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Communications Regulation

Publication of non-confidential submissions to ComReg Document 13/48

ComReg's draft determination on the form and manner of any net cost request by the Universal Postal Service Provider

Information Notice

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

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1 An Post



An Post

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Mr. Stephen Brogan
ComReg
Abbey Court, Block DEF
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Lower Abbey Street
Dublin 1

18 June 2013

Reference: Consultation 13/48

Dear Mr. Brogan

Please find enclosed the An Post response to the above consultation.

Yours sincerely

Brian Fay
Head of Regulatory Affairs

**Consultation on ComReg's draft
determination on the form and manner
of any net cost request by the
Universal Postal Service Provider
under Section 35 of the 2011 Act**

Reference: Consultation 13/48

**An Post Response
18 June 2013**

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1. Introduction

An Post welcomes the opportunity to submit its views on ComReg's draft determination in relation to the form and manner of any net cost request by the universal postal service provider.

The objective of the present consultation is to seek input from interested parties on ComReg's preliminary views on the form and manner of any net cost submission by An Post made under Section 35 and Schedule 4 of the Communications Regulation (Postal Services) Act 2011 ("the 2011 Act"). The consultation also provides guidance on the information that would be required to support a net cost submission.

In general An Post finds ComReg's preliminary views on the form and manner of any net cost submission to be in line with its views and those of its professional advisors.

2. Response to consultation questions

Q. 1 Do you agree or disagree that Profitability Cost is the appropriate methodology to assess the net costs (if any) of providing the universal postal service? Please explain your response.

An Post's own investigations into the assessment methodologies developed and used in several countries, and the experience of its professional advisors, support the view that Profitability Cost is the appropriate methodology to use in assessing the net cost of providing the universal postal service.

An Post believes the Profitability Cost methodology to be appropriate as it not only takes into consideration the costs and benefits involved in both the 'business-as-usual' and 'reference' scenarios, but also includes the concept of the Universal Service Provider earning reasonable profits in both scenarios.

An Post, therefore, agrees in principle that Profitability Cost is the appropriate methodology to assess the net costs of providing the universal postal service.

Q. 2 Do you agree or disagree that An Post should develop the reference scenario? Please explain your response.

An Post agrees with this approach.

As stated in much of the literature regarding the net cost calculation and the generation of reference scenarios, the postal operator is familiar with the practical operations of providing the Universal Service ('the USO') and is the body that will have given most consideration to different service scenarios. The operator, in this case An Post, will have the best understanding of the cost drivers involved and will therefore be in the best position to identify and evaluate reference scenarios.

An Post is also in the best position to assess the commercial viability of amendments to the service level inherent in the reference scenario.

Q. 3 Do you agree or disagree with the proposals on the form and manner of any net cost submission? Do you have any views on the proposed guidance set out in Annex 1–3? Please explain your response.

An Post agrees with the four steps presented in section 4.2 of ComReg's consultation paper.

An Post would just make a number of comments:

- In paragraph 34 of the Consultation, the approach is necessarily one of calculating a change in profit level but not to calculate the actual profit level. This would require the results of the Price Control Consultation, scheduled for later this year, to be known.
- In paragraph 45, An Post agrees in principle with this approach but it may be necessary to use a combination of accounting and LRIC in order to make the exercise manageable.

Annex 1: Proposed guidance to An Post in setting its reference scenario.

The proposed steps for establishing the reference scenario are in line with An Post's understanding of the process and in keeping with the Company's deliberations to date. The templates displayed may need to be tailored according to the scenarios developed.

Annex 2: Proposed guidance to An Post on measuring the revenues foregone and costs avoided by modification of the universal service

A 2.8

As stated by ComReg in its consultation document, demand estimates for reference scenarios will be uncertain as the scenarios will be hypothetical and will never have been previously experienced in Ireland. In this situation, econometric and other statistical evidence which estimates demand elasticities may not feasibly be used. In such situations an informed judgemental approach would be appropriate given the demand estimate uncertainty. An Post proposes to use its expert market knowledge and a sensitivity-based approach to estimate possible demand responses.

Given the risk of causing demand distortions in the existing market it is believed that a more pragmatic approach should be followed to establishing the preferences of customers, particularly large mailers, with regard to hypothetical changes in the postal service offerings. A direct customer survey asking questions about service level changes could, as a direct consequence, adversely impact on the rate of e-substitution.

A 2.24

In building models to reflect the reference scenarios considered, An Post and its professional advisors have taken an approach that is consistent with ComReg's proposals as outlined in Annex 2 of the consultation document.

A 2.27

When applying an efficiency adjustment factor in the USO costing models the efficiency factor used will reflect an estimate of possible 'frontier' efficiency that might, in theory, be achievable in the long run. As a long-run estimate, it will exclude any transition costs (both in the business-as-usual and reference scenarios). Similarly, it will *not* take into account the time-period over which a

transition from the current cost level to the frontier efficient cost level may be achieved. Accordingly, the efficiency estimator that will be used by An Post in assessing USO costs should not be confused with achievable efficiencies and transition costs associated with the projection of costs in the forthcoming price control determination.

A 2.29

An Post is of the opinion that an allowance for reasonable profit should be included and, as suggested in the consultation document, will provide detailed supporting information setting out why and how such an allowance has been used.

Annex 3: Proposed guidance to An Post on taking intangible market benefits into account.

A 3.3

When considering intangibles such as brand value it will be necessary to assess the proportion of benefit due to being the USP as opposed to the proportion due to being a state owned organisation or other attributes. In particular, it is important not to confuse the USP's ubiquity (in a relatively small and geographically concentrated market) with other attributes and achievements of An Post.

