



Commission for
Communications Regulation

Decision Notice & Response to Consultation

Regulation of Postal Services – Postal Service Authorisations, Reserved Area Controls & Levy

Procedures

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1 Foreword

The Minister for Communications, the Marine and Natural Resources in transposing the Postal Directive¹ into Irish legislation provided for a light-handed regulatory framework of Authorisations to be implemented in Ireland.

Once authorisations have been granted to the operators in accordance with the current regulatory framework, ComReg will be in a position to ensure that the operators comply with their obligations in respect of the essential requirements (e.g. the confidentiality of correspondence, security of the postal network and treatment of undelivered mail) and that they provide a proper complaints and redress system.

Unlike some other countries where it is necessary to secure a licence to provide services in direct competition with the designated universal service provider, it will still be possible to establish a competing service (outside of the reserved area) without formality. It will only be necessary to comply with the very simple authorisation process when turnover from postal services exceeds €500,000.

From January 1st next all outgoing trans-border mail will be fully open to competition.

We would like to thank everyone that responded to this consultation for taking the time to do so. The views expressed were appreciated and most helpful.

However, we note that the response to the consultation was confined to the very largest companies operating in the market. The procedures apply to all postal service providers. The telephone directory suggests that there are at least 500 courier companies operating in the market. We would have welcomed more inputs from these and from express parcel carriers. We would welcome suggestions as to how the base for future postal consultations could be broadened.

We would suggest that each operator examines its own position in line with the new Regulations noting that failure to comply with the authorisation procedures is an offence under the Regulations. Our objective is to provide a very simple and user-friendly authorisation process which would cause the least disruption while at the same time defining minimum standards within the postal sector.

John Doherty,

Chairperson

¹ 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. OJ L 15 21.1.1998, p. 14, as amended by Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services OJ L 176 5.7.2002, p.21.

2 Executive Summary

The European Communities (Postal Services) Regulations, 2002, S.I. 616 of 2002, opens up all outgoing trans-border mail to competition from 1 January 2004, makes provision for most postal service providers to put in place complaints and redress procedures, and requires providers of postal services with a turnover in excess of €500,000 to obtain a “*postal service authorisation*” from ComReg

In October the Commission for Communications Regulation (ComReg) published a consultation paper outlining proposed procedures to authorise postal service providers, including procedures to ensure that the area reserved to An Post is respected and proposed a new levy structure for the collection and payment of a levy to cover ComReg's costs in carrying out its regulatory functions in the postal area.

2.1 Authorisation Procedures

Briefly there will be an application form giving details of the applicant and the postal services provided, which must be accompanied by a written declaration that the services do not infringe the reserved area of An Post.

When ComReg is satisfied that all the documentation required has been submitted and that the services provided do not infringe the reserved services it will grant a postal service authorisation to the Applicant.

In cases where the undertaking has previously applied for an authorisation and has been refused, or has held an authorisation which was withdrawn, ComReg will consider whether there has been a change in circumstances that would warrant reviewing the previous decisions in accordance with the requirements of natural and constitutional justice.

Once the authorisation is granted details of the name and address of the undertaking and the services provided will be entered in a register of authorised postal service providers which will be available on the ComReg website and at ComReg's offices.

ComReg has a duty to monitor compliance by holders of Postal Service Authorisations with their obligation to draw up procedures to deal with incorrectly delivered mail, and the security and confidentiality of their postal service, and the obligation to introduce complaints and redress procedures in accordance with guidelines laid down by ComReg (published in document ComReg 03/50 - Appendix D).

ComReg will encourage Applicants to submit these procedures with the Application, or as soon as possible after the authorisation has been granted. ComReg will allow 6 months after the original date of application for all providers to provide documentation in relation to the procedures regarding security/confidentiality of mail and complaints procedures. Should any of the authorisations granted fail to produce the necessary documentation ComReg will initiate procedures to withdraw the authorisation by issuing a pre-proceedings letter to the operator setting out the repercussions for non-compliance.

2.2 Reserved Area Controls.

ComReg's procedures for ensuring that the reserved services are respected will be fully integrated with the authorisation procedures. Specific tests are set out at Appendix B and will be applied to determine whether a proposed service infringes the reserved services.

If ComReg decides that the description of services to be provided is consistent with the declaration not to infringe the reserved services the authorisation will be granted and details will be posted on ComReg's website.

On the other hand if ComReg decides that the services to be provided infringe An Post's reserved area the authorisation will be refused and the undertaking will be free to challenge this decision in the manner specified in Regulation 7 (6), ie, by way of appeal to the High Court.

2.3 Revision of Postal Levy.

Currently the Postal Levy is only paid by An Post. The Communications Regulations Act, 2002, provides that it may be levied on all providers of postal services. With the introduction of authorisations it is appropriate to revise the levy scheme to provide that all holders of postal services authorisations should pay the levy. It must be emphasised that the funds raised by the levy may only be used by ComReg to pay for the costs incurred in regulating the postal sector, and that if there is a surplus in any one year the surplus must by law be returned, or set off against the liability for future years.

To make the scheme fair and equitable ComReg has decided to impose a levy based on a percentage of turnover within the state to be applied to all holders. Different levy percentages will be applied to services provided by the designated universal postal service provider within the universal service area (0.25%) and all other providers of services, including services outside the scope of the universal service provided by the universal service provider (0.075% with a minimum levy of €1,000), to reflect the different levels of ComReg's responsibilities within the two areas. A revised levy order will be made to facilitate this amendment.

3 Introduction

3.1 Legislation

The Commission for Communications Regulation (“ComReg”) is responsible for the regulation of Postal Services in Ireland in accordance with National and EC legislation. ComReg is the National Regulatory Authority (“NRA”) for the purposes of that legislation.

One of ComReg’s functions under the legislation is to comply with Regulation 7, ‘Postal Service Authorisations’, of the EC (Postal Services) Regulations, 2002, S.I. 616 of 2002, (‘the Regulations’). This requires ComReg to establish procedures which *shall* be put in place by 1 January 2004 to authorise postal services providers who record a turnover for postal services in excess of €500,000, exclusive of VAT, per annum.

In addition to the above, ComReg has specific responsibility with regard to the following:

- Regulation 8 sets out the scope of the area reserved to An Post, which will diminish in size from 1 January 2006.
- Regulation 15 of the Regulations states that all providers of postal services with an annual turnover of €500,000, exclusive of VAT, shall draw up procedures for dealing with users complaints in accordance with guidelines laid down by the Regulator.
- Regulation 17 establishes ComReg’s functions in regard to monitoring compliance with the Regulations.
- Section 12 (1) (c) of the Communications Regulation Act 2002 provides that the development of the postal sector shall be one of the statutory objectives to be met by ComReg.
- Section 30 (2) of the Communications Regulation Act 2002 makes provision for the imposition of a levy on providers of postal services for the purposes of meeting expenses properly incurred by ComReg in the discharge of its functions.

3.2 Consultation Paper

In carrying out its functions under the legislation, ComReg is obliged to take into account the views of interested parties. On the 1 October 2003 ComReg launched its consultation on the Regulation of Postal Services, “Postal Service Authorisations, Reserved Area Controls & Levy - Proposed Procedures”, ComReg document number, 03/117, addressing issues which required careful consideration in advance of forming a definitive decision on the Procedures to be implemented.

The responses received to the consultation paper have been of assistance to ComReg in forming its view on the most effective way forward while complying with the Regulations.

ComReg wishes to express its thanks to everyone who contributed to the consultation. In total, 7 responses to the consultation were received, as follows:

An Post

European Express Association

Hayes DX

Irish Association of International Express Carriers

Postwatch

TICo Group Ltd

UPS

All points raised by the respondents have been considered, although readers will appreciate that it is not feasible to refer to every point made by every respondent in a document of this nature.

With the exception of material marked confidential, the written comments of respondents are available for inspection at ComReg's offices in Dublin.

3.3 Format of Document

This report deals with the main issues raised during the consultation. There is a section for each of the major topics, which is divided into three sub-headings:

A summary of the issues and questions raised in the consultation paper is presented in Sections 4, 5 & 6.

4 Authorisation Procedures

4.1 General Principles

The intention is to introduce very simple procedures to enable an undertaking to obtain a “postal service authorisation” allowing it to provide a postal service on or after 1 January 2004. The procedures are intended to be as simple as possible, consistent with a light handed regulatory approach, while ensuring compliance with the legislative requirements.

Consideration must be given to the Department of Communications, Marine and Natural Resource’s Statement of Strategy 2003-2005 which provides for

‘a light handed and competitive regulatory environment to facilitate the development of an efficient and competitive postal industry.’

This is explained as follows:

‘significant private operators already exist in the liberalised area of the postal market and it is important that liberalisation is not used as a pretext to increase the regulatory burden on these companies.’

4.1.1 Views of Respondents

An Post welcomed ComReg’s proposals with regard to authorisation in that they should enhance the overall level of service available and the process would ensure that the reserved area was respected. An Post considered a light-handed regulatory approach to be insufficient to meet what the regulatory framework intended for the sector. The procedures could threaten the reserved area, the financial viability of An Post and its capacity to provide the universal service. However, An Post acknowledged the restrictions within the legislation available to ComReg in putting these procedures in place.

TICo believed that the impact of authorisation would carry a cost with regard to the levy and an administrative burden. However, the increased quality would enhance the overall postal business.

4.1.2 ComReg Position

ComReg notes the comments received in this regard. It must, however, work within the requirements of the legislation, ie, Regulation 7 of SI 616 of 2002. Furthermore ComReg considers that the authorisation procedures will facilitate the development of the postal sector.

