



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Postal Universal Service Provider Designation(s) after 1 August 2023

Consultation on Step 2: Which postal service
provider(s) should be designated and for what
duration(s)?

**Consultation and Draft
Decision**

Reference: ComReg 23/26

Date: 21/03/2023

**An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation**

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All responses to this consultation should be clearly marked:

“Reference: Submission re ComReg 23/26”, and sent by post, e-mail or online at www.comreg.ie (current consultations) to arrive on or before 5.p.m, Thursday 20 April 2023 to:

**Postal
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Please reference comments to the questions asked in this consultation and where required to the applicable section / paragraph number of this document. Please also set out your reasoning and all supporting information for any views expressed.

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

Legal Disclaimer

This Consultation is not a binding legal document and also does not contain legal, commercial, financial, technical or other advice. The Commission for Communications Regulation is not bound by it, nor does it necessarily set out the Commission's final or definitive position on particular matters. To the extent that there might be any inconsistency between the contents of this document and the due exercise by it of its functions and powers, and the carrying out by it of its duties and the achievement of relevant objectives under law, such contents are without prejudice to the legal position of the Commission for Communications Regulation. Inappropriate reliance ought not therefore to be placed on the contents of this document.

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1 Executive Summary

1. The designation of An Post as universal postal service provider (“USP”) ceases on 1 August 2023 and ComReg has decided¹ there should be a new designation after that, that is, on and from 2 August 2023. The USP provides the universal postal service required by law².
2. The universal postal service means that on every working day there is at least one clearance and one delivery of postal items (largely letters) to the home or premises of every person in the State. The universal postal service ensures the provision of specific postal services to all with ease of access to the service, at an affordable price, at a sufficient level of quality, throughout the State. The universal postal service is a form of protection for postal service users, in particular vulnerable users and those that are digitally excluded.
3. Consequently, ComReg invited potential USP(s)³ to respond with submissions if interested to be designated as USP. The information required in those submissions was already established by ComReg in “the Procedures”⁴. There was only one response, An Post, seeking to be designated as USP after 1 August 2023. An Post submitted to provide the entire universal postal service for the entire State.
4. Having considered An Post’s submission and other relevant evidence, ComReg’s draft decision is to designate An Post as USP to provide the entire universal postal service for the entire State.
5. If An Post is to be the designated USP, the next decision is for how long An Post should be designated. The Procedures state that the USP designation period can be somewhere between 2 and 7 years duration. An Post has requested a designation period of 12 years⁵. For the reasons set out in this document, ComReg’s draft decision is to designate An Post as USP for a minimum duration of 3 years and a maximum duration of up to 5 years. After 3 years, ComReg will keep the designation under review and will consider when in the period of 3 to 5 years it is appropriate to review the designation. Stakeholders will be kept informed.
6. By this consultation, ComReg is seeking views on these draft decisions. As per ComReg’s consultation procedures⁶, all views will be considered and account taken of the merits of views expressed. It should, however, be noted that the process is not equivalent to a voting exercise and ComReg will exercise its judgement having considered the merits of the views expressed.

¹ ComReg Document No. 22/103, D09/22

² Communications Regulation (Postal Services) Act 2011 as amended (“the Postal Act”)

³ ComReg Document No. 22/103a

⁴ ComReg Document No. 19/64a, established after public consultation

⁵ Similar to the designation under the Postal Act, which was for 12 years (subject to ComReg’s review after 7 years)