A 3.4

For clarification purposes, it should be stated that An Post does not benefit from some of the legal privileges listed in the consultation document, e.g. An Post has no exemptions from parking and stopping restrictions.

Q. 4 Do you have any views on this draft Regulatory Impact Assessment and are there other factors ComReg should consider in completing its Regulatory Impact Assessment? Please explain your response and provide details of any factors that should be considered by ComReg.

Other than the points made above, the Regulatory Impact Assessment contains nothing that An Post wishes revised at this time.

3. Conclusion

An Post finds the contents of ComReg's consultation document largely in line with its understanding of the USO Net Cost calculation process. It is hoped ComReg will take the comments presented in this response into consideration when finalising its determination on the form and manner of a net cost submission.

2 Nightline

Mr Stephen Brogan
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BY EMAIL: marketframeworkconsult@comreg.ie

18 June 2013

Ref: Consultation on ComReg's draft determination on the form and manner of any net cost request by the universal postal service provider under section 35 of the 2011 Act (Consultation and Draft Determination 13/48)

Dear Stephen,

Nightline Logistics Group is pleased to respond to the above Consultation and Draft Determination. As a major and growing player in the postal market this is of major interest and indeed ultimately of concern to us in developing our business and the sector.

To be clear, we are committed to growing the postal market – but not at a risk of subsidising An Post, unfairly and at risk of significant commercial disadvantage to our business plans.

We address the questions in turn as posed:

Q. 1 Do you agree or disagree that Profitability Cost is the appropriate methodology to assess the net costs (if any) of providing the universal postal service? Please explain your response

In answering this we point you to our response to ComReg 12/38¹ which provides a detailed analysis of what we consider to be acceptable. We would like this to be further taken into account, along with this response.

We have considered the Frontier Economics documents referenced². Our response detailed in ComReg (12/81) demonstrates that that the USO is in fact universally seen as a net benefit. We would also cite the report by WiK³ (PRC) which examines the situation in Australia, Belgium, France, Norway, Switzerland, and the UK and concludes that no shortfall should be supplemented.

¹ ComReg 12/38 'Postal Regulatory Framework: Implementation of the Communications Regulation (Postal Services) Act 2011'

² ComReg 13/48a 'Report by Frontier Economics: Recommendations on the form and manner that a net cost submission should be made by the universal postal service provider' and

http://ec.europa.eu/internal_market/post/doc/studies/2012-net-costs-uso-postal_en.pdf

³ <http://www.prc.gov/PRC-DOCS/library/USO%20Appendices/Appendix%20F%20Section%201.pdf>

Furthermore, although from 2001, the report for PostComm in respect of Royal Mail concludes the same⁴. It seems clear that the VAT, brand and ubiquity advantages outweigh any loss. However, all studies mark a need for efficiency.

The PC concept as we understand it excludes inefficiencies, and hence renders any product/service we may introduce more competitive in growing the market as a whole as per your Strategy Statement⁵. It appears acceptable but only under the constraints that we propose below in terms of oversight and an appropriate level of regulatory rigour.

Q. 2 Do you agree or disagree that An Post should develop the reference scenario? Please explain your response

Given that the Regulatory Accounts have not been publicly available since 2007, the only level of transparency is between An Post and ComReg. It would appear most practical for An Post to develop the reference model. We do not know what form that takes. We would like to stress however that ComReg needs to have a close involvement in any analysis of this scenario with detailed scrutiny. This should not be with excessive costs to be recovered by the industry in respect of any proposed levy⁶.

Q. 3 Do you agree or disagree with the proposals on the form and manner of any net cost submission? Do you have any views on the proposed guidance set out in Annex 1 – 3? Please explain your response

The PC approach would appear to be most practical.

Q. 4 Do you have any views on this draft Regulatory Impact Assessment and are there other factors ComReg should consider in completing its Regulatory Impact Assessment? Please explain your response and provide details of any factors that should be considered by ComReg

We would make some points here

- Your consultation focuses on the net cost (if any) of the USO. We are more concerned with how that net cost (if any is to be recovered), and over what timescale. Your consultation states that will be dealt with at a later date – we would request that this is completed as a matter of urgency as it impacts our business model.
- Our response detailed in ComReg (12/81)⁷ demonstrates that that the USO is in fact universally seen as a net benefit. This is further supplemented by USO studies by Postcomm (as previously referenced). It may also be worthwhile looking at studies by Oxera such as ‘Funding universal service obligations in the postal sector’⁸ which conclude that it was not, despite there being a net cost in some cases in accounting terms, but which was offset by benefits in all cases.

⁴http://webarchive.nationalarchives.gov.uk/20100202103622/http://www.psc.gov.uk/postcomm/live/policy-and-consultations/documents-by-date/2001/Cost_benefit_decision_document.pdf

⁵ ComReg 12/116 ‘Postal Strategy Statement 2012-2014’

⁶ ComReg 13/50 (D7/13) ‘Postal Levy: Response to Consultation on proposed levy for the purpose of meeting the expenses properly incurred by ComReg in the discharge of its functions relating to postal services’

⁷ ComReg 12/81 (D8/12) ‘Postal Regulatory Framework Implementation of the Communications Regulation (Postal Services) Act 2011’

⁸ www.posteurop.org/NeoDownload?docId=8617

- We then move onto whether it represents a net burden – see for example your own study which in respect of eircom (ComReg 13/45⁹), concluded this was not the case.

We are happy to discuss further.

Yours sincerely

Kevin Murray
Managing Director

⁹ ComReg 13/45 'Consultation and Draft Determination on the Assessment of Eircom's Universal Service Fund Application for 2009-2010'