4.2 Available to all postal service providers

4.2.1 Summary of Consultation Issue

In the consultation paper ComReg put forward that while Regulation 7 states that from 1 January 2004 a postal service provider with an annual turnover of more than €500,000, exclusive of VAT, shall apply to the Regulator for an authorisation to provide a postal service, a postal service provider with a turnover of less than €500,000 may apply for registration as an authorised provider if it so wishes. It must be noted that ComReg is not statutorily mandated to insist that all providers with a turnover below the specified threshold stated in Regulation 7 should apply.

4.2.2 Views of Respondents

Hays DX raised the point that authorisation procedures should apply to all postal service providers irrespective of turnover to avoid market fragmentation.

TICo also believed that all postal providers should have an authorisation to protect the universal service area and to promote confidence in the postal market.

An Post considered that all providers should be authorised irrespective of turnover as these players can represent a significant level of activity in the market. An Post also questioned the threshold turnover sum of €500k and stated that ComReg should ensure/monitor that different guises don't arise in an attempt to avoid the levy payment.

4.2.3 ComReg Position

ComReg notes the comments received in relation to authorisation for all providers. However, ComReg must observe what the legislation provides for and must point out that the requirements of Regulation 7 are not negotiable in this regard. In that context, all postal service providers with a turnover in excess of €500,000 shall apply for authorisation. There is no obligation on providers with a turnover less than the specified threshold to apply. ComReg will, however, accept applications from any provider of postal services that wishes to be registered, however such applicants will be required to pay the postal levy (see Section 6.2)

4.3 Need for information about the development of the postal sector

4.3.1 Summary of Consultation Issue

The consultation posed the question as to the level of information Authorised Postal Service Providers should submit to ComReg to enable the office to evaluate the development of the sector. The paper attached a sample copy of the Eurostat Questionnaire (Appendix E of the consultation paper) which each NRA was required to complete to facilitate evaluation of the postal sector. The European Commission and the UPU also regularly ask ComReg for information on how the postal market is evolving.

4.3.2 Views of Respondents

The IAIEC contend that the information requirement would only provide a partial or incomplete picture if it were only necessary for the larger players to provide such information. It also believed that demanding data would have cost implications as it was not readily available.

The EEA insisted that information as specified by Appendix E of the consultation paper should only be provided in a voluntary capacity.

TICo agreed with the provision of information to enable the Regulator to evaluate the market.

An Post believed that the provision of additional information should be either obligatory or dropped altogether. It also contended that much of the information requested to meet Eurostat requests would be highly sensitive. Should it be required An Post believed it should be provided on an annual basis.

4.3.3 ComReg Position

ComReg would prefer to conduct this exercise on a voluntary basis. ComReg does need some information so that it can base its decisions on what is actually happening in the marketplace in order to complete its mandate and it has ancillary powers under the 2002 Act which it could use if necessary. On the other hand it does not want to impose requirements on operators, if compliance costs would be high.

ComReg proposes that the best way forward would be to organise a conference of all authorised providers sometime in the New Year with the objective of arriving at an industry wide consensus on how best this type of information can be gathered. As outlined in the consultation paper ComReg would treat any information submitted in a confidential basis and will only publish aggregate data. In that case it would not normally be possible to identify any particular operator.

Also it is not intended that the collection of such information should be onerous for the operator. It will mainly constitute elements of information that any well run businesses would wish to gather anyway and it should not carry any substantial extra cost burden.

4.4 Obligation to submit a Declaration in writing stating that An Post reserved services will be respected

4.4.1 Summary of Consultation Issue

The Regulations state that before an Authorisation is granted the applicant must provide a written declaration stating that the services to be provided will not infringe the area reserved to An Post. Regulation 8 sets out the scope of the area which is reserved to An Post.

4.4.2 Views of Respondents

Members of the EEA had no problem signing the declaration not to infringe An Post's reserved area. On the other hand, the IAIEC opposed the requirement that a declaration must be made with regard to An Post's reserved area as Express Services fell outside the universal service area. The IAIEC felt that An Post had sufficient means to control the reserved area. The IAIEC proposed that declarations in this regard should only be necessary should an operator designate one or more of its services within the Universal Service Area.

An Post questioned that no provision was made whereby it might be consulted prior to issuing an Authorisation with regard to infringement of the reserved area, nor was there any provision to withdraw the Authorisation, once issued, should the operator breach the reserved area.

4.4.3 ComReg Position

With regard to An Post's suggestion that consultation be made with An Post prior to the grant of an Authorisation, ComReg views this proposition as inappropriate as it would amount to a delegation of powers where no such provision in legislation exists. The procedure for dealing with infringement of the reserved area is spelt out clearly in the relevant legislation.

The Postal Directive requires the NRA, not the operator, to be responsible for ensuring that the reserved area is respected by other operators.

The issue surrounding the requirement to declare that An Post's reserved area will be respected is not open for debate. Section 7 of the Regulations clearly states that a declaration must be submitted by all applicants prior to the grant of an Authorisation stating that the An Post's reserved area will not be infringed. Where an Authorised service provider fails to respect An Post's reserved area this would certainly warrant action by ComReg to instigate withdrawal of the Authorisation.

4.5 Obligations after the Authorisation is granted

4.5.1 Summary of Consultation Issue

The Regulations state that an Authorised operator must put procedures in place to deal with the confidentiality /security of mail as well as put procedures in place to deal with customer complaints & redress.

4.5.2 Views of Respondents

The EEA was concerned with the requirement to put in place procedures to deal with incorrectly delivered mail, procedures to deal with users' complaints and procedures to ensure the security and confidentiality of the postal service. The EEA claimed that procedures for incorrectly delivered mail and complaint procedures would only lead to unnecessary regulation and bureaucracy. Express companies already had their own procedures to deal with complaints. They wished to retain the right to open shipments once customers signed their terms and

conditions. It believed that there should be an option to derogate from this requirement.

An Post emphasised compliance with CEN standards within the USO area and suggested that a set of CEN compliant procedures should be drawn up in consultation with the industry and supplied as an industry standard. In this context allowances would need to be made for initial agreement of these standards. However, once agreed all future applicants should be required to accept the industry agreed standards prior to being granted an Authorisation.

4.5.3 ComReg Position

ComReg is of the view that if the Express Industry has already put procedures in place to deal with consumer complaints and redress procedures, and with the essential requirements, then there should be no difficulty in complying with the terms of the Regulation. The only requirement would be to ensure that the procedures currently in place meet with the guidelines issued by ComReg in its published report, 03/50 (Appendix D). ComReg itself has no option but to implement the requirements set out in the Regulations.

4.6 Time necessary to submit procedures once Authorisation is granted

4.6.1 Summary of Consultation Issue

The consultation paper asked the question as to how long applicants should be given to provide the required documentation to ComReg. The consultation suggested a period of six months for submission of the necessary documentation.

4.6.2 Views of Respondents

The IAIEC agreed that 6 months was adequate so long as the procedures were simplified. Otherwise, in order to comply with ComReg's procedures (submission of data as per Appendix E of the consultation paper); it would require at least twelve months.

Hays DX believed that all the required documentation should be submitted at the time of application to ensure that the market attracted professional and competent mail service providers.

The EEA made no comment with regard to 6 month period as it maintained that the provision of such documentation should only apply to the universal service area.

TICo believed that no allowances should be made with regard to the submission of procedures required by Regulation 7(3). This information should be provided before an authorisation is awarded as ComReg would be powerless until such information was provided.

4.6.3 *ComReg Position*

ComReg believes that its proposals are already quite simple and cannot understand why it would take 12 months to achieve compliance. No other respondent expressed the view that 6 months is insufficient. ComReg notes the general opinion from other respondents that all operators should be in a position to be compliant at the time of application.

ComReg believes its proposals are reasonable and practical and therefore will allow a period of six months from the date of application to submit the necessary documentation.

4.7 Register of Authorised Postal Users

ComReg will publish a list of all Authorised Postal Service Providers on ComReg's website. ComReg will also make a list of all Authorised Providers of Postal Services available in hard copy for inspection at ComReg's offices. This will facilitate users of mail services in that it will be clear who is and who is not registered by ComReg. Contact details containing name, address, telephone and facsimile numbers, and email address will be provided for ease of access. ComReg will also publish the Authorised Service Providers contact details for lodging complaints and obtaining redress if required. The idea is to provide the user with as much information as possible to facilitate choice of which provider it may contact for services.

4.8 Monitoring Compliance with the obligations on holders of Postal Service Authorisations

ComReg has a duty to monitor compliance by holders of Postal Service Authorisations with the obligation to guarantee compliance with the essential requirements (i.e. the confidentiality of correspondence, security of the postal network and, where justified, data protection, environmental protection and regional planning) and the obligation to introduce complaints and redress procedures in accordance with guidelines laid down by ComReg (published in document, ComReg 03/50 – Appendix D). This document may be downloaded from ComReg's website or copies may be obtained by contacting ComReg by telephone, + 353 1 804 9600 or facsimile, + 353 1 804 9665.

4.9 Submission of applications

ComReg will accept applications in accordance with the procedures set out in this paper. A full set of Application Documentation will be posted on the ComReg website, www.comreg.ie, on 10th December 2003. The Application Documentation will also be available on that date in hard copy format from ComReg's offices on request.

Electronic applications will be processed. However, it will be necessary to download the documentation which requires signature and submit it as soon as

possible after the electronic application has been submitted. This is particularly relevant in the case of submitting the Declaration to respect An Posts reserved area.