⁶ ComReg Document No. 11/34

2 Introduction

7. ComReg is the national regulatory authority for postal services in the State and its functions and objectives are set out in the Communications Regulation Act 2002, as amended (“the 2002 Act”).
8. Under the Communications Regulation (Postal Services) Act 2011 as amended (“the Postal Act”), ComReg is mandated to ensure the provision of a universal postal service in the State that meets the reasonable needs of postal service users. The universal postal service obligation (“USO”) consists of a basic but high-quality postal service for all postal service users for the collection, sorting, transport and delivery of universal postal service postal packets, at affordable prices irrespective of where they are located in the State. The USO was prescribed for all EU Member States by the EU Postal Directive⁷ recognising that postal services are an essential instrument of communication and trade. The Postal Act transposed the EU Postal Directive in Ireland.
9. The USP provides the USO required by the Postal Act and the USO Regulations⁸. The USO means that on every working day there is at least one clearance and one delivery of postal items (largely letters) to the home or premises of every person in the State. The USO ensures the provision of specific postal services to all with ease of access, at an affordable price, at a sufficient level of quality, throughout the State. The USO is a form of protection for postal service users, in particular vulnerable users and those that are digitally excluded.
10. Section 17(1) of the Postal Act designated An Post as the sole USP for universal postal services in the State, for a period of 12 years following the passing of the Postal Act (i.e. from 2 August 2011 – 1 August 2023), subject to designation review/decision by ComReg after the expiry of 7 years.⁹ Following public consultations¹⁰, ComReg made a decision¹¹ to continue the designation of An Post as the USP for the entire State for the duration of the unexpired period of the designation specified in section 17(1) of the Postal Act, that is to 1 August 2023.

⁷ The harmonised EU framework for the regulation of postal services under Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service, as amended by Directive No. 2002/39/EC, and Directive No. 2008/6/EC (“the EU Postal Directive”). The Postal Act transposed the EU Postal Directive for the State.

⁸ The universal postal services as defined by section 16 of the Postal Act and as specified by the Communications Regulation (Universal Postal Service) Regulations 2012 made by ComReg pursuant to section 16(9) of the Postal Act (“USO Regulations”)

⁹ Prior to the Postal Act, An Post was also designated as sole USP for the State under the previous regulations, the European Communities (Postal Services) Regulations, 2002 (S.I. No. 616 of 2002). Before that, the Postal and Telecommunications Services Act, 1983 (No. 24 of 1983) gave An Post exclusive privilege in respect of certain postal services in view of its primary purpose of providing a national postal service.

¹⁰ ComReg Document Nos. 19/125 and 20/49

¹¹ ComReg Decision D13/20, ComReg Document No. 20/131

11. In October 2022, by public consultation¹², ComReg commenced the review of the USP Designation after 1 August 2023 and whether there is a requirement for designated USP(s).
12. As required by section 19 of the Postal Act, the review of the USP Designation after 1 August 2023 is in accordance with procedures established and maintained by ComReg, “the Procedures”¹³. The Procedures set out two main steps for USP designation reviews which are summarised as follows:

- **Step 1 – Is there a requirement for a USP designation?**

This Step 1 is complete and in December 2022, following a public consultation, ComReg made the decision¹⁴ that a USP Designation is required after 1 August 2023.

- **If Yes at Step 1: Step 2 – Which PSP(s) should be designated as USP(s)?**

As ComReg made a ‘Yes’ decision at Step 1, ComReg at the same time invited submissions from PSP(s) interested to be USP¹⁵. There was one submission, from An Post, interested to be USP after 1 August 2023. An Post submitted it would be USP for the entire State and for the entire universal postal service. This document is the consultation on this Step 2 and sets out ComReg’s assessment and draft decision on An Post as the designated USP after 1 August 2023.

13. This Step 2 consultation is as follows:

- Chapter 3 sets out ComReg’s assessment and preliminary view on USP designation after 1 August 2023
- Chapter 4 sets out ComReg’s preliminary view on the appropriate designation period duration after 1 August 2023
- Chapter 5 sets out the draft Regulatory Impact Assessment
- Chapter 6 sets out the consultation questions and how to submit responses
- Annex 1 is the draft Decision
- Annex 2 sets out the legal basis.

