



Office of the Director of
**Telecommunications
Regulation**

Regulation of Postal Services – Procedures for seeking the views of interested parties

Information Notice

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1 Introduction

The purpose of this paper is to set out the procedures by which The Director of Telecommunications Regulation ("the Director"), as the national regulatory authority for the postal sector, intends to take into account the views of interested parties, such as postal service providers, users, consumers and manufacturers, in carrying out her statutory functions.

The "Postal Directive"¹ 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 (SI No.310/2000 "the Regulations").

The Minister for Public Enterprise has designated the Director as the National Regulatory Authority for the postal sector. The Regulations provide that the Director shall take into account the views of interested parties in relation to the exercise of her functions under the Regulations². This paper sets out the procedures that have been drawn up in light of this requirement. The paper also explains the fundamental elements of the regulatory regime and provides some background to the development of that regime.

2 Background

2.1 The European Dimension

The Postal Directive was adopted by the European Parliament and the Council on 15 December 1997 following a lengthy consultation process³ that began in 1991 with the publication by the Commission of a Green Paper⁴ on the development of the single market for postal services. It put in place a harmonised regulatory framework for the Community postal sector and defined the decision making process regarding further opening of the postal market to competition.

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

² Regulation 17(1) provides "The Director shall take into account the views of interested parties, including representatives of postal service providers, users, consumers and manufacturers in relation to his or her functions under these Regulations in accordance with procedures drawn up by the Director for that purpose." Regulation 17(2) provides "The Director shall publish a reference to the procedures referred to in paragraph (1) in the Iris Oifigiúil."

³ The debate was informed by a number of key documents and decisions, including
 "Guidelines for the development of Community postal services" (COM(93) 247) of 2 June 1993
 Council resolution of 7 February 1994 on the development of Community Postal Services OJ C 48, 16.2.1994, p. 3.
 Commission proposals published 1995 OJ C 322, 2.12.1995, p. 3 and p.22.
 European Parliament Resolution of 12 December 1996 OJ C 20, 20.1.1997, p. 159.

⁴ COM(91) 476 final

2.2 The Regulatory Context

The aim of the Postal Directive is to ensure the continuing provision of a universal postal service in the long-term, while securing the freedom to provide competitive services in this sector through the gradual liberalisation of the postal market. It imposes on member states the objective of developing and maintaining high quality, affordable postal services countrywide.⁵ The regulatory framework that has been put in place has been designed to ensure postal service providers become more efficient and responsive by setting quality standards and tariff principles.

2.3 Main elements of the Regulatory Framework

The regulatory framework has four main elements that can be summarised as:

- Establishing the separation of regulatory powers and operational functions in the postal sector;
- Establishing principles governing transparency of accounts, to ensure transparency and non-discrimination in tariffs, and maintaining a strict separation of accounts between reserved and non-reserved services.
- Defining the minimum characteristics of the universal postal service to which every citizen and business in all Member States must have access [The “UNIVERSAL SERVICE OBLIGATION”]
- Defining the maximum extent to which a Member State may reserve to its universal service provider(s) certain services in order to ensure the maintenance of the universal service [The “RESERVED AREA”] and the principles governing the provision of non-reserved services.

2.4 Universal Service Obligation

The regulatory framework defines the type of postal service that everyone has the right to receive. It covers letters and postal packages up to 20 kilogrammes in weight. Universal service providers must guarantee one clearance, and subject to derogation, one delivery to the address of every natural or legal person in the State five days a week. The Regulations also require universal service providers to provide certain minimum facilities and to comply with directions in relation to quality of service and tariff principles.⁶

The Regulations have designated An Post as a Universal Service Provider and the Minister for Public Enterprise may designate one or more additional postal service providers as a Universal Service Provider having an obligation to provide all or part of the Universal Service

⁵ SEC(97) 2289 Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain state measures relating to postal services. p.4.

⁶ Although the Regulations provide that the tariff principles do “not exclude the right of An Post to conclude individual agreements on prices with customers” this is subject to the principle that the prices agreed are “geared to costs” and are “non-discriminatory.” The Director has a duty to monitor compliance with these principles.

2.5 The Reserved Area

The regulatory framework allows Member States to reserve parts of the universal service (currently correspondence weighing up to 350 grammes and charged less than five times the standard tariff for an item in the first weight step) to their Universal Service Provider(s). The framework also outlines accounting procedures to be followed to prevent cross-subsidy from the reserved area to services in the competitive area, except in so far as is necessary to cover the additional costs of the universal services. The Regulations reserve to An Post the provision of services within the maximum limits laid down by the Postal Directive.

Companies, other than designated Universal Service Providers, operating outside the Reserved Area are currently not subject to regulation by the Director.