Unless the application raises particular issues regarding An Post's reserved area we anticipate issuing the authorisation within a period of 14 -21 days.

Other issues raised by the Responses to Consultation with regard to Authorisation Procedures

4.10 Need for authorisation outside the universal service area

The IAIEC believed that ComReg's approach to authorising postal services providers was inappropriate. They believed that it did not achieve the objectives of the legislation on the grounds that there was no evidence that the current environment in which the express/non-universal service providers exist is not compliant with all the essential and appropriate requirements. The IAIEC further believed the express industry had not only complied with postal legislation but had also complied with other regulatory frameworks such as customs, aviation security, etc.

The IAIEC also questioned whether postal services provided by An Post which fall outside the universal service would require authorisation, eg SDS.

The EEA supported the views of the IAIEC saying that the proposed procedures went beyond what was intended by the Directive and that the proposed procedures should not apply to providers of services outside the universal service area. Correspondence with the European Commission was submitted in support of this contention

UPS believed that this process should not go beyond a simple registration process.

4.10.1 ComReg Position

ComReg would hope that the IAIEC's compliant status would mean that there should be no difficulty arising as a result of the new authorisation framework.

As stated previously, Regulation 7 of SI 616 of 2002 provides that ComReg must have a process for authorising "providers of postal services" in place from 1 January 2004. The Postal Directives allows Member States to introduce a system of general authorisations for all postal services and / or a licensing system confined to services within the scope of the universal postal service. The system provided for in this paper is in line with the Regulations. The Regulations clearly intended that this process should apply to all postal services, whether within or outside the scope of the universal service, and ComReg cannot challenge this decision.

The correspondence between the EEA and the European Commission confirmed that the express/courier business 'can be required to have a general authorisation', although it did suggest that they could not be required to contribute to a compensation fund. The EEA argument that they do not require to be authorised at all is not consistent with the provisions of the Postal Directives or the Irish Regulations.

ComReg would agree with the argument put forward by the IAIEC that SDS should also be required to apply for an authorisation.

4.11 Authorisation v Licensing

In its response to consultation, An Post suggested that all applications for authorisation, including a list of services to be provided, should be published on the ComReg website in advance of granting an Authorisation to allow for a period of public response, as required by Postcomm in the UK.

4.11.1 ComReg Position

In response to An Post's suggestion that all applications should be published to allow for a period of consultation prior to granting an authorisation, ComReg is firmly of the opinion that this would change the process which the Regulations provide for. The removal of barriers to entry is a key regulatory function to be exercised by the Regulator and it should not be open to competitors to comment on an individual applicant.

As provided for in the Postal Directive, licenses may only be granted for services provided within the universal service area. The Irish Government has decided not to introduce a system of licensing. ComReg must comply with the intentions of the legislature, ie put procedures in place for a system of Authorisations.

4.12 Postal Services v Correspondence

The EEA noted that the Directive referred to 'correspondence' when referring to the integrity of mail while the consultation paper raised the question of integrity of the postal services.

4.12.1 ComReg Position

ComReg refers the EEA to SI 616 of 2002 which explicitly states that the holder of an authorisation "shall draw up procedures to deal withthe security and confidentiality, of the postal service provided by the holder".

4.13 Definition of Services

The IAIEC stated that it was important to distinguish between universal/non-universal service authorisations.

Hays DX maintained that ComReg should clearly define what services were reserved to An Post and state those which were not. In particular, Hays referred to services containing value added features not offered by An Post as part of the basic universal service should not be reserved to An Post.

An Post stated that a clearer distinction should be made between USO/non-USO services. It was unaware of any distinction between Direct Mail and Advertising Mail. An Post opposed the category 'new services quite distinct from conventional services'.

4.13.1 ComReg Position

ComReg must observe the definitions provided for in the Directive. It is therefore not ComReg's function to define these services.

4.14 Reserved Services compared with Value Added Services

An Post queried the linkage of time-certain/day-certain activities with payment of a premium price in the description of services in the draft application form. An Post argued that unless they had a premium price these products could not fall within the ‘value added service’ category as it would be necessary to pay a premium price to guarantee the promised service, ie, day or time certain delivery.

4.14.1 ComReg Position

Definitions of day certain/time certain products are not on a statutory footing but they have been clearly defined in case law which concludes that these services fall outside the reserved area. It could be argued that they actually fall completely outside the universal service area also and should be categorised as an express service.

It could be argued also that a premium service does not necessarily mean a higher price than that charged by An Post for a normal service. An efficient operator may still be able to provide time/day certain products for a premium but affordable tariff while another operator might choose to charge a substantial premium for the ‘premium’ service.

4.15 Automatic Lapse for non-compliance

An Post put forward the suggestion that if any authorised operator failed to pay the levy within the time allowed, or failed to submit the required documentation within 6 months of the Authorisation being granted, or failed to submit the financial information at the end of the year, then the Authorisation should automatically lapse.

4.15.1 ComReg Position

The legislation does not provide for an Authorisation to lapse automatically without ComReg taking some form of positive action. Regulation 7(5) states that ‘whenever the Regulator proposes to ... or withdraw a postal service authorisation, the Regulator shall notify in writing the applicant or holder, ... of the proposal, and of the reasons therefore, ... and if any representations are made on behalf of the applicant or holder, ... within 28 days after the date of such notice, consider the representations’.

ComReg proposes to initiate this process with a pre-proceedings letter indicating that failure to comply with the obligations to pay the levy and observe the limited regulatory requirements of the Authorisation will trigger the proceedings specified in Regulation 7(5). The letter will ask the Authorised operator to confirm its position in regard to the obligations inherent with the Authorisation within a period of 21 days of the date of the pre-proceedings letter.

The letter will also state that if no response is received within 21 days it will be deemed that the operator has consented to the withdrawal of its authorisation without further proceedings. The name will also be removed from ComReg’s

Register of Authorised Operators, and the date of removal will be recorded on a list of previously authorised operators.

ComReg will publish periodic updates on additions to and deletions from the register of Authorised operators.

4.16 Non-transferability clause

An Post also put forward that a non-transferability clause should be included in any Authorisation granted.

4.16.1 ComReg Position

The onus is on the operator to apply for authorisation and the authorisation is issued solely to that entity.

4.17 Duration of the Authorisation

An Post claimed that there should be some time limit on the duration of the Authorisation as well as a review process which could be linked to payment of the levy, submission of required information, etc. A provision of this sort would ensure a continuous review of the services provided was enabled and An Post's reserved area was continuously monitored.

4.17.1 ComReg Position

ComReg may withdraw the authorisation where an operator has failed to comply with Regulation 7 of SI 616 of 2002 and ComReg will monitor compliance as part of its ongoing functions.

4.18 Role of Consolidator

TICo, while agreeing in broad terms with the proposed procedures, pointed out that they did not cater for the category of 'Consolidator'.

4.18.1 ComReg Position

ComReg would classify the role of a 'Consolidator' as one that involves a crucial step in the postal value chain for large scale postal customers. This role would have been traditionally carried out in-house or would have been conducted by the private sector companies. It could be argued that it is a retail service involving the handing over of mail to the USP for sorting, transport and delivery and, therefore, considered to fall within the postal sector. It could also be argued that it is not necessary to require that consolidators should be authorised. It could prove difficult to determine how much of their activity is classified as 'postal' as it could also be classified as a printing business.

The crux of the matter is deciding to what extent the turnover of a 'Consolidator' relates to postal services. The threshold of €500,000 specified in the Regulations will apply to all operators that provide postal services.

Should consolidators wish to apply for an authorisation in respect of their postal services, ComReg will consider such applications for authorisation in the same way as others.

4.19 Provision of financial security/bond

An Post noted that there were no contingency plans to ensure the integrity/security of mail as well as its recovery should an authorised operator go out of business. An Post suggested that the imposition of a financial bond/guarantee to ensure obligations are met should be required as is required in the UK.

4.19.1 ComReg Position

There is no provision in the Regulations to provide for such a bond. The issue is essentially one for the commercial contract between customer and operator, which is of course subject to a range of legislation including Company Law.

4.20 Submission of Tax Clearance Certificates by all applicants

2 of the 7 respondents, namely, An Post and Hays DX, suggested that tax clearance certificates should be required by all applicants for authorisation to ensure that the integrity and security of the postal service is preserved.

4.20.1 ComReg Position

ComReg has reviewed the relevant postal legislation and has come to the view that the provision of a Tax Clearance Certificate is not mandated and is not envisaged anywhere in ComReg's legal mandate.

4.21 Application Documentation

In relation to the Application Form for a Postal Service Authorisation, (Appendix B of the consultation paper), section 2 - details of trans border services provided, An Post believes that this information should be split to account for inward and outward traffic. .

An Post also raised concerns over the term 'Admissible' content in relation to Section 2 and Section 3 of the Application Form (Appendix B of the consultation paper). It argues that the more correct wording should read 'Permissible' content.

An Post also believes that the proposed application forms could represent an unnecessary threat to the reserved area and should therefore be modified to reflect the Directive/Regulations. An Post has suggested a rewording of the opening paragraph of Section 2 of the Guidance notes for completion of the authorisation application form for sake of providing clarity.

4.21.1 ComReg Position

There are a number of minor presentation issues with regard to the application forms. These points have been reviewed and where appropriate the documents

have been revised. In particular the section of the application form dealing with trans border services will be revised to make it clear that this relates only to outbound services, which are fully open to competition from 1 January 2004, while the domestic section will relate to all services involving delivery in this country whether for domestically based customers or as wholesale services for operators in other states.