¹² ComReg Document No. 22/85

¹³ ComReg Document No. 19/64a

¹⁴ ComReg Document No. 22/103, D09/22

¹⁵ ComReg Document No. 22/103a

3 Assessment and preliminary view on USP designation

14. The Procedures¹⁶ set out the information and detail that any PSP interested to be USP is required to provide.
15. An Post has submitted its interest to be designated USP for the entire State and for the entire universal postal service from 1 August 2023. An Post's submission is published (with redactions for confidential information) in ComReg Document No. 23/26a.
16. In accordance with the Procedures, ComReg must review and assess the submissions and all information it has gathered from postal service providers as part of its designation review process and all other relevant information in its possession. ComReg has now assessed the information supplied by An Post in support of its submission together with all other relevant information that it has in its possession.
17. As noted in the Procedures, ComReg's assessment on the USP(s) to be designated includes the information gathered from the submission as well as all relevant information ComReg has in its possession. ComReg's assessment on the USP designation is based on:
 - the solution which will best ensure the provision of the universal postal service covering the entire State with the least market distortion;
 - the solution that best meets the reasonable needs of postal service users; and
 - the solution which represents the most efficient and cost-effective way to provide the universal postal service for the State.
18. Following completion of its assessment, ComReg is of the preliminary view that it is appropriate to designate An Post as USP as:
 - Only An Post submitted interest to be USP after 1 August 2023; there was no submissions from other postal service provider(s) and therefore no competitive process to be designated;
 - An Post is willing to provide the entire universal postal service for the entire State after 1 August 2023. An Post is currently the only postal service provider in the State providing all of the required universal postal services in full and which has the network to do so. There is currently no other authorised postal service provider capable of providing the universal postal service, in whole or in part. Therefore, An Post as designated USP

¹⁶ ComReg Document No. 19/64a, established after public consultation. Reproduced in ComReg Document No. 22/103a.

will ensure the provision of the universal postal service covering the entire State with the least market distortion;

- An Post has been the USP to 1 August 2023 and has An Post has demonstrated its capability to provide all of the universal postal service for the entire State and to meet the reasonable needs of postal service users.

19. ComReg's draft decision as set out in Annex 1 is as follows:

- ComReg's reasoning for its decision on the choice of An Post as USP is based on the assessment by ComReg of An Post's submission, other relevant information, and that An Post was the only submission to be USP;
- An Post will provide the entire universal postal service in the entire State;
- the effective date of the new designation will be on and from 2 August 2023, subject to ComReg's approval of the universal postal service terms and conditions and publication of the notice of this approval.

Q. 1 Do you agree or disagree with ComReg's assessment and preliminary view as set out above and ComReg's draft decision as set out at Annex 1 to designate An Post on and from 2 August 2023? Please document clearly what part(s) you are in agreement or disagreement with by providing a detailed response with supporting information / data.

4 Proposed duration period of the USP designation

20. The Procedures state that the USP designation period can be somewhere between 2 and 7 years. An Post in its submission has proposed a designation period of 12 years, similar to the designation under the Postal Act which was for 12 years, subject to ComReg review after 7 years.
21. ComReg considers that there are a number of factors to consider for an appropriate designation period.
22. A statutory requirement is that the period of designation is of sufficient duration for the return on investments; the Procedures note for each designation ComReg will set the appropriate designation period based on the information ComReg has before it and the particular circumstances at the time. An Post has submitted some information on its proposed future investments ✂ [REDACTED] ✂.
23. The information provided by An Post shows that these future investments are largely for ✂ [REDACTED] ✂.
24. The investment information provided by An Post show that the proposed investment for the universal postal service is:
- (1) Relatively ✂ [REDACTED] ✂
 - (2) To be recovered by [REDACTED] ✂.
25. Another factor is the planned review of the EU Postal Directive. The review of the EU Postal Services Directive could likely redefine postal service and the universal postal service. If so, any such legislative change will impact the universal postal services obligations on designated USP(s). Therefore, ComReg considers that the duration should be sufficient to allow time for the next designation to take account of any potential future legislative changes. ComReg considers this is likely to happen in the period 2025-2027.
26. Another factor is possible changes to postal services by An Post; for example, deferred delivery of single piece letters which is not currently provided by An Post. If these are provided by An Post, ComReg would consider adding these new postal services to the universal postal service. These new postal services could change the universal postal service considerably and could mean that other postal service provider(s) may be capable of providing the universal postal service.
27. Another factor is likely changes to the universal postal service specification by ComReg over the next few years. The Postal Act requires ComReg to

ensure that the universal postal service develops in response to the technical, economic and social environment and to the reasonable needs of postal service users. ComReg has made changes to the specification of the universal postal service periodically, and this will likely continue over the next few years. Changes to the universal postal service specification could mean other postal service provider(s) may be capable to be designated as USP, in particular for part of the universal postal service.

