



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

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

Consultation on Step 1 of review: Is there a requirement for a postal universal service provider designation after 1 August 2023?

**Consultation and Draft
Decision**

Reference: ComReg 22/85

Date: 14/10/2022

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

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All responses to this consultation should be clearly marked:

“Reference: Submission re ComReg 22/85”, and sent by post, e-mail or online at www.comreg.ie (current consultations) to arrive on or before 5.p.m, Friday 11 November 2022 to:

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

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

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1 Executive Summary

1. The purpose of this public consultation is to review whether there is a requirement for a designation of universal postal service provider(s) (“USP(s)”) after 1 August 2023. This is because the designation of An Post as USP ceases on 1 August 2023.
2. ComReg has statutory responsibility to review the USP designation and decide whether a designation is required after 1 August 2023¹. ComReg is also statutorily required to ensure that this review is done in accordance with procedures established and maintained by ComReg². ComReg established these procedures in 2019³. These procedures set out two main steps for USP designation reviews which are summarised as follows:
 - Step 1 – Is there a requirement for a USP designation?
 - If Yes at Step 1: Step 2 – Which postal service provider(s) (“PSP(s)”) should be designated as USP(s)?
3. This consultation is Step 1 and follows the procedures and the same approach as the last designation review conducted by ComReg in 2019. In summary, if ComReg is of the view that any part of the universal postal service would not be provided by the market without a designated USP, then ComReg will decide that there is a requirement to designate USP(s) to ensure that the universal postal service is provided throughout the State.
4. To inform this, ComReg assessed whether each of the universal postal services required by law and ComReg’s regulations would be provided by the market without a USP designation. The assessment is whether each of the universal postal services are being provided:
 - by more than one PSP
 - throughout the State by more than one PSP.
5. Based on information gathered, ComReg's assessment is that the majority of universal postal services are provided by only one PSP, An Post. Furthermore, none of the universal postal services are currently provided throughout the State by more than one PSP.
6. Absent a USP designation, solely relying on the presence of just one PSP to provide the universal postal service nationwide without significant competition is considered by ComReg to be inconsistent with ensuring the provision of the universal postal service. Based on the assessment ComReg has formed the preliminary conclusion that without a designated USP the universal postal service would not be provided to the required levels of accessibility, quality and

¹ Section 18 of the 2011 Act

² Section 19 of the 2011 Act

³ ComReg Document No. 19/64a

affordability for the State by the market. Therefore, there is a requirement for designation(s) after 1 August 2023.

7. Therefore, the preliminary answer to 'Step 1 – Is there a requirement for a USP designation' is Yes, there is a requirement for a designation after 1 August 2023. By this consultation, ComReg is seeking views on this preliminary Yes answer to Step 1.

2 Introduction

8. The Commission for Communications Regulation ("ComReg") is the national regulatory authority for postal services in the State and its functions and objectives are set out in the Communications Regulation Act 2002, as amended ("the 2002 Act").
9. Under the Communications Regulation (Postal Services) Act 2011 as amended ("the 2011 Act"), ComReg is mandated to ensure the provision of a universal postal service in the State that meets the reasonable needs of postal service users. The universal postal service obligation ("USO") consists of a basic but high-quality postal service for all postal service users for the collection, sorting, transport and delivery of universal postal service postal packets, at affordable prices irrespective of where they are located in the State. The 2011 Act transposed the EU Postal Directive⁴ for the State. The USO for postal services was prescribed for all EU Member States by the EU Postal Directive recognising that postal services are an essential instrument of communication and trade.
10. The USP provides the USO required by the 2011 Act. The universal postal service requires that on every working day there is at least one clearance and one delivery of postal items (largely letters) to the home or premises of every person in the State. The universal postal service ensures the provision of specific postal services to all, at an affordable price, to a sufficient level of quality, and are readily available throughout the State. The universal postal service is a form of protection for postal service users, in particular vulnerable users and those that are digitally disadvantaged.
11. Section 17(1) of the 2011 Act designated An Post as the sole USP for postal services in the State, for a period of 12 years following the passing of the 2011 Act (i.e. from 2 August 2011 – 1 August 2023), subject to designation review/decision by ComReg after the expiry of 7 years.⁵ Following public consultations⁶, ComReg made a Decision⁷ to continue the designation of An Post as the USP for the entire State for the duration of the unexpired period of the designation specified in section 17(1) of the 2011 Act, that is to 1 August 2023.
12. There are considerable benefits to being designated as USP(s) for the State. For example, designated USPs enjoy increased brand recognition. In addition,