4.22 Issues falling outside the scope of this consultation

With regard to accounting standards An Post felt discriminated against in respect of the non-reserved segment of the universal service in that there was uneven treatment resulting in higher costs for services provided by An Post.

This point is outside the scope of the current consultation process. The accounting standards required are defined in, inter alia, the Postal Directive.

5 Protection of the reserved Area – controls

The Regulations require that all applicants provide ComReg with a written declaration that the postal services provided by the applicant do not infringe the reserved area and that ComReg should also establish controls and specific procedures to ensure that the reserved services are respected.

The Reserved Area comprises those services which only An Post can provide. The scope of this area is laid down in Regulation 8 of the Regulations. It should be noted that this is quite limited in that it only applies to items of correspondence, ie a communication in written form on any kind of physical medium to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping but does not include books, catalogues, newspapers and periodicals. From 1 January 2004 all outbound trans-border services will be outside the scope of the reserved area.

Decision 1

- (a) In accordance with Regulation 7 of SI 616 of 2002, the procedures for Authorising Postal Service Providers are set out at Appendix A**
- (b) In accordance with Regulation 8 of SI 616 of 2002, the procedures to ensure that the services reserved to An Post are respected, are set out at Appendix B**

6 Revision of Postal Levy

6.1.1 Introduction

Section 30 of the Communications Regulations Act, 2002 provides that a levy may be imposed on all providers of postal services for the purposes of meeting expenses properly incurred by the Commission for Communications Regulation in the discharge of its functions in respect of postal services.

The functions of the Commission for Communications Regulation in respect of postal services include, inter alia, monitoring compliance by the designated universal service provider(s) with the Regulations relating to the following:

- Provision of 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 trans border mail to ensure the trans-border provision of the universal service;
- The accounting procedures of a universal service provider;
- Quality-of-service standards for the universal service, paying, in particular, attention to routing times and to the regularity and reliability of services,
- Complaints and Redress procedures, and
- Putting controls in place to ensure that the area reserved to An Post is respected;

There are other functions, and statutory objectives, that extend beyond those services provided by the universal service provider(s)

- Putting procedures in place to authorise other providers of postal services;
- Monitoring compliance by holders of postal service authorisations with their obligations, including procedures to deal with incorrectly delivered mail within, and the security and confidentiality of, the postal service provided by the holder.
- Complaints and Redress Procedures
- International developments with regard to postal services
- Its statutory objective to promote the development of the postal sector.

It must be emphasised that the purpose of the levy is strictly limited by law to financing the cost of postal regulation, and the ComReg's statutory functions in

respect of the postal sector. Correspondence submitted by the EEA suggested that there was concern that the levy might be used to finance a Compensation Fund to finance the provision of the universal service obligation. ComReg must point out that there is no provision in Irish Law for such a Compensation Fund, and that the use of the levy for such purposes would be ultra vires. ComReg also notes the European Commission take the view that contributions to a Compensation Fund can only be required or **licensed** operators, and there is currently no provision for the issue of licences in Ireland.

The current Postal Levy No. 3 Order 2002, S.I. No. 549 of 2002, provides that only An Post, as designated universal service provider, must pay the levy. However, the levy order states that should there be a need to revise the levy at a later stage, then there is provision to review the levy amount in such circumstances. With the introduction of a process for authorising postal service providers, from 1 January 2004, it was considered timely to revise the levy order to provide that all providers of postal services should pay the levy to ComReg in the discharge of its functions in respect of postal services.

6.1.2 Summary of consultation issue

The consultation paper proposed a levy based on a percentage of relevant turnover within the State to be applied to all providers of postal services. However given the significant difference in the scope of regulatory objectives it would be inequitable to require providers of postal services, other than the designated universal service provider(s), to pay at the same rate as the designated universal service provider(s).

It was estimated that the cost of regulating the postal sector would be in the region of €1.25m. This amount was based on the current cost of regulation as well as taking on board the cost of the additional work necessary to put a process in place to authorise providers of postal services. It was appreciated that the regulatory functions in respect of universal service provider(s) required significantly more resources than the more limited functions relating to other service providers. The levy proposed therefore reflected this cost difference.

It was estimated that this cost could be recouped by requiring designated universal service provider(s) to pay the levy as 0.25% (one quarter of one percent) of relevant turnover for a given levy year, and by requiring authorised service providers providing postal services other than as a designated universal service provider to pay a levy as 0.15% (three twentieths of one percent) of relevant turnover for a given levy year, with a minimum charge of €1,000 per annum for each postal service provider authorised by ComReg².

Section 6.5 of the consultation set out the arrangements for adjusting the amount of the levy payable to ensure that it did not exceed the cost incurred by the Commission. These arrangements could be especially important in the first year because, while ComReg is aware of the costs it is likely to occur and can make a very accurate assessment of the amount of levy payable by the universal service

² The Telecoms levy has been set at 0.20% since it was established in 1997.

provider, the estimate of levy payable by holders of postal services authorisations might need to be revised. ComReg asked respondents to submit in confidence an estimate of their relevant turnover so that ComReg's response to consultation could be based on the best available estimates.

An alternative approach was proposed, in the case of authorised service providers providing postal services other than as a designated universal service provider, which was to charge a flat rate fee per annum by ComReg, irrespective of turnover. A levy of the order of €22,500 pa appeared to raise the same amount as the 0.15% levy using an average turnover of €15m per annum. ComReg considered the turnover related levy to be the most equitable.

However, it was decided that smaller operators (eg those with less than 50 employees) might find a flat rate levy onerous and to overcome this, a separate flat rate of €1,000 per annum was proposed for all of the smaller operators.

NB It was noted also that there is no obligation on postal service providers with a turnover of less than €500,000 to obtain an authorisation and therefore to pay the levy.

6.2 Structure of the Levy

6.2.1 Summary of consultation issue

The Commission for Communications Regulation proposed to make a revised levy order before the end of 2003. As ComReg was required to have a process in place by 1 January 2004 so that postal services providers could apply for a postal services authorisation, the revised levy order was intended to facilitate the payment of a levy by all providers of postal services. The following structure was proposed:

- The levy amount shall be that amount necessary for the purposes of meeting expenses properly incurred by the Commission for Communications Regulation in the discharge of its functions in respect of postal services.
- The Levy Year shall be defined as the financial year of the Commission for Communications Regulation.
- The levy amount shall be expressed as a percentage of the relevant turnover of a provider of postal services.
- The levy percentages to be applied to relevant turnover were as follows:
 - (a) Designated universal service provider(s) would be liable to pay the levy as 0.25% of relevant turnover for a given levy year. (no change from present arrangements)
 - (b) Authorised service providers providing postal services other than as a designated universal service provider would be liable to pay the levy as 0.15% of relevant turnover for a

given levy year, with a minimum charge of €1,000 per annum.

- The levy percentage would be reviewed as necessary and where appropriate, a revised levy order would be issued.
- The levy would be payable in equal instalments on or before the last day of each quarter of the levy year.
- The levy would be applied pro rata for providers who obtain an authorisation mid-month, mid-quarter or mid-year. Therefore the first quarterly payment would be calculated from the date the authorisation has been granted to the end of the next quarter of the levy year and from there, it would be payable in equal instalments for the other remaining quarters of the levy year.
- Relevant Turnover shall be defined as the gross revenue, excluding value-added tax, of the postal service provider in respect of postal services as reported in the financial statements for the most recent financial year of the postal service provider.
- Postal Service Providers would be required to submit a Statement of Relevant Turnover certified by its auditor within 21 weeks of its financial year end as set out in section 6.4 of the consultation paper.

6.2.2 *Views of Respondents*

A number of respondents argued that a flat rate levy would be the fairest system for all operators other than the USP.

Given what it considered the short notice, Hays suggested that any levy proposed should not take effect until 2005.

UPS stated that should fees be introduced these should not exceed the low administrative costs of registration.

The IAIEC argued that a levy based on turnover would increase funds for ComReg over the years. It believed that costs would reduce once the Authorisation process was put in place. With a light-handed regulatory approach to Authorisation in mind, best estimates, according to the IAIEC, would indicate that the proposed levy would generate income in excess of what was required by ComReg.

The IAIEC proposed a flat rate as more equitable and transparent as it could be spread over a large number of providers. It also stated that ComReg should benchmark with other EU Member States as to what the fee should be. A minimum flat rate fee should be set for 2004 which could be re-evaluated and consulted on for 2005.

The EEA contended that a percentage based levy was not appropriate for non-universal service providers. The fee, if any, should be a fixed rate based on the

administration costs required to issue an authorisation. This should be low as a simple registration only was required. The proposed rate far exceeded the regulatory functions for an authorisation and would amount to asking non-universal service providers to pay for ComReg's role in monitoring the universal service area.

The EEA argued that a fixed fee as suggested far exceeded the level of regulatory activity required for express service providers. Comparisons made for other countries shows that fees in Portugal cost €3000, in the UK, a licence cost GBP1000, and in Germany an Authorisation cost, €700.

TICo stated that ComReg needs to redefine relevant turnover to include fees for clearance, sortation, transport and delivery of mail. This, TICo suggests, would avoid double counting. TICo also suggested that ComReg should adopt a model based on the number of employees registered. Based on this model it suggested that An Post (USP status) pays three times that what other authorised providers pay.

An Post put forward that a simple approach whereby all postal operators should pay the same levy rate should apply. It claimed that a flat distribution of the cost of regulation of the overall sector should apply.