28. Taking into account the information provided by An Post in its submission, in particular the information on investments in the universal postal service, and the factors above, ComReg proposes to designate An Post for a minimum duration of 3 years and a maximum duration of up to 5 years. After 3 years, ComReg will keep the designation under review and will consider when in the period of 3 to 5 years it is appropriate to review the designation. Stakeholders will be kept informed. This means that the duration of the designation will be between 3 and up to 5 years. The review after 3 years would be in accordance with the Postal Act and ComReg's procedures (including public consultation) to decide:

(1) no designation is required or

(2) new designation(s) are decided.

29. According to information provided by An Post, ComReg considers that the minimum duration of 3 years is appropriate for return on investments on the universal postal service. It is also within the range established by the Procedures which were subject to public consultation at the time.

Q. 2 Do you agree or disagree with ComReg's preliminary view that the designation will be for a minimum of 3 years and a maximum of up to 5 years? Please provide a detailed response with supporting information / data where appropriate to support your view.

5 Draft Regulatory Impact Assessment

30. A Regulatory Impact Assessment (“RIA”) is a structured approach to the identification and assessment of available regulatory options to meet the policy issue, including the likely impact of the regulatory options on different stakeholders. Based on this assessment, the RIA concludes with the choice of the best option to meet the policy issues. This best option should be the most effective and least burdensome regulatory option – it should be appropriate, effective, proportionate, and justified.
31. ComReg’s approach to the RIA is set out in the “Guidelines on ComReg’s Approach to Regulatory Impact Assessment” published in August 2007¹⁷ and has regard to the RIA Guidelines issued by the Department of An Taoiseach in June 2009 (“the Department’s RIA Guidelines”), adopted under the Government’s Better Regulation programme.
32. The guidelines set out, amongst other things, the circumstances in which ComReg considers that a RIA is appropriate. In summary, ComReg indicated that it would generally conduct a RIA in any process that might result in the imposition of a regulatory obligation, or the amendment of existing regulatory obligations to a significant degree, or which might otherwise significantly impact on any relevant market or on any stakeholders or consumers.

Steps involved

33. In assessing the available regulatory options, ComReg’s approach to RIA follows five steps as follows:

Step 1: describe the policy issue and identify the objectives

Step 2: identify and describe the regulatory options

Step 3: determine the impacts on stakeholders

Step 4: determine the impacts on competition

Step 5: assess the impacts and choose the best option

Step 1: Describe the policy issue and identify the objectives

34. The policy issue and objective is the designation of universal postal service provider(s) under section 18 of the Postal Act. This is required as the current designation of a universal postal service provider expires on 1 August 2023¹⁸ and because ComReg has decided that a new designation is required¹⁹.

¹⁷ ComReg document 07/56a

¹⁸ Section 17 of the Postal Act

¹⁹ ComReg Document No. 22/103

Step 2: Identify and describe the regulatory options

35. The policy issue entails two policy choices (1) Who to designate and (2) What designation duration as follows:

Option 1: Who to designate?

- Option 1A: to designate An Post as the universal postal service provider on and from 2 August 2023

OR

- Option 1B: to not to designate An Post, but to designate other postal service provider(s)

Option 2: What designation duration?

- Option 2A: to designate for a minimum duration of 3 years and a maximum duration of up to 5 years

OR

- Option 2B: to designate for another duration.

Steps 3 & 4 & 5: Determine the impacts on stakeholders and competition, assess the impacts and choose the best option

36. With regard to Option 1: Who to designate?

- Option 1A maintains An Post as designated universal postal service provider. An Post has been the designated universal postal service provider since the Postal Act came into effect. An Post was the only postal service provider to make a submission to be designated as universal postal service provider.
- Option 1B would mean that An Post is no longer designated universal postal service provider. ComReg has decided a designation is needed. This would mean that ComReg would have to designate other postal service provider(s) to be universal postal service provider(s). However, no other postal service provider(s) has submitted to be designated as universal postal service provider. Furthermore, ComReg considers that at this time no other postal service provider could provide the entire current universal postal service for the entire State.