⁴ The harmonised EU framework for the regulation of postal services under Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service, as amended by Directive No. 2002/39/EC, and Directive No. 2008/6/EC ("the EU Postal Directive"). The 2011 Act transposed the EU Postal Directive for the State.

⁵ Prior to the 2011 Act, An Post was also designated as sole USP for the State under the previous regulations, the European Communities (Postal Services) Regulations, 2002 (S.I. No. 616 of 2002). Before that, the Postal and Telecommunications Services Act, 1983 (No. 24 of 1983) gave An Post exclusive privilege in respect of certain postal services in view of its primary purpose of providing a national postal service.

⁶ ComReg Document Nos. 19/125 and 20/49

⁷ ComReg Decision D13/20, ComReg Document No. 20/131

public postal services are VAT exempt⁸. There are, however, also some additional statutory requirements on designated USPs beyond those which authorised PSPs must comply with, for example with regard to service quality, affordability and access to the universal postal service, as well as the reporting of separated regulatory accounts.

13. Given the impending deadline of 1 August 2023 for the expiration of the USP designation, and as required by section 18 of the 2011 Act, ComReg is now reviewing the USP Designation after 1 August 2023 and whether there is a requirement for designated USP(s). As required by section 19 of the 2011 Act, this review is in accordance with procedures established and maintained by ComReg, “the Procedures”. The Procedures set out two main steps for USP designation reviews which are summarised as follows:

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

ComReg will gather information, assess the Irish market for the provision of postal services (“the market”) and make a decision as to whether a USP designation is required. Following this assessment and a public consultation on same, ComReg will either make a decision that no USP designation is required or make a decision that there is a requirement for a USP designation. In Step 1, if ComReg is of the view that any part of the universal postal service would not be provided by the market without a designated USP, ComReg will then proceed to Step 2 to designate a USP or USPs so that the universal postal service is provided for the State.

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

In this step ComReg will gather information, assess and decide on which PSP(s) should be designated as USP(s). In this step, ComReg may decide either to designate one USP or more than one USP. ComReg will complete a public consultation prior to any ComReg decision.

14. This public consultation sets out ComReg’s assessment, preliminary conclusion and draft decision in respect of Step 1 of the review. This Step 1 review follows the Procedures and the last USP Designation review conducted by ComReg in 2019⁹ as follows:

- Chapter 3 sets out the categorisation of postal services that inform the assessment
- Chapter 4 sets out the information gathered and considered
- Chapter 5 sets out and seeks views on the assessment and preliminary conclusion

⁸ Value-Added Tax Consolidation Act 2010 Schedule 1 Part 1. ComReg has no remit in relation to taxation.

⁹ ComReg Document No. 19/125

- Chapter 6 seeks views on the durations of any designation(s)¹⁰
- Chapter 7 sets out the next steps and indicative timeframe before 1 August 2023.

¹⁰ Subject to the responses to this Step 1 consultation and ComReg's subsequent decision having considered responses and other relevant evidence

3 Categorisation of Postal Services

15. There are three categories of postal services¹¹ which are subject to regulation under the 2011 Act:

- i. The universal postal services as defined by section 16 of the 2011 Act and as specified by the Communications Regulation (Universal Postal Service) Regulations 2012¹² made by ComReg pursuant to section 16(9) of the 2011 Act (“USO Regulations”).
- ii. Postal services which are “*within the scope of the universal postal service*” on the basis that they meet any one of the three criteria set out in section 37(1) of the 2011 Act and by reference to ComReg’s published guidelines.
- iii. Other postal services; this being a residual category comprising postal services that are not part of the two previous categories.