If different rates were to be applied An Post contended that it should pay separate rates for USO / non-USO services. It also put forward the case that the reserved area should be subjected to the higher percentage level and all operators within the USO non reserved area should pay a lower percentage rate. This would become more relevant as the reserved area diminished. Alternatively, only the reserved area should be subject to a levy payment as it necessitated greater regulatory intervention while the non reserved universal area had commercial implications. This, it argued, would be consistent with ComReg's approach that there were fewer regulatory functions.

An Post noted also that there was no provision whereby Authorised providers who failed to pay the levy could be pursued through the Courts for payment/withdrawal of Authorisation.

6.2.3 ComReg Position

ComReg is of the view that a flat rate levy would not be fair. ComReg believes that a percentage of turnover based levy is more equitable and would reduce barriers to entry. It seems reasonable to believe that an operator of considerable size would have a larger customer base hence a greater number of regulatory issues would need to be addressed by ComReg on its behalf. Smaller organisations should generally require fewer resources of the Regulator. In that scenario the level of regulatory involvement for each operator will vary in the main according to the size of the operation.

The express operators provided details of costs applied in other European countries for licences/authorisation. In response to their comments ComReg would like to point out that it is difficult to draw comparisons with other countries as the scope of Regulation varies significantly from one country to another.

The consultation paper put forward a proposed levy of 0.25% for universal service providers while other operators should pay 0.15%. Based on the points raised by the respondents and a revision of estimates for the cost of regulation, ComReg is now in a better position to decide on the appropriate level of the levy.

ComReg, at the time of consultation, did not have sufficient reliable information with regard to the level of postal activity in the current market and therefore, asked respondents to submit in confidence, details of postal services turnover. Only one respondent provided this level of detail.

Nevertheless it has been possible to reduce the non USO part of the levy in the first year of operation and ComReg therefore proposes a rate of 0.075% (three fortieths of one percent) for operators other than the universal service provider (USP)³. The USP levy will remain at 0.25% for services within the Universal Service Area and 0.075% for services outside the Universal Service Area. A minimum charge of €1,000 will apply. Any surplus over actual costs will be refunded in proportion to payments.

Current ComReg estimates of costs for regulating the postal sector are €1.25m. The proposed rates as outlined above should be sufficient to generate this level of income while giving the assurance that the levy imposed will only cover the actual costs incurred which will be kept to a minimum as required by Ministerial Direction.

Should the volume of work or the financial requirements of ComReg vary from its current expectations this matter will be revisited. There will be a provision in the new levy order to amend the levy in the future should this be required.

6.3 Persons and organisations liable to the levy

6.3.1 Summary of consultation issue

The consultation proposed that the universal postal service provider(s) designated by the Minister under Regulation 4 (2) of S.I. 616 of 2002 and any holder of a postal service authorisation issued by ComReg under Regulation 7(2) of S.I. 616 of 2002 would be liable to pay the levy. Postal Service Providers who do not hold a postal service authorisation, and are not required under Regulation 7(1) to hold one, will be exempt from paying the levy. However, those who are not required to hold authorisations but choose to apply for one will also be liable to pay the levy.

³ USP – services provided by the USP outside the universal service area will be liable to a levy at the same rate as other providers in that market.

6.3.2 Views of Respondents

Hays DX argued that the levy should be more weighted towards An Post as the majority of regulatory functions applied to An Post. Hays also argued that all postal service providers should be subject to a levy. This would encourage all providers to seek authorisation. Hays claimed that unauthorised postal service providers could be identified quite easily by the authorised providers.

The EEA did not agree that postal service providers who did not require authorisation should be required to pay a levy as that would merely constitute a tax and would not cater for the administrative burden.

An Post stated that it would not expect that the smaller players should pay a levy but they should seek to be registered and play a role in supplying relevant information regarding the market.

6.3.3 ComReg Position

ComReg agrees that the levy should be confined to authorised postal service providers.

6.4 Information to be supplied annually

6.4.1 Summary of consultation issue

The consultation put forward that Universal Service Providers would be required to submit a Statement of Relevant Turnover certified by their auditors 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.

Other Postal Service Providers liable to the levy would be required to submit a Statement of Relevant Turnover certified by their auditors within 21 weeks of their financial year end.

6.4.2 Views of Respondents

Hays DX stated that an assurance that the most recent set of accounts have been submitted to the Company's Registration Office should be submitted.

6.4.3 ComReg Position

SSAP 25 requires An Post to disclose turnover for Postal Services and An Post comply with this requirement in its published Annual Accounts. The Communications Regulation Act 2002 requires the levy to be paid by all providers of postal services, therefore, all authorised postal service providers will be required to submit a statement of turnover certified by their auditors within 21 weeks of their financial year end.

It must be noted that the levy is designed specifically to cover the cost of postal regulation which is currently estimated at €1.25m per annum. Should the income generated using the percentages proposed against the relevant turnovers of all the authorised postal service providers and the USP not meet the cost of postal regulation, the percentages proposed will need to be revised.

ComReg is satisfied that the relevant turnover figure on which the levy should be based is the gross in revenue, excluding VAT, of the universal service provider and all the authorised postal service providers in respect of postal services as reported in the financial statements for the most recent accounting year.

6.5 Adjustments to the amount to be levied

6.5.1 Summary of consultation issue

In accordance with Section 30(5) of the Communications Regulations Act, 2002 any surplus of levy income over the expenses incurred by ComReg in the discharge of its functions relevant to that levy in a particular financial year shall either—

- be retained by the Commission to be offset against levy obligations for the subsequent year, or
- be refunded proportionately to the providers on whom the levy is imposed.

The levy order would make provision to review the levy amount should there be a need to revise the levy in the light of changed circumstances or more accurate estimates of the turnover of holders of postal service authorisations.

6.5.2 ComReg Position

There is no scope for ComReg to make a profit. Where the income generated from a levy exceeds the actual costs of regulation there will be a provision to refund the amounts overpaid or, alternatively, any surplus amounts can be set against the amount due for the following period.

Decision 2

The structure and layout for the revised levy order will provide that an operator designated as a USP will pay 0.25% of relevant turnover on services within the universal service area and 0.075% on services outside the universal service area. Other authorised operators will pay 0.075% of relevant turnover. A minimum charge of €1,000 will apply.

A new levy order will be made to facilitate the amendments with effect from 1 January 2004

7 Impact Assessment

7.1 Introduction

This section considers the impact of the decisions relating to Postal Service Authorisations as set out in this document. The decisions are examined in terms of their contributions to ComReg's statutory objectives – that is to ensure 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 users, and to have regard to international developments with regard to ... postal services. An overall evaluation is carried out of the potential impact of the decision on postal service providers and their customers.

This analysis looks at the impact of proposals and decisions made by ComReg, and therefore considers the impact of change to the status quo whether of increasing or decreasing effect. It should be noted that this is not an analysis of the principles of Postal Service Authorisations. ComReg is obliged to implement Postal Services Authorisations. This paper, therefore, only considers the impact of the procedures being put in place by ComReg. This assessment draws, inter alia, on ComReg market research and comments made by operators as part of the consultation process.

7.2 Contribution to regulatory objectives

7.2.1 Development of the postal sector

The light handed regulatory model being put in place will ensure the development of the postal sector. The availability of a list of authorised postal service providers will bring to customers attention the range of service providers, while the provision of details of the services provided will make it easier to identify the most appropriate one for customers needs. The procedures put in place to ensure that the reservation of services to An Post are respected will give certainty to the universal service provider(s) and its competitors, and their customers.

7.2.2 The availability of a universal postal service within, to and from the State at an affordable price for the benefit of all users

The procedures to ensure that the reserved area is respected will encourage the achievement of this objective. Furthermore knowledge of alternative services will ensure that prices are kept affordable by bringing competitive pressure to bear as a result of knowledge about alternatives

7.2.3 International developments with regard to ... postal services

The funding of the regulator through a postal levy will enable this objective to be achieved.

7.3 Conclusions

Clearly the levy is an additional imposition on service providers other than An Post. It is provided for by legislation and by Ministerial Direction which states that the Commission shall ensure that the costs incurred by it in effectively carrying out its functions in relation to the postal market are minimised, consistent with best practice in other Member States. However, it is unlikely to impact on the ability of any operator to provide services. For example, if the price was fully passed on to the consumer a courier consignment costing €40 would increase by 0.03cents. Without adequate resources, ComReg cannot fulfil its obligations under the Regulations.

The claims made by the courier companies regarding the difficulties in providing additional information are noted and it is felt that an acceptable solution to these issues can be overcome. On the other hand without such information it will be impossible for ComReg to discharge its statutory objective to ensure the development of the postal sector as a whole.

On balance the measures proposed have a positive impact on the development of the postal sector and the availability of the universal service at an affordable price.

Appendix A – Procedures for Authorisation

The following procedures shall be observed to enable an undertaking to obtain a “postal service authorisation” allowing it to provide a postal service on or after 1 January 2004.

The undertaking should submit an application to ComReg including name and address and an indication of the services provided / to be provided, specifying whether or not they are within the scope of the universal service. (see Appendix D). The application should be accompanied by a written declaration that the postal services provided do not infringe the reserved area of An Post. (see Appendix E).

On receipt of the application and accompanying documents ComReg will assess the application before granting a postal services authorisation to the Applicant. ComReg will inspect whether all the documentation required has been submitted, paying particular attention to whether the description of the services provided / to be provided is consistent with the written declaration that the postal services provided do not infringe the reserved area of An Post and ensuring that the undertaking has not previously applied for a postal services authorisation. Having satisfied itself that these matters are in order, ComReg will grant a postal service authorisation to the Applicant. (see Appendix F for form of authorisation).