Option 1: Who to designate?	Impact on stakeholders	Impact on competition
<p>Option 1A: to designate An Post as the universal postal service provider on and from 2 August 2023</p>	<p>An Post is the current designated universal postal service provider, so this option is the status quo. An Post has the network and the resources to provide the universal postal service. This continues An Post’s provision of the universal postal service for postal service users as is. An Post has submitted to be designated so this option meets the ask of An Post.</p>	<p>No impact on competition, the universal postal service does not face effective competition.</p>
<p>Option 1B: to not to designate An Post, but to designate other postal service provider(s)</p>	<p>To designate other postal service provider(s) instead of An Post could, at this time, mean that there is a risk that postal service users could not avail of entire universal postal service across the entire State as currently no other postal service provider offers this. No postal service provider(s) has submitted to be designated, there would be impacts on postal service provider(s) if ComReg decided to designate such postal service provider(s).</p>	<p>No impact on competition, the universal postal service does not face effective competition.</p>

37. Having regard to the impacts assessed above, and the reasons presented in this document, the conclusion of this RIA is that Option 1A to designate An Post as the universal postal service provider on and from 2 August 2023 is best as it is the most effective and least burdensome regulatory option.

38. With regard to Option 2: What designation duration, Option 1A means that An Post exclusively provides the entire universal postal service for the entire State for the duration of the designation.

- Option 2A is to designate for a minimum duration of 3 years and a maximum duration of up to 5 years, that is, a duration of between 3 and 5 years.

- Option 2B would be a designation duration different to Option 2A; for example, An Post’s proposal of 12 years.

Option 2: What designation duration?	Impact on stakeholders	Impact on competition
Option 2A: designate for a minimum duration of 3 years and a maximum duration of up to 5 years	Continues the designation of An Post to the benefit of postal service users. According to information provided by An Post, ComReg considers that the minimum 3 year duration is sufficient for An Post’s return on investments in the universal postal service. The period of the duration enables ComReg to consider prospective legislative and regulatory changes anticipated in the next few years which will likely change the universal postal service and thereby may facilitate additional / other universal postal service provider(s).	No impact on competition, the universal postal service does not face effective competition. It is considered that this duration enables other postal service provider(s) to be in a position to be able to submit to be designated universal postal service provider, particularly in part, should there be the expected legislative / regulatory changes to the universal postal service during the duration period.
Option 2B: to designate for another duration	According to information provided by An Post, An Post does not need a longer duration to recover the costs of investments on the universal postal service. As there is only one designated universal postal service provider this means that provider exclusively provides the entire universal postal service for the entire State for the duration of the designation. It is considered reasonable for the duration to not be longer than necessary so as to consider market circumstances for the next designation decisions.	No impact on competition, the universal postal service does not face effective competition. It is considered that a duration longer than 5 years is not appropriate as ComReg anticipates that there will be legislative / regulatory changes to the universal postal service that could enable other postal service provider(s) to be in a position to be able to submit to be designated universal postal service provider, particularly in part, given the likely legislative / regulatory changes to the universal postal service.

39. Having regard to the impacts assessed above, and the reasons presented in this document, the conclusion of this RIA is that Option 2A designate for a minimum duration of 3 years and a maximum duration of up to 5 years is best as it is the most effective and least burdensome regulatory option.

Q. 3 Do you agree or disagree with ComReg's draft Regulatory Impact Assessment? Please provide a detailed response with supporting information / data where appropriate to support your view.

6 Questions and submitting comments

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Q. 1 Do you agree or disagree with ComReg’s assessment and preliminary view as set out above and ComReg’s draft decision as set out at Annex 1 to designate An Post on and from 2 August 2023? Please document clearly what part(s) you are in agreement or disagreement with by providing a detailed response with supporting information / data.....	9
Q. 2 Do you agree or disagree with ComReg’s preliminary view that the designation will be for a minimum of 3 years and a maximum of up to 5 years? Please provide a detailed response with supporting information / data where appropriate to support your view.....	11
Q. 3 Do you agree or disagree with ComReg’s draft Regulatory Impact Assessment? Please provide a detailed response with supporting information / data where appropriate to support your view.	16

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**Postal
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Commission for Communications Regulation
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Email: retailconsult@comreg.ie

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Annex: 1 Step 2: Draft Decision

1. STATUTORY FUNCTIONS AND POWERS

1.1 This Decision and Decision Instrument is hereby made by The Commission for Communications Regulation (“ComReg”) established under section 6 of the Communications Regulation Act 2002 (as amended”) (“the Act”), for the purposes of deciding a Universal Postal Service Provider designation in the State on and from 2 August 2023.

