



Office of the Director of
**Telecommunications
Regulation**

Levy on Providers of Postal Services

Consultation Paper

Document ODTR 01/55

25 July 2001

Oifig an Stiúirthóra Rialála Teileachumarsáide
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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;

The response to the consultation paper on Quality of Service requirements will deal in detail with issues raised in relation to the ODTR role in monitoring quality of service, but as the Postal Directive² requires that performance monitoring shall be carried out by external bodies having no links with An Post, the contract for this will

¹ The Regulations have designated An Post as a universal service provider and the Minister for Public Enterprise 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.

² Article 16

have to be placed by the ODTR. There will therefore be substantial expenditure in the early years on a contract to monitor quality of service. There will also be considerable expenditure on a contract to monitor compliance with the accounting principles³. However, it is anticipated that the expenditure under these categories will not become substantial until early 2002 and therefore it is proposed that the levy amount will be revised upwards for periods commencing after 31 December 2001 to reflect this higher level of expenditure. To the extent that the ODTR takes over monitoring activities currently carried out by An Post, the net additional costs to An Post will be reduced. It is also anticipated that such expenses will reduce in later years which means that the levy should be reduced. There is provision to review the levy amount in such circumstances.

2. Operation of the levy

The Director proposes to make a levy order in the near future for periods commencing on or after 30 June 2001. 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.
- 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 accounting year of the universal service provider.
- For the period to 31 December 2001 the amount of the levy to be imposed on a universal service provider shall be 0.2% per annum of the relevant turnover.
- For periods commencing on or after 31 December 2001 the amount of the levy

³ The precise cost to the ODTR for either contract will not be known until specifications are finalised

imposed on a universal service provider in respect of any levy year in which the universal service provider is designated as such shall be 0.5% 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 quarterly in advance.

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 Public Enterprise 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 4 months 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.

and tenders sought.

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 1 above, it is intended that any such difference will be credited to or collected from the levy payer(s) annually. Any amount credited to the Levy payer(s) will reduce the amount payable in the subsequent quarter.

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

The Consultation period will run from 23 July to 17 August 2001 during which time the Director welcomes written comments on any of the issues raised in this paper. The ODTR will publish the names of all respondents and may summarise the responses received as part of its report on the consultation.

All comments are welcome, but the task of analysing responses will be simplified if comments are referenced to the relevant question numbers from this document.

In order to promote openness and transparency, the ODTR will make copies of the comments available for public inspection at its offices, excluding commercially sensitive information. Where material that is commercially sensitive is included in a response, this should be clearly marked and included in an Annex to the response.

All responses to this consultation should be clearly marked "Reference: Submission re ODTR 01/55 and sent by post, facsimile or e-mail to:

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to arrive on or before 5 p.m. 17August 2001,

Apart from acknowledging responses, the Director regrets that she will not, during the consultation period, be able to enter into correspondence with persons contributing comments on this consultation paper.

Office of the Director for Telecommunications Regulation

25 July 2001

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.