If the criteria as specified in the above paragraph for granting a postal services authorisation are not met ComReg will ask the applicant for whatever additional information may be necessary before granting or refusing an authorisation. In cases where the undertaking has previously applied for an authorisation and has been refused, or held an authorisation which was withdrawn, ComReg will consider whether there has been a change in circumstances that would warrant reviewing the previous decision.

Once the authorisation is granted details of the name and address of the undertaking and the services provided (or to be provided) will be entered in a register of authorised postal service providers which will be available on the ComReg website. A list of all authorised providers of postal services will also be available for inspection at ComReg’s offices.

A postal service provider (other than a universal service provider) with an annual turnover of more than €500,000, exclusive of VAT, must apply for a postal services authorisation. A postal service provider with a lower turnover is not obliged to apply for an authorisation but it is proposed that if ComReg receives applications from such undertakings it will process them in the normal way.

When the obligations to draw up procedures to deal with incorrectly delivered mail, and the security and confidentiality of their postal service, and the obligation to introduce complaints and redress procedures in accordance with guidelines laid down by ComReg, have not been complied with the Postal Services Authorisation will be withdrawn.

ComReg believes its proposals are reasonable and practical and therefore will allow a period of six months from the date of application to submit the necessary documentation.

ComReg also has the power to withdraw the authorisation from a holder where there is evidence that the undertaking has not complied with the written declaration to respect the reserved area given to An Post, has failed to implement the Code of Practice to deal with customer complaints and redress or has failed to implement the procedures to deal with incorrectly delivered mail within, and the security and confidentiality of, the postal service provided/to be provided subject to the requirements of natural and constitutional justice.

Regulation 7 provides ComReg with the power to take proceedings should an undertaking to whom the regulations apply provides postal services without obtaining an authorisation from ComReg. (This provision enables ComReg to conduct its compliance function of the postal market)

Regulation 7 also makes provision whereby an applicant, who has been refused an authorisation and appeals that decision, is not authorised to provide postal services pending the outcome of the appeal.

However, the holder of an authorisation may continue to provide postal services pending the outcome of any appeal against a decision to withdraw the authorisation. (Full details are set out in Appendix C)

Appendix B - Procedures to ensure that the reserved services are respected:

The Regulations make provision for one very simple procedure to ensure that the reserved area is respected and it is fully integrated with the authorisation procedures. In practice:

- A written declaration that the postal services provided do not infringe the reserved area of An Post will be submitted with each application.
- A brief description of the services will also be provided. This description will be examined to ensure that it is consistent with the declaration.
- If ComReg decides that the description of services to be provided is consistent with the declaration the authorisation will be granted and details will be posted on its website/made available for inspection at ComReg's offices.
- If ComReg decides that the description of services to be provided is not consistent with the declaration the authorisation will be refused and the undertaking will be free to challenge this decision in the manner specified in Regulation 7. ComReg would not make such a decision without first giving the undertaking the opportunity to clarify the information submitted.
- ComReg will apply a specific set of tests in determining whether a service respects the reserved area of An Post:
 - (a) Is the service confined to the conveyance of books, catalogues, newspapers, periodicals or postal packages containing merchandise with or without commercial value?
 - (b) Is the service confined to the conveyance of items weighing more than 100g?
 - (c) Is the services confined to services with value added features, e.g. day certain or time certain delivery?
 - (d) Is the service confined to unaddressed items?
 - (e) Is the price per item in excess of €1.44⁴?

NB The weight and price limits will change from time to time in accordance with legislation.

In most cases there will be a clear cut decision based on these tests, but in certain marginal cases ComReg will, at its discretion, give both the applicant and An Post an opportunity to make written submissions before ComReg makes its decision.

⁴ That is three times the public tariff for an item of correspondence in the first weight step of the fastest category provided by An Post.

ComReg is of the view that additional procedures are not warranted at the present time.

Granting of authorisations would be without prejudice to ComReg's duty to ensure that the area reserved to An Post is respected.

Appendix C – Legislation

The European Communities (Postal Services) Regulations 2002 (S.I. No. 616 of 2002)

The EC “Postal Directive”⁵ establishes a harmonised regulatory framework for postal services throughout the European Union and for securing improvements in the Quality of Service provided, and defines a decision-making process regarding further opening of the postal market to competition. It was transposed into national law by the European Communities (Postal Services) Regulations, 2000, S.I. No.310 of 2000, which have now been revoked and replaced by the European Communities (Postal Services) Regulations, 2002, S.I. No.616 of 2002 ("the Postal Regulations"),

These Regulations set out a very broad framework of the universal service requirement. A function of ComReg is to put flesh on the bones of these Regulations; taking cognisance of the modern needs of business and domestic consumers in tandem with ensuring that the Universal Postal Service remains a protected and viable service nationwide going into the future.

Universal Service

Regulation 4 of SI 616 of 2002 states:

4. (4) Universal service shall include the following minimum facilities:
 - (a) the clearance, sorting, transport and distribution of postal items up to 2 kilogrammes;
 - (b) the clearance, sorting, transport and distribution of postal packages up to 20 kilogrammes;
 - (c) services for registered items; and
 - (d) services for insured items within the State and to and from all countries which as signatories to the Convention of the Universal Postal Union declare their willingness to admit such items whether reciprocally or in one direction only.
- (5) The minimum and maximum dimensions for the postal items in question shall be those laid down in the 1994 Seoul Convention and the Agreement concerning Postal Parcels adopted by the Universal Postal Union.
- (6) The universal service shall cover both national and trans-border services.

⁵ 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. OJ L 15 21.1.1998, p. 14, as amended by Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services OJ L 176 5.7.2002, p.21.

(7) Section 64 of the Act of 1983 does not apply to a postal service which is not part of the universal service.

Postal Services Authorisations

Regulation 7 of SI 616 of 2002 states:

7.(1) From 1 January 2004, a postal service provider (other than a universal service provider) with an annual turnover of more than €500,000, exclusive of VAT, shall apply to the Regulator for an authorisation (“postal service authorisation”) to provide a postal service.

(2) Where the Regulator is satisfied that an applicant under paragraph (1) can provide a postal service, the Regulator shall grant the applicant a postal service authorisation where the applicant gives the Regulator a written declaration that the postal services provided by the applicant do not infringe the reserved area.

(3) The holder of a postal service authorisation shall draw up procedures to deal with incorrectly delivered mail within, and the security and confidentiality of, the postal service provided by the holder.

(4) The Regulator may withdraw a postal service authorisation where it considers the holder has failed to comply with this Regulation or the written declaration under paragraph (2).

(5) Whenever the Regulator proposes to refuse to grant or withdraw a postal service authorisation, the Regulator shall notify in writing the applicant or holder, as the case may be, of the proposal, and of the reasons therefor, and shall, if any representations are made by or on behalf of the applicant or holder, as the case may be, within 28 days after the date of such notice, consider the representations.

(6) Whenever the Regulator, having considered the representations (if any) that may have been made by or on behalf of the applicant or holder under paragraph (5), decides to refuse to grant or withdraw, as the case may be, the postal service authorisation, the Regulator shall notify in writing the applicant or holder, as the case may be, and the applicant or holder, may, within 28 days after the date of such notice, appeal to the High Court against such refusal.

(7) Where the holder of a postal service authorisation makes an appeal under paragraph (6) against a decision of the Regulator to withdraw the authorisation, the decision of the Regulator shall stand suspended until the determination or withdrawal of the appeal.

(8) On the hearing of an appeal under paragraph (6) in relation to the decision of the Regulator to refuse to grant or withdraw a postal service authorisation, the Court may either confirm the decision, allow the appeal or make any other order it considers appropriate. If the appeal is allowed in the case of a refusal to grant a postal service authorisation, the Regulator shall grant the authorisation.

(9) The decision of the High Court on an appeal under paragraph (6) shall be final save that, by leave of that Court, an appeal on a specified question of law shall lie to the Supreme Court.

(10) A postal service provider (other than a universal service provider) with an annual turnover of more than €500,000, exclusive of VAT, who fails to comply with paragraph (1) or who provides a postal service having been refused a postal service authorisation or had a postal service authorisation withdrawn under this Regulation is guilty of an offence and is liable on summary conviction to a fine not exceeding €3,000.

(11) An offence under paragraph (10) may be prosecuted by the Regulator.

Reserved Area

Regulation 8 of SI 616 of 2002 states:

8.(1) The following services shall be reserved for An Post as a universal service provider, namely -

(a) the clearance, sorting, transport and delivery of items of domestic correspondence, trans-border correspondence and direct mail, whether by accelerated delivery or not, within both of the following weight and price limits -

(i) the weight limit shall be -

(I) from 1 January 2003, 100 grams, and

(II) from 1 January 2006, 50 grams,

(ii) these weight limits do not apply -

(I) from 1 January 2003, if the price is equal to or more than, three times, and

(II) from 1 January 2006, if the price is equal to or more than two and a half times, the public tariff for an item of correspondence in the first weight step of the fastest category,

(b) the free postal service for blind and partially sighted persons operated by An Post from time to time,

(c) until 1 January 2004, outgoing trans-border correspondence within the same weight and price limits referred to in paragraph (a).

(2) Document exchange is not reserved.

(3) The High Court may, on the application of An Post, make an order prohibiting the provision by any person of any service reserved to An Post under paragraph (1), and may give such other direction or make such other order in relation to the matter as the Court considers appropriate.