1.2 This Decision and Decision Instrument is made:

- (i) Pursuant to and having had regard to its statutory functions and objectives in relation to postal services, as set out in sections 10 and 12 of the Act;
- (ii) Pursuant to and having had regard to sections 18 and Section 19 of the Communications Regulation (Postal Services) Act 2011 (“the 2011 Act”);
- (iii) Having complied with the procedures established and published by ComReg pursuant to section 19 of the 2011 Act in ComReg Document No. 19/64a;
- (iv) Having had regard to the assessment and reasoning set out in ComReg Document No. 23/XX, Decision XX/23;
- (v) Having had regard to the views of interested parties submitted in response to ComReg Document No. 23/26 as set out into Response to Consultation ComReg Document No. 23/XX, Decision XX/23.

2. DEFINITIONS AND INTERPRETATION

- 2 Terms that are used in this Decision Instrument shall have the same meaning as when they are used in the 2011 Act unless the context otherwise admits or requires.
- 3 Words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise admits or requires.
- 4 “Effective Date” means the date specified in section 7.3 of this Decision Instrument.
- 5 “The Procedures” means the Procedures established and published by ComReg Document No. 19/64a entitled ‘Postal Universal Service Provider Designation Procedures’.
- 6 “Universal Postal Service Provider designation” means a designation under section 18 of the 2011 Act.

3. UNIVERSAL POSTAL SERVICE PROVIDER DESIGNATION DECISION

7 ComReg decides:

- 7.1 that in accordance with Step 2 of the Procedures that An Post is designated as universal postal service provider for the entire universal postal service and for the entire State on and from 2 August 2023 for a maximum designation duration of 5 years (1 August 2028), unless otherwise amended by ComReg pursuant to a review of the designation, which will be no sooner than 3 years after the date of designation;
- 7.2 this designation duration period is appropriate, having regard to the need to ensure that the designation is of sufficient duration for the return on investments; and
- 7.3 Effective Date: this decision is effective 14 days after the date of publication of notice of approval of the terms and conditions in accordance with s.18(4) of the 2011 Act and shall remain in full force until 1 August 2028 unless otherwise amended by ComReg.

4. CONTINUATION OF COMREG DECISIONS

- 8 All other decisions imposed by ComReg in relation to universal postal service obligations, which were immediately in force prior to the effective date of this Decision and Decision Instrument, shall continue to have full force and effect.

5. MAINTENANCE OF OBLIGATIONS AND SEVERANCE

- 9 If any Section(s), Clause(s) or provision(s), or portion(s) contained in this Decision Instrument is found to be invalid or prohibited by the Constitution, by any other law or judged by a court to be unlawful, void or unenforceable, then that Section(s), Clause(s) or provision(s), or portion(s) thereof shall, to the extent required, be severed from this Decision Instrument, and rendered ineffective, but as far as possible without modifying the remaining Section(s), Clause(s) or provision(s), or portion(s) thereof and shall not in any way affect the validity or enforcement of this Decision Instrument or other Decision Instruments.

**GARRETT BLANEY
COMMISSIONER
THE COMMISSION FOR COMMUNICATIONS REGULATION
THE X OF MAY 2023**

Annex: 2 Legal Basis

ComReg's functions and objectives relating to the postal sector

- A 1.1 ComReg's statutory functions in relation to the postal sector are set out in section 10(1) of the Communications Regulation Act 2002, as amended, ("the 2002 Act") and are as follows:
- "(ba) to ensure the provision of a universal postal service that meets the reasonable needs of postal service users,*
- (c) to monitor and ensure compliance by postal service providers with the obligations imposed on them by or under the Communications Regulation Acts 2002 to 2011 in relation to the provision of postal services."*
- A 1.2 ComReg's statutory objectives, in exercising the above functions, are set out in section 12(1)(c) of the 2002 Act, and are as follows:
- "(i) 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,*
- (ii) to promote the interests of postal service users within the Community, and*
- (iii) subject to subparagraph (i), to facilitate the development of competition and innovation in the market for postal service provision".*
- A 1.3 The EU Postal Directive²⁰ and national legislation have set down the requirements for a "universal service" which guarantees, one clearance and one delivery to the home or premises of every natural or legal person every working day, even in remote or sparsely populated areas.