Charges for services within the reserved area may only be increased with the concurrence of the Director.

2.6 Financing the Universal Service Obligation

The regulatory framework assumes that the costs of meeting the Universal Service Obligation will be funded by cross-subsidisation between or within services [for example, unprofitable mail delivery in rural areas could be subsidised through revenues from profitable mail delivery in urban areas]. The extent to which there can be cross-subsidy between and within services is set out in the Commission's Notice on the application of the competition rules to the postal sector and on the assessment of certain state measures relating to postal services.⁷

2.7 Future Developments

The Postal Directive envisages a further opening of the postal sector to competition from 1 January 2003. There has been some debate at EU Level about the extent of further liberalisation, but no agreement has, as yet, been reached.

Regardless of regulatory change the letters market faces increased competition from alternative methods of communication such as fax, e-mail, broadcasting and the Internet. The emerging e-commerce market creates the need for ubiquitous and state of the art physical delivery networks and logistics services. Postal operators need to define and establish their market positioning in this new economy if they want to take advantage of the emerging market. To this end many postal operators have engaged in extensive restructuring and modernising programmes but the process has not been uniform throughout the Community.

3 Consultation Procedure

As previously stated, the Director is obliged under the terms of the Regulations to take into account the views of interested parties, including service providers, users, consumers and manufacturers, in relation to her functions under the Regulations. Regulation 17(1) requires the Director to draw up a procedure for taking these views into account. It has been the practice of the Director to engage in public consultation, where appropriate, in relation to the exercise of her functions in the telecommunications sector. She intends to continue this practice in the postal sector.

⁷ SEC(97) 2289

3.1 Publication of Consultation Papers

Where the Director engages in a public consultation process, all consultation papers will be made available on the ODTRs website and in hard copy format from the ODTR. Advertisements will be placed in at least two national newspapers announcing the availability of such papers, the closing date for submissions in relation to same and a contact person within the ODTR.

3.2 Submissions

Normally the time allowed for interested parties to respond will be four weeks but this may need to be different in some cases because of:

- the complexity of the issues addressed;
- the stakeholders who might be most likely to wish to respond to the paper;
- the other papers that might be addressed to the same stakeholders (and therefore the total effort required to respond);
- any statutory timing requirements; and
- the mobilisation of resources to deal with the issues raised.

It is the practice to make all responses received available for inspection except for material supplied on a confidential basis (and marked confidential), for example because they contain information which is commercially sensitive.

3.3 Decisions

There will always be a response to the consultation, providing a general review of submissions and the Director's response to them. Where appropriate, a Decision Notice will be issued, setting out the Decisions taken following the consultation, together with a review of submissions and the Director's reasons for her Decisions.

3.4 Review of Decisions

Issues that are dealt with by means of Decision Notices can only be altered by the issuance of a revised Decision Notice. Where such a revision takes place, the revision will be publicised on the ODTR website, and elsewhere as appropriate.

4 Forthcoming consultation papers

There are a number of consultation papers that the ODTR intends to include in its existing work programme for 2001 to meet the new responsibilities for the postal sector. Some of these are imminent; others will be issued at various stages throughout the year. The following consultations are expected to issue during the next six months:

Consultation Paper	Target Publication Date
Guidelines concerning compliance with USO Tariff Principles	March
Cost Accounting Methodology	March/April
Quality Standards	March/April
Information to be provided by Universal Service Providers	June/July
Monitoring of Quality Standards	July

The Director may also go to public consultation in relation to other matters that may arise from time to time where public consultation is the most appropriate way to ascertain the views of interested parties.

Future postal papers will be included in the work programme on the ODTR website.

5 Conclusion

A harmonised regulatory framework has been put in place for the gradual and controlled opening of the internal market for postal services throughout the European Union. The Director of Telecommunications Regulation has been designated as the national regulatory authority for Ireland. The European Commission has recognised⁸ that the provision of a high quality universally available postal service at an affordable price is essential for economic and social activities through the European Union. As the postal services market is not fully liberalised, regulation is required to achieve improvements in quality of service and ensure the application of cost effective tariff structures. The nature of regulation will change as the Commission's vision for the opening of the postal sector to full competition is gradually realised.

Participation in the consultation process from all interested parties including consumers, businesses, all postal service providers and, where appropriate, manufacturers is welcome and indeed essential to achieve these objectives.

It is believed that the procedures outlined in this document will facilitate a comprehensive debate on the best way forward for postal services in Ireland.

⁸ SEC (97) 2289 "Notice from the Commission on the Application of the Competition Rules to the Postal Sector and on the Assessment of Certain State Measures Relating to Postal Services"