Complaints and Dispute Resolution

Regulation 15 of SI 616 of 2002 states:

15. (1) A universal service provider and a postal service provider with an annual turnover of €500,000, exclusive of VAT, shall, in accordance with guidelines laid down by the Regulator in consultation with the provider, draw up transparent, simple and inexpensive procedures for dealing with users complaints, particularly in cases involving loss, theft, damage or non-compliance with service quality standards (including procedures for determining where responsibility lies in cases where more than one operator is involved). These procedures shall enable disputes to be settled fairly and promptly with provision, where warranted, for a system of reimbursement or compensation or both.

(3) Any guidelines laid down or procedures drawn up under Regulation 17 of the Regulations of 2000, which are in force immediately before the making of these Regulations, are deemed to have been laid down or drawn up under this Regulation.

Regulator to monitor compliance with Regulations

Regulation 17 of SI 616 of 2002 states:

17. (1) It is a function of the Regulator to monitor compliance with Regulations 4(3) (a), 4(4), 5, 7, (9)1, 10(1), 11, and 12.

(2) The Regulator shall, where appropriate, and after consultation with the Minister, establish controls and specific procedures to ensure that the reserved services are respected.

Communications Regulation Act 2002

Section 12 (1) (c) states that one of the statutory objectives of the Commission in exercising its functions shall be 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 users.

Section 30 (2) states that for the purposes of meeting expenses properly incurred by the Commission in the discharge of its functions in relation to postal services, the Commission may make an order imposing a levy on providers of postal services.

(3) Whenever a levy order is made there shall be paid to the Commission by each provider of postal services ... such amount as shall be appropriate having regard to the terms of the levy order.

(4) A levy order, including a levy order made under the Act of 1996, may be amended or revoked by the Commission.

(5) Any surplus of levy income over the expenses incurred by the Commission in the discharge of its functions relevant to that levy in a particular financial year shall either—

(a) be retained by the Commission to be offset against levy obligations for the subsequent year, or

(b) be refunded proportionately to the providers on whom the levy is imposed.

...

(11) The Commission shall not impose a levy on providers of—

(a) electronic communications for the purpose of meeting expenses properly incurred by the Commission in the discharge of its functions in respect of postal services, or

(b) postal services for the purpose of meeting expenses properly incurred by the Commission in the discharge of its functions in respect of electronic communications.

(12) The Commission may recover as a simple contract debt in any court of competent jurisdiction from the person by whom it is payable any amount due and owing to it under this section.

(12A) The Commission shall, in relation to a levy order, cause to be published, whether in its annual report and accounts referred to in section 32 or otherwise, an annual overview of its administrative costs and of the total sum of the charges collected under subsection (1).

(13) In this section “levy order” means an order imposing levy under subsection (1) or (2).

Appendix D – Application Form for a Postal Service Authorisation
**Application Form for a Postal Service
 Authorisation**

(Please complete the following details in **CAPITAL LETTERS**).

***The information provided will be used to update ComReg’s list of
 Authorised Postal Service Providers.***

Section 1 – Details of Applicant

1.1 Name of applicant Mandatory Field	
1.2 Trading Name(s) if different to 1.1	
1.3 Postal Address Mandatory Field	
1.4 Telephone Number Mandatory Field	
1.5 Web site address	
1.6 Registered Address Mandatory Field (for registered companies)	
1.7 Company Registration No. Mandatory Field (for registered companies)	
1.8 Related or connected companies also providing postal services.	
1.9 Email Address Mandatory Field for online- application form	

Section 2 – Details of Trans Border Services Provided

Permissible Content – Outbound Trans-Border Services

Please indicate in the following table what services you provide/intend to provide within each category listed, ✓ as appropriate

Services within the Scope of the Universal Service								
Permissible Content								
Service ↓	Items of correspondence	Direct Mail	Advertising Mail	Books	Newspapers	Catalogues	Periodicals	Postal packages containing merchandise with or without commercial value
Postal Items weighing up to 100g								
Postal Items weighing from 100g up to 2kg								
Postal items weighing from 2kg up to 20kg								
Postal Items which require proof of handing in								
Items which require proof of delivery								
Insured items								

Services outside the Scope of the Universal Service								
Permissible Content								
Service ↓	Items of correspondence	Direct Mail	Advertising Mail	Books	Newspapers	Catalogues	Periodicals	Postal packages containing merchandise with or without commercial value
Day Certain Delivery at an affordable price								
Time Certain Delivery at an affordable price								
Valued Added Services with premium pricing (eg Express/ Courier services)								
New services quite distinct from conventional services?								
-unaddressed mail								
-document exchange								

	National (all areas)	Dublin City only	Local Areas - specify		
Access points in					
	UK	Other EU	USA/Canada	Rest of World	Specific country only - specify
For Delivery in					

(a) other services falling within the scope of the universal service:

(b) other services falling outside the scope of the universal service :

(c) Services not provided to/from particular locations:

Section 3 – Details of Services provided within the State.

Permissible Content – Services within the State including 'wholesale' services for incoming Trans-border mail

Please indicate in the following table what services you provide/intend to provide within each category, ✓ as appropriate.

Services within the Scope of the Universal Service								
Permissible Content								
Service ↓	Items of correspondence	Direct Mail	Advertising Mail	Books	Newspapers	Catalogues	Periodicals	Postal packages containing merchandise with or without commercial value
Postal Items weighing up to 100g								
Postal Items weighing from 100g up to 2kg								
Postal items weighing from 2kg up to 20kg								
Postal Items which require proof of handing in								
Items which require proof of delivery								
Insured items								

Services outside the Scope of the Universal Service								
Permissible Content								
Service ↓	Items of correspondence	Direct Mail	Advertising Mail	Books	Newspapers	Catalogues	Periodicals	Postal packages containing merchandise with or without commercial value
Day Certain Delivery at an affordable price								
Time Certain Delivery at an affordable price								
Valued Added Services with premium pricing (eg Express/ Courier services)								
New services quite distinct from conventional services?								
-unaddressed mail								
-document exchange								

	National (all areas)	Dublin City only	Local Areas - specify
Access points in			
	National (all areas)	Dublin City only	Local Areas - specify
For Delivery in			

(a) other services falling within the scope of the universal service:

(b) other services falling outside the scope of the universal service :

(c) Services not provided to/from particular locations:

Section 4 – Complaints & Redress Contact Details (for publication on ComReg Register of Authorised Postal Service Providers)

4.1 Trading Name	
Mandatory Field	
4.2 Postal Address	
Mandatory Field	
4.3 Telephone Number (LoCall or Freefone)	
Mandatory Field	
4.4 Fax Number	
Mandatory Field	
4.5 Email address	
Mandatory Field	

Section 5 - Contact Details of Compliance Officers

5.1 Primary Compliance Officer	
Mandatory Field	
5.2 Telephone No.	
Mandatory Field	
5.3 Fax No.	
Mandatory Field	
5.4 Mobile No	
Mandatory Field	
5.5 Email Address	
Mandatory Field	
5.6 Deputy Compliance Officer	
5.7 Telephone No.	
5.8 Fax No.	
5.9 Mobile No.	
5.10 Email Address	

Checklist to ensure that relevant forms are completed.

Please tick ✓ in boxes below and sign before submitting to ComReg.

Have you completed?

- Application Form for a Postal Service Authorisation together with a signed Checklist

Also please attach the following signed forms:

- Declaration that services provided/to be provided do not/will not impinge on the area reserved to An Post

The following documents may also be enclosed now or subsequently as ComReg will allow a period of six months from the date of this application to submit these procedures:

- Procedures drawn up as required by Regulation 7(3) to ensure compliance with the essential requirements.
- Complaints and Redress Procedures drawn up in compliance with Regulation 15(1)

On behalf of the Applicant I hereby declare that:

- The information provided by me is accurate and complete in all respects
- I have noted the relevant guidelines and legislation pertaining to this application and
- I shall at all times comply with the lawful directions of the Commission for Communications Regulations.
- For the purposes of the Data Protection Act 1988 (as modified or amended) I hereby consent /do not consent (delete as appropriate) to the publication on ComReg's public register of any personal data provided by me in Section 1 of this application form.