16. Consistent with the approach taken for the last USP Designation Review, for the purpose of Step 1 ComReg:

- has considered postal services which fall within the first two categories.
- does not consider that “other postal services” are directly relevant to an assessment for the purpose of a review of the universal postal service designation.

3.1 The universal postal services to be provided under the universal postal service obligation (“USO”)

17. The USO required by the 2011 Act means that on every working day, except in such circumstances or geographical conditions as ComReg considers exceptional, there is at least one clearance and one delivery to the home or premises of every person in the State.

18. The 2011 Act also requires that the following minimum set of universal postal services are provided for the State:

- i. the clearance, sorting, transport and distribution of postal packets¹³ up to 2 kilograms in weight;

¹¹ “Postal services” are services involving the clearance, sorting, transport and distribution of postal packets. See ComReg Document 12/81 for ComReg’s interpretation of this term.

¹² S.I. 280 of 2012 as amended by S.I. No. 150 of 2019, S.I. No. 149 of 2019 and S.I. No. 534 of 2018.

¹³ “Postal packet” is defined by the 2011 Act as an item addressed in the final form in which it is to be carried by a postal service provider and includes a letter, parcel, packet or any other article transmissible by post.

- ii. the clearance, sorting, transport and distribution of parcels within the State up to 10kg in weight;
- iii. the sorting, transport and distribution of parcels from other Member States up to 20 kilograms in weight;
- iv. a registered items service for all postal packets;
- v. an insured items service for all postal packets, within the State and to and from all UPU¹⁴ member countries;
- vi. postal services, free of charge, to blind and partially-sighted persons.

19. As required by the 2011 Act¹⁵ ComReg made the USO Regulations specifying the services to be provided by a USP relating to the provision of a universal postal service.

20. As required by the 2011 Act, USO services must be provided to the benefit of all postal service users throughout the State by

- being non-discriminatory and uniform, with ease of access to use and avail of the services ensured
- with harmonised terms and conditions to ensure user protection
- achieving certain quality of service obligations so users get the service they paid for
- ensuring prices are affordable and cost orientated.

¹⁴ Universal Postal Union

¹⁵ Section 16(9) of the 2011 Act

21. For the purpose of this review, ComReg has grouped together¹⁶ and set out in the table below the required universal postal services under the 2011 Act and the USO Regulations, and has separated domestic and international services:

Table 1 – Current Universal Postal Services

Universal postal services required under section 16 of the 2011 Act and the USO Regulations		Transit Time Objective (“D+n”) ¹⁷
Domestic Basic Single Piece Service¹⁸ for Letters and Large Envelopes	Letters up to 100g Large Envelopes (Flats) up to 500g	<i>D+1 for Domestic deliveries</i>
Domestic Basic Single Piece Service for Packets and Parcels	Packets up to 2kg Parcels up to 10kg.	<i>D+1 for Domestic deliveries</i>
Domestic Single Piece Registered/Proof of Delivery Service	A registered service with “proof of delivery facility” for single piece letters, large envelopes, packets and parcels.	<i>D+1 for Domestic deliveries</i>
Domestic Single Piece Insured Service	An insured service for single piece letters, large envelopes, packets and parcels.	<i>D+1 for Domestic deliveries</i>
Free of Charge Postal Services for the Blind and Partially Sighted	A service provided free of charge for the transmission of “postal packets for the blind” up to 7kg.	<i>D+1 for Domestic deliveries</i>

¹⁶ ComReg considers that the provision of Letters and Large Envelopes are provided by different networks to the provision of Packets and Parcels.

¹⁷ Where “D” represents the “day of posting” and “n” represents the number of working days after the day of posting after which the postal packet will be delivered to the addressee in due course of post.

