 the amount of the levy imposed on a universal service provider in respect of any levy year in which the universal service provider is designated as such shall be 0.25% of the relevant turnover.

This levy percentage will be reviewed as necessary and where appropriate, a revised levy order issued.

The levy will be payable in equal instalments on or before the last day of each quarter.

Question 2.1: Do you agree with the structure for the collection of the levy as set out above? If not please give your reasons.

3 PERSONS AND ORGANISATIONS LIABLE TO THE LEVY

As provided for in the Regulations, section 6 (3)(a), An Post, is designated as a Universal Service Provider, by the Minister for Communications, Marine and Natural Resources and as such will be liable to pay the levy.

4 INFORMATION TO BE SUPPLIED ANNUALLY BY UNIVERSAL SERVICE PROVIDERS

Universal Service Providers will be required to submit a Statement of Relevant Turnover certified by their auditor's within 21 weeks of their financial year end together with a copy of their annual report and accounts disclosing the turnover for postal services in accordance with SSAP 25 and/or IAS 14.

Question 4.1: Do you agree with these arrangements for the provision of information to verify levy payments? If not please give reasons.

5 ADJUSTMENTS TO THE AMOUNT TO BE LEVIED

In the event that the amount collected by way of the levy order in a particular year differs from the amounts required to meet the purposes described in paragraph 2 above, the Director shall as soon as may be after the end of the levy year, repay to each universal service provider the amount by which the payments were deemed to be excessive.

6 PENALTIES

Under Section 13 of the Act, it is an offence to fail to pay the levy imposed pursuant to Section 6.

7 SUBMITTING COMMENTS

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

The consultation period will run from 23 October 2002 to 20 November 2002 during which the Director welcomes written comments on any of the issues raised in this paper. Having analysed and considered the comments received, the ODTR will review the Levy to be imposed on Universal Service Providers and publish a report in early to mid December 2002 on the consultation which will, *inter alia*, summarise the responses to the consultation. In order to promote further openness and transparency the ODTR will publish the names of all respondents and make available for inspection responses to the consultation at her Offices.

The Director appreciates that many of the issues raised in this paper may require respondents to provide confidential information if their comments are to be meaningful. Respondents are requested to clearly identify confidential

material and if possible to include it in a separate annex to the response. Such information will be treated as strictly confidential.

"All responses to this consultation should be clearly marked "Reference: Submission re ODTR 02/93" and sent by post, facsimile or e-mail to:

FREEPOST

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to arrive on or before 5 pm, 20 November 2002.

Office of the Director of Telecommunications Regulation

23 October 2002

This consultation paper does not constitute legal, commercial or technical advice. The Director is not bound by it. The consultation is without prejudice to the legal position of the Director and to her rights and duties under legislation.