Signed: _____ (name & position within company)

On behalf of: _____ (company)

Date: _____

Guidance on completion of specific elements of the application form for authorisation

Section 1 – Details of Applicant

<p>1.1 Name of Applicant Mandatory Field</p>	<p>This should be the name of the company, if incorporated, or the natural person. Trading names should not be used. i.e. Mr. A O’Brien or A O’Brien Ltd. are acceptable entries; O’Brien Services is not.</p> <p>Sample entry: A O’Brien Ltd.</p>
<p>1.2 Trading Name(s) if different to 1.1</p>	<p>Enter the trading name or names as used by the enterprise. Note that where ComReg enters details of a trading name, this is without prejudice to whether the requirements of the Companies Acts relating to Business Names have been complied with.</p> <p>Sample entry: O’Brien Services</p>
<p>1.3 Postal Address Mandatory Field</p>	<p>Enter the address to which members of the public should direct correspondence.</p> <p>Sample Entry: Unit 4, ABC Business Park, Sligo.</p>
<p>1.4 Telephone Number Mandatory Field</p>	<p>This should be the number for use by members of the public or other third parties – if LoCall or Freefone numbers are available, they should be shown.</p> <p>Sample Entry: (071) 911 2345</p> <p>Note: ComReg will not make telephone numbers of private individuals available to the public.</p>
<p>1.5 Web site address</p>	<p>This will provide a link to website of the applicant from the ComReg website</p>
<p>1.6 Registered Address</p>	<p>The registered address should always be shown</p>

Mandatory Field (for registered companies)	in the case of a company. This address will be used by ComReg for the delivery of statutory notices.
1.7 Company Registration Number Mandatory Field (for registered companies)	Where the company is not registered at the Irish Companies Registration Office, the number and the company registry should be shown e.g. 123456 (Companies House, London)
1.8 Related or connected companies also providing postal services.	Enter names of companies which also provide postal services and state nature of connection.
1.9 Email Address Mandatory Field for online-application form	You will need to enter your email address if you complete the form on-line so that electronic correspondence can be sent via email

Using the sample entry above, the information available on the ComReg website will be shown as follows:

1.1 Company Name	A O'Brien Ltd.
1.2 Trading Names	O'Brien Services
1.3 Postal Address	Unit 4, ABC Business Park, Sligo
1.4 Website	
1.5 Company Telephone	+353 (0)71 911 2345

As can be seen only the details of 1.1 to 1.5 will be displayed on the public register

Section 2 & Section 3– Details of Services Provided

The table is a matrix with the different types of permissible content across the top and the different kinds of services down the side. For each type of service provided the relevant column(s) should be ticked according to what contents are accepted. If services are provided for trans border mail and mail within the state both copies of this table should be provided.

Section 4 & Section 5– Contact Details

Contact details are required in both Section 4 and Section 5 of the application form. Section 4 Contact Details must be completed and these details will be listed on ComReg's Register of Authorised Postal Users for the benefit of customers who wish to lodge a complaint, should this course of action be deemed necessary.

Section 5 must be completed and the details provided will be used solely for ComReg’s information and compliance functions.

Definitions from the EU Postal Directives

postal services: services involving the clearance, sorting, transport and delivery of postal items;

NB Although the above definition taken in conjunction with the definition of postal item appears to restrict postal services to those provided by “the universal service provider” it is clear from both the recitals and specific provisions in the Directives that it encompasses all such services, including Express Services, Document Exchange and Unaddressed Mail:

Recital 21 to 97/67/EC, Whereas new services (services quite distinct from conventional services) and document exchange do not form part of the universal service and consequently there is no justification for their being reserved to the universal service providers;

Recital 22 to 97/67/EC, Whereas Member States should be able to regulate, by appropriate authorization procedures, on their territory, the provision of postal services which are not reserved to the universal service providers; whereas those procedures must be transparent, non-discriminatory, proportionate and based on objective criteria;

Extract from Article 19, as amended,

Member States may provide that this principle is also applied to beneficiaries of services which are:

- outside the scope of the universal service as defined in Article 3, and
- within the scope of the universal service as defined in Article 3, but which are not provided by the universal service provider.

Recital 13 to 2002/39/EC, Amongst the factors which bring about change affecting employment in the postal sector, technological development and market pressure for efficiency gains are the most important; of the remaining factors for change, market-opening will play a less prominent part. Market opening will help to expand the overall size of the postal markets, and any reductions in staff levels among the universal service providers due to such measures (or their anticipation) are likely to be offset by the resulting growth in employment among private operators and new market entrants.

postal item: an item addressed in the final form in which it is to be carried by the universal service provider. In addition to items of correspondence, such items also include for instance books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without commercial value;

item of correspondence: a communication in written form on any kind of physical medium to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping. Books, catalogues, newspapers and periodicals shall not be regarded as items of correspondence;

direct mail: a communication consisting solely of advertising, marketing or publicity material and comprising an identical message, except for the addressee's name, address and identifying number as well as other modifications which do not alter the nature of the message, which is sent to a significant number of addressees, to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping. The national regulatory authority shall interpret the term 'significant number of addressees' within each Member State and shall publish an appropriate definition. Bills, invoices, financial statements and other non-identical messages shall not be regarded as direct mail. A communication combining direct mail with other items within the same wrapping shall not be regarded as direct mail. Direct mail shall include trans-border as well as domestic direct mail;

registered item: a service providing a flat-rate guarantee against risks of loss, theft or damage and supplying the sender, where appropriate upon request, with proof of the handing in of the postal item and/or of its delivery to the addressee;

insured item: a service insuring the postal item up to the value declared by the sender in the event of loss, theft or damage;

trans-border mail: mail from or to another Member State or from or to a third country;

document exchange: provision of means, including the supply of ad hoc premises as well as transportation by a third party, allowing self-delivery by mutual exchange of postal items between users subscribing to this service;

universal service provider: the public or private entity providing a universal postal service or parts thereof within a Member State, the identity of which has been notified to the Commission in accordance with Article 4;

Appendix E – Declaration under Regulation 7(2) of the European Communities (Postal Services) Regulations, 2002, S.I. 616 of 2002

Declaration under Regulation 7(2) of the European Communities (Postal Services) Regulations, 2002, S.I. 616 of 2002

(Please complete the following details in **CAPITAL LETTERS**).

I, _____,
(name)

_____,
(position within company)

hereby declare that the services provided/to be provided by

_____,
(company name)

do not and will not infringe on the area reserved to An Post as designated Universal Service Provider.

Signed _____

Duly authorised on behalf of _____
(company name)

Date _____

Please note: Under Regulation 7 (4) of the Regulations ComReg may withdraw a postal service authorisation where it considers the holder has failed to comply with the written declaration.

Appendix F – Template for a Postal Service Authorisation **Postal Service Authorisation**

This is to certify that _____
(company name)

Registered Address of Company _____

Company Registration Number _____

is authorised to provide postal services under Regulation 7 of the European
Communities (Postal Services) Regulations, 2002, SI 616 of 2002 ('the Regulations')
subject to and in accordance with the Regulations. (see explanatory notes overleaf)

Signed _____
(Chairperson, the Commission for Communications Regulation
(^ComReg') / a person duly authorised by ComReg.

Date _____



ComReg Seal

Explanatory Notes

Under Regulation 7(3) of the European Communities (Postal Services) Regulations, 2002, S.I. 616 of 2002 the holder of a Postal Service Authorisation **shall** draw up procedures to deal with incorrectly delivered mail within, and the security and confidentiality of, the postal service provided/to be provided and to provide a copy of these procedures to ComReg in the manner and according to timescales specified by ComReg.

An Authorised Postal Service holder is liable to have its Authorisation withdrawn by ComReg where ComReg considers the holder has failed to comply with its obligations under Regulation 7 of the European Communities (Postal Services) Regulations, 2002, S.I. 616 of 2002.

Under Regulation 15 of the European Communities (Postal Services) Regulations, 2002, S.I. 616 of 2002 the holder of a Postal Service Authorisation **shall** draw up and submit to ComReg for approval, a formal Code of Practice for dealing with Customer Complaints and Redress with provision for a system of reimbursement or compensation or both in line with the Guidelines issued by ComReg in its Response to Consultation, 'Postal Services – Universal Service Obligation, Tariff Principles and miscellaneous issues', Document No. 03/50, which was published on 13 May 2003.

Appendix G – Sample Of Eurostat Information Request

TABLE 1: GENERAL INFORMATION	
<p>EMPLOYMENT</p> <ul style="list-style-type: none"> Total number of persons employed Number of full-time employees Number of part-time employees Number of employees in full-time equivalent units Total number of persons employed for the provision of postal and related services 	

TABLE 3: FINANCIAL RESULTS	
<ul style="list-style-type: none"> Total turnover of company Total turnover from the provision of postal and related services <ul style="list-style-type: none"> Payments received from foreign operators / partners Operating expenditures for the provision of postal and related services <ul style="list-style-type: none"> Payments paid to foreign operators Investments for postal and related services 	

TABLE 4: BREAKDOWN OF TURNOVER FROM POSTAL AND RELATED SERVICES	
<p>POSTAL AND RELATED SERVICES, TOTAL</p> <ul style="list-style-type: none"> Standard letter-post services, total CEP services, total <ul style="list-style-type: none"> Courier services Express and parcels services <ul style="list-style-type: none"> Express services Parcels services Other postal and related services <p>BREAKDOWN OF STANDARD LETTER-POST SERVICES</p> <ul style="list-style-type: none"> Letters and postcards Direct mail Other letter-post items 	

TABLE 5: BREAKDOWN OF TRAFFIC (number of items dispatched)	
<p>POSTAL AND RELATED SERVICES, TOTAL</p> <ul style="list-style-type: none"> Standard letter-post services, total 	

CEP services, total	
Courier services	
Express and parcels services	
Express services	
Parcels services	
Other postal and related services	
BREAKDOWN OF STANDARD LETTER-POST SERVICES	
Letters and postcards	
Direct mail	
Other letter-post items	
INTERNATIONAL POSTAL AND RELATED SERVICES	
Total number of outgoing postal items dispatched	
Total number of incoming postal items dispatched	

Appendix H – Decisions

Decision 1

In accordance with Regulation 7 of SI 616 of 2002, the procedures for Authorising Postal Service Providers are set out at Appendix A

In accordance with Regulation 8 of SI 616 of 2002, the procedures to ensure that the services reserved to An Post are respected, are set out at Appendix B

Decision 2

The structure and layout for the revised levy order will provide that an operator designated as a USP will pay 0.25% of relevant turnover on services within the universal service area and 0.075% on services outside the universal service area. Other authorised operators will pay 0.075% of relevant turnover on services falling outside the universal service area. A minimum charge of €1,000 will apply.

A new levy order will be made to facilitate the amendments with effect from 1 January 2004