¹⁸ Single Piece Service means a postal service involving transmission of individual postal packets to addressees where the postage paid by the senders is not subject to any discounts based upon: (a) the number of postal packets; (b) the substance, formatting or positioning of the address; (c) the use of markings to facilitate sorting by machines; (d) pre-sorting into geographical areas for delivery; or (e) an obligation to purchase any other postal service.

Universal postal services required under section 16 of the 2011 Act and the USO Regulations		Transit Time Objective (“D+n”) ¹⁷
Bulk Mail Services – Domestic and International	<p>Domestic Bulk Mail Services for</p> <ul style="list-style-type: none"> ▪ “Delivery only” – which refers to a D+1 service with the prescribed minimum requirements. ▪ “Deferred Delivery” – which refers to a D+2 service with the prescribed minimum requirements. <p>International Bulk Mail Service for items deposited in bulk pre-sorted by country of destination.</p>	<i>For domestic Bulk Mail Services as per the service description.</i>
International Inbound Service	<ul style="list-style-type: none"> ▪ A service for postal packets deposited at an Office of Exchange within the State by a designated operator member of the UPU¹⁹. ▪ Parcels from other EU Member States up to 20kg. 	<i>D+1 from arrival in the State to delivery</i>
International Outbound Service	A service for all single piece and bulk mail universal postal service postal packets posted in the State to all countries which are signatories to the UPU.	<i>D+3 for EU deliveries D+ up to 9 for all other foreign deliveries</i>
Free Certificate of Posting on request	Certificate of posting on request where the postal packet is deposited at a post office.	<i>N/A</i>
Special Facilities for Delivery of Postal Packets at the Request of the Addressee	Business Reply	<i>D+1 for Domestic deliveries</i>
	Freepost	
	Redirection	
	MailMinder	
	Private boxes and bags (PO Box) ²⁰	
	Poste Restante ²⁰	

¹⁹ Terminal dues rates are paid by postal operators to each other for delivery of international inbound mail items. The rules are mainly governed by the Universal Postal Convention of the Universal Postal Union.

²⁰ Private boxes and bags and Poste Restante services have a D+1 transit time for domestic delivery to the collection point, where not delivered to the addressee’s address.

3.2 Postal services within the scope of the universal postal service

22. Only the designated USP has a legal obligation to provide the universal postal services as described above. However, the 2011 Act envisages that there may be postal services which are not universal postal services but are “*within the scope of the universal postal service*” and section 37(1) of the 2011 Act states that a postal service is within this scope if:

- a) the service is within the description of the universal postal service set out in section 16 of the 2011 Act,
- b) the service would be within the description of the universal postal service in section 16 of the 2011 Act but for the fact that –
 - i. in the case of a service consisting of the clearance and delivery of postal packets, the clearance or delivery is not made on every working day as required by section 16(1)(a) of the 2011 Act,
 - ii. the service is not provided throughout the State, or
 - iii. the service is not provided at an affordable price in accordance with a uniform tariff applicable throughout the State pursuant to section 28(2) of the 2011 Act, or
- c) the postal service is of a kind that, having regard to postal service users, could reasonably be said to be interchangeable with a service of a description set out in section 16 of the 2011 Act,

but does not include a document exchange²¹ or express or courier services.

²¹ In section 37(4) of the 2011 Act “document exchange” is defined as “*provision of means, including the supply of premises specifically for that purpose and transportation by a third party, allowing self-delivery by mutual exchange of postal packets between persons subscribing to this service.*”

4 Step 1 A: Information Gathering

23. Under section 38 of the 2011 Act there is an obligation on all PSPs in the State to ensure to be authorised by ComReg and when becoming authorised they must declare for each postal service provided / intended to be provided whether it is, or is not, “*within the scope of the universal postal service*”.