Designation of USPs – General Provisions

- A 1.4 Section 18 "Designation of universal postal service providers – general provisions." provides:

²⁰ Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service as amended by Directive No. 2002/39/EC of 10 June, 2002, and Directive No. 2008/6/EC of 20 February, 2008, of the European Parliament and of the Council.

“(1) Before the end of the period for which the designation of An Post is continued under subsection (2)(a)(i) or (5) of section 17 or, as the case may be, before the end of the period for which a universal postal service provider is designated under subsection (2)(a)(ii) of that section or, in a case where a universal postal service provider is designated under this section, before the end of the period for which the provider is so designated, the Commission—

(a) shall conduct a review of the designation, and

(b) may with effect from the expiry of that period—

(i) decide to designate one or more than one postal service provider as a universal postal service provider for such period, subject to subsection (4), as the Commission considers appropriate, or

(ii) decide that no such designation is required.

(2) Where the Commission makes a decision—

(a) with the prior consent of the Minister, under section 17 (2)(b), or

(b) under subsection (1)(b)(ii),

it shall, at such intervals as it considers appropriate, conduct a review under section 19 for the purpose of deciding whether a designation of one or more than one postal service provider as a universal postal service provider is required and may decide that—

(i) no such designation is required for the time being, or

(ii) such designation is required for such period, subject to subsection (4), as the Commission considers appropriate,

and this section applies to a decision made under subparagraph (i) or (ii), as the case may be, as it applies to a decision made under subparagraph (i) or (ii) of subsection (1)(b).

(3) The Commission may determine that different universal postal service providers, the subject of a designation made by the Commission under section 17 (2)(a)(ii) or this section, shall provide different parts of the universal postal service or provide that service in respect of all or any part or parts of the State, or both, having regard to the need to ensure that there is no duplication of the obligations imposed on each universal postal service provider so designated.

(4) The designation of a universal postal service provider by the Commission under section 17 (2)(a)(ii) or this section—

(a) shall be for such period as the Commission considers appropriate, having regard to the need to ensure that the designation is of sufficient duration for the return on investments,

(b) shall take effect 14 days after the date on which notice of approval of the terms and conditions of its universal postal service provision is published under section 23 (2)(a), and

(c) shall cease to have effect—

(i) on the date on which the designation of a universal postal service provider takes effect under paragraph (b), or

(ii) on the date on which the Commission decides that no such designation is required.”

USP Designation Reviews by ComReg

A 1.5 Section 19 “Review by Commission” provides:

“(1) A review by the Commission for the purposes of section 17 or 18 shall, subject to subsection (2), be conducted in accordance with such procedures as may be established and maintained by the Commission having regard to its functions and objectives under the Communications Regulation Acts 2002 to 2011 relating to postal services, in particular the need to ensure the provision of a universal postal service and compliance with the requirements specified in section 18.

(2) The procedures referred to in subsection (1) shall—

(a) make provision for the carrying out of an assessment of the extent to which the market for the provision of postal services in the State is meeting the reasonable needs of postal service users,

(b) be such as the Commission considers to be efficient, objective, transparent, non-discriminatory and proportionate, and

(c) be published by the Commission.”

Notification of USP Designation by ComReg

A 1.6 Section 20 “Notification of designation” provides:

“(1) The continuance of the designation of An Post under subsection (2)(a)(i) or (5) of section 17 or, as the case may be, the designation of a universal postal service provider under subsection (2)(a)(ii) of that section, or the designation of a universal postal service provider under section 18, shall be in writing, and the Commission shall—

(a) publish notice of the such continuance or designation in Iris Oifigiúil and in such other manner as it considers appropriate, and

(b) notify in writing—

(i) the European Commission of such continuance or the identity of any universal postal service provider so designated, and

(ii) the Minister of the identity of any universal postal service provider so designated.

(2) Where the Commission makes a decision under section 17 (2)(b) or subsection (1)(b)(ii) or (2)(i) of section 18, as the case may be, that no designation is required, it shall—

(a) publish notice of such a decision in Iris Oifigiúil and in such other manner as it considers appropriate, and

(b) notify in writing the Minister and the European Commission.”