24. In preparation for this USP Designation Review, ComReg wrote to all authorised PSPs to request that they review the details of their notifications for authorisation to provide a postal service pursuant to section 38 of the 2011 Act. ComReg also wrote to potential PSPs and subsequently published advertisements in newspapers to ensure that all PSPs operating in the State were aware of the obligation to be authorised. Following receipt of authorisation responses, ComReg updated the register of authorised PSPs in the State which is published on ComReg’s website²². ComReg therefore considers that the register of authorised PSPs lists all PSPs for the State in accordance with the 2011 Act.

25. On the basis of the updated information on the register of PSPs, ComReg has identified that there are currently eleven PSPs operating in the State, Table 2 below lists the current PSPs and summarises the number of postal services provided by each.

Table 2 - Current PSPs and summary of number of postal services provided

PSPs	Number of postal services	Number of postal services “within the scope of the universal postal service”
An Post	27	24
Budget Parcel	4	0
Corrigan Business Services	1	0
DCK/ DC Kavanagh	1	0
DX Ireland	6	1
Fastway Couriers (Ireland)	10	0
Lettershop Postal	3	0
Mail Metrics	1	0

²² The Register of Authorised Postal Service Providers in the State is published at: <https://www.comreg.ie/industry/postal-regulation/authorised-postal-providers/authorised-postal-providers-register/>

Parcel King	2	2
Sooner than Later Solutions Ltd.	3	0
TICo Mail Works Ltd.	4	0

26. ComReg has commissioned various pieces of research on the postal sector²³ and in particular the reasonable needs of postal service users, with the last research on postal users conducted in 2021²⁴ and detailed research conducted in 2019 on residential²⁵ and small and medium sized enterprises²⁶. ComReg considers it appropriate to rely upon the information from these research reports in this review.

²³ <https://www.comreg.ie/industry/postal-regulation/postal-framework/postal-research/>

²⁴ ComReg Document No. 21/100a

²⁵ ComReg Document No. 19/84a

²⁶ ComReg Document No. 19/84b

5 Step 1 B: Assessment

27. The following assessment approach is consistent with:

- the Procedures
- the last USP Designation review in 2019.

28. ComReg considered the information gathered from PSPs. ComReg's assessment of the PSPs and the services which they provide was based upon the services "within the scope of the universal postal service".

29. ComReg considered the information which it gathered relating to the reasonable needs of postal service users. ComReg is of the view that if the universal postal service as specified is being provided by the market then it is meeting the reasonable needs of postal service users. As such, ComReg also considered what universal postal services are being provided by the market.

30. ComReg reviewed and assessed whether each of the universal postal services required by section 16 of the 2011 Act and the USO Regulations would be provided by the market without a USP designation. In order to ascertain the markets' capability to provide the universal postal service for the entire State without USP designation ComReg assessed whether each of the universal postal services are being provided:

- by more than one PSP.
- throughout the entire State by more than one PSP.

31. The result of ComReg's assessment is set out in the following table:

Table 3 - Assessment of the market's provision of universal postal services

Required Universal Postal Services	PSPs providing postal services within the scope of the universal postal service	Is there more than one PSP providing the service?	Are the services provided throughout the entire State by more than one PSP?
Domestic Basic Single Piece Service for Letters and for Large Envelopes (up to 2kg)	An Post DX Ireland Parcel King	✓	✗
Domestic Basic Single Piece Service for Packets (up to 2kg) and Parcels (up to 10kg)	An Post DX Ireland Parcel King	✓	✗
Domestic Single Piece Registered/Proof of Delivery service	An Post	✗	✗
Domestic Single Piece Insured service	An Post	✗	✗
Domestic Free of Charge Services for the Blind and Partially Sighted	An Post	✗	✗
Bulk Mail Services - Domestic and International	An Post	✗	✗
International Inbound Service (including parcels from other Member States up to 20kg)	An Post	✗	✗
International Outbound Service	An Post Parcel King	✓	✗
Free Certificate of Posting on Request	An Post	✗	✗

<p>Special Facilities for Delivery of Postal Packets at the Request of the Addressee</p> <table border="1" data-bbox="137 333 533 546"> <tr><td>Business Reply</td></tr> <tr><td>Freepost</td></tr> <tr><td>Redirection</td></tr> <tr><td>Mailminder</td></tr> <tr><td>Private Box and Bag</td></tr> <tr><td>Poste Restante</td></tr> </table>	Business Reply	Freepost	Redirection	Mailminder	Private Box and Bag	Poste Restante	<p>An Post</p>	<p>x</p>	<p>x</p>
Business Reply									
Freepost									
Redirection									
Mailminder									
Private Box and Bag									
Poste Restante									

32. ComReg has a statutory function to ensure the provision of a universal postal service which meets the reasonable needs of postal service users. Therefore, if ComReg is of the view that any part of the universal postal service would not be provided by the market without a designated USP, ComReg is required to proceed to designate USP(s) to ensure that the universal postal service is provided for the entire State.
33. ComReg notes that only the current designated USP (An Post) and two other PSPs (DX Ireland and Parcel King) have indicated that they are currently providing postal services "within the scope of the universal postal service". However, DX Ireland provides only one service within the scope of the universal postal service (i.e. "DX Exchange to the Door" which covers postal packets up to 25kg) and this is provided for County Cork only. The other PSP (Parcel King) has noted intention for two postal services "within the scope of the universal postal service" from 7 October 2022; therefore, these services are just commencing.
34. ComReg's assessment as set out in Table 3 above demonstrates that the majority of universal postal services have only one PSP, the current USP (An Post) providing the service. Depending on just one PSP to provide the entire universal postal service nationwide without significant competition and without a USP designation is considered by ComReg to be inconsistent with ensuring the provision of the universal postal service.
35. In ComReg's view without a USP designation, the provision of the universal postal service to the required levels of accessibility, quality and affordability would not be ensured by the market.
36. On the basis of the above assessment, ComReg is of the view that it is not necessary to conduct a more detailed assessment of the market's capability to provide each of the universal postal services in accordance with the affordability, service quality and service access USO requirements or to conduct an assessment of any potential negative impacts on the market if there was to be no designated USP in place for the State.

Preliminary Conclusion

37. On the basis of the above, it is clear that, absent a USP designation, there is a real risk that ComReg would not be fulfilling its statutory obligation to ensure the provision of the universal postal service that meets the reasonable needs of postal service users. **ComReg's preliminary conclusion therefore is that there is a requirement for USP designation after 1 August 2023.** This designation is required in order to safeguard and ensure the provision of the universal postal service for the entire State to the required levels of accessibility, quality and affordability. There is currently only one PSP (An Post) in the State that is providing all of the required universal postal services in full. There are two other PSPs providing services within the scope of the universal postal service but these are just certain services and one (DX Ireland) is in a limited geographic area only and the other (Parcel King) is just commencing its services from 7 October 2022.
38. The market alone cannot ensure full USO provision. As a result, a USP designation is crucial to ensure the provision of a sustainable and continuous USO after 1 August 2023.
39. ComReg therefore proposes to make the decision as set out at Annex 1 and to proceed to Step 2 of the review to decide which PSP(s) should be designated to provide universal postal services in the State and the duration(s) of the designation period.

Q. 1 Do you agree or disagree with ComReg's assessment and preliminary conclusion as set out above and ComReg's draft decision as set out at Annex 1 of this document that there is a requirement for USP Designation after 1 August 2023? Please document clearly what part(s) you are in agreement or disagreement with by providing a detailed response with supporting information / data where appropriate to support your view.

6 Proposed Designation Period(s) (if USP(s) are designated)

40. Acknowledging that any decision on whether there is a requirement for a USP designation is subject to this public consultation, ComReg considers it is beneficial as part of this consultation to also seek views on the appropriate period(s) for proposed USP designation(s) (if the decision following this consultation is that there is a requirement for USP designation).
41. The Procedures state that the USP designation period can be somewhere between 2 and 7 years. However, if sufficient evidence is provided that a different designation period to between 2 - 7 years would be more efficient and appropriate ComReg will consider these proposals.
42. There are a number of factors to consider for an appropriate designation period.
43. A statutory requirement is that the period of designation is of sufficient duration for the return on investments; the Procedures note for each designation ComReg will set the appropriate designation period based on the information it has before it and the particular circumstances at the time. ComReg considers that if there is more than one USP, each USP designation duration could be different. For example, An Post has an established network and investments already made under the previous designation so its duration required for a return on investments could be shorter than a new USP and the new investments that a new USP would require. Therefore, ComReg considers a designation again of An Post could be for a shorter period than a new USP.
44. Another factor is the planned review of the EU Postal Directive²⁷. The review of the EU Postal Services Directive could likely redefine “postal services” and the “universal postal service”. If so, any such legislative change will impact the universal postal services obligations on designated USP(s). Therefore, ComReg considers that the duration should be sufficient to allow time for the next designation (if required) to take account of any potential future legislative changes. ComReg considers this should happen within three years after 1 August 2023.
45. ComReg welcomes views on the factors to be considered above and suggestions on what is appropriate designation period(s). Together with other relevant evidence, ComReg will consider these proposals if ComReg proceeds with Step 2 (which is subject to ComReg’s review of the responses to this Step 1 consultation). ComReg’s preliminary conclusion on any appropriate designation period(s) will be subject to further consultation before any final decision is made.

²⁷ It is ComReg’s understanding that the Council of the EU intends to request the European Commission to study and make appropriate proposals for the revision of the Postal Services Directive - <https://data.consilium.europa.eu/doc/document/ST-11187-2022-INIT/en/pdf>

Q. 2 What do you consider to be appropriate USP designation period(s) post 1 August 2023? Please provide a detailed response with supporting information / data where appropriate to support your view.

7 Next steps before 1 August 2023

46. If following this Step 1 public consultation, ComReg makes a decision that a USP Designation is required after 1 August 2023, the following sets out an indicative timeframe for the next steps:

7.1 Step 2: Which PSP(s) should be designated as USP(s)? (Consult Q1/23, Decision Q2/23)

Step 2A: Information Gathering (Q4/22-Q1/23)

47. In accordance with the Procedures, if ComReg decides that USP designation is required it will then invite submissions from PSPs²⁸ who are interested in being considered as the designated USP(s) in the State, and capable of providing all or part of the universal postal service. It is planned that ComReg will decide whether or not there is a requirement for a USP Designation by Q4/22; therefore, at the same time as that decision ComReg will invite submissions from PSPs who are interested in being considered as the designated USP(s) in the State and capable of providing all or part of the universal postal service post 1 August 2023.
48. As noted in the Procedures, these submissions should contain proposals for the efficient provision of all of the universal postal service for the entire State and/or for the efficient provision of different parts of the universal postal service for the entire State and/or for the efficient provision of all aspects of the universal postal service for any part or parts of the State.
49. All PSPs interested in being considered for designation as a USP will be required to demonstrate in their submission their capacity and capability to provide universal postal services from 1 August 2023. PSPs should note that all designated USPs will be subject to the universal postal service statutory requirements (including under the 2011 Act) and the current regulatory obligations and should therefore fully consider these requirements before making their submission.
50. The Procedures set out the detailed information that is required from PSPs in their submissions. Given the deadline of 1 August 2023 for a decision and the time required for ComReg's regulatory and statutory requirements on deciding USP(s), ComReg considers a maximum period of 4 weeks should be sufficient for interested PSPs to make a full submission in accordance with the Procedures. Therefore, interested PSPs should fully familiarise themselves with the requirements of the Procedures now and should commence now the preparations of their submissions to ensure a timely and complete submission early 2023 (if ComReg decides that a USP designation is required post 1 August 2023). This submission should also include proposed terms and

²⁸ Under section 18 of the 2011 Act ComReg may choose to designate one or more than one postal service provider(s) as USP(s). Entities not yet authorised as a postal service provider may seek designation as USP, however only postal service providers authorised by ComReg under section 38 of the 2011 Act can be designated.

conditions for provision of the universal postal service as the 2011 Act requires that any designation is subject to ComReg's approval of terms and conditions, with or without amendment.

Step 2B: Consultation on Assessment and ComReg's draft decision on USPs(s) and duration(s) of designation (Consult Q1/23)

51. ComReg will review and assess the PSP(s) submission(s) and all information it has gathered from PSPs as part of its designation review process and all other relevant information in its possession. ComReg will then consult publicly on that assessment and ComReg's draft decisions on:

- choice of PSP(s) to be USP(s)²⁹,
- the parts of the universal postal service to be provided by the designated USP(s),
- the part or parts of the State for which the designated USP(s) must provide the relevant part of the universal service,
- and duration(s) of USP(s) designations.

Step 2C: ComReg's decision on USPs(s) and duration(s) of designation(s) (Decision Q2/23)

52. Following consideration of responses to the public consultation, together with other relevant evidence, it is planned that ComReg will make a Decision on USP designation in Q2/23, which will include :

- ComReg's reasoning for its decision on the choice of PSP(s) for USP designation(s) and the respective duration(s);
- the parts of the universal postal service to be provided by the designated USP(s);
- the part or parts of the State for which the designated USP(s) must provide the relevant part of the universal service;
- noting the requirement to meet the separate USP Conditions and other regulatory obligations on designated USP(s);
- the date by which the designated USP(s) must submit its final set of terms and conditions of its universal postal service for approval and the effective date of the new designation(s), subject to approval of the universal postal service terms and conditions with or without amendment.

²⁹ This assumes there will be PSP(s) interested to be USP. ComReg's Procedures set out what ComReg would propose to do if there was no interested PSP.

7.2 Regulatory certainty to enable USP designation process

53. To ensure regulatory certainty for the USP designation process, the USP designation is based on the current universal postal service specification and USP regulatory obligations.
54. This ensures that PSPs interested to be designated USPs are clear on the universal postal service specification and the regulatory obligations of being USP.
55. However, as envisaged by the 2011 Act, should designation(s) be required after 1 August 2023 ComReg notes that changes to the universal postal service specification and regulatory obligations will likely occur over any next designation period. This would be to ensure the universal postal service continues to meet the reasonable needs of postal service users. Any changes will be subject to ComReg's usual public consultation process to consider submissions and other relevant evidence before any decisions are made.

8 Questions and submitting comments

Section	Page
Q. 1 Do you agree or disagree with ComReg’s assessment and preliminary conclusion as set out above and ComReg’s draft decision as set out at Annex 1 of this document that there is a requirement for USP Designation after 1 August 2023? Please document clearly what part(s) you are in agreement or disagreement with by providing a detailed response with supporting information / data where appropriate to support your view.	21
Q. 2 What do you consider to be appropriate USP designation period(s) post 1 August 2023? Please provide a detailed response with supporting information / data where appropriate to support your view.	23

All responses to this consultation should be clearly marked:

“Reference: Submission re ComReg 22/85”, and sent by post, e-mail or online at www.comreg.ie (current consultations) to arrive on or before 5.p.m, Friday 11 November 2022 to:

**Postal
Retail Division
Commission for Communications Regulation
One Dockland Central,
Guild Street,
Dublin 1,
D01 E4X0
Ireland**

Email: retailconsult@comreg.ie

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

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

Annex: 1 Step 1 C: Draft Decision

1. STATUTORY FUNCTIONS AND POWERS

1.1 This Decision and Decision Instrument is hereby made by The Commission for Communications Regulation (“ComReg”) established under section 6 of the Communications Regulation Act 2002 (as amended”) (“the Act”), for the purposes of deciding that there is a requirement for a universal postal service provider designation in the State post 1 August 2023.

1.2 This Decision and Decision Instrument is made:

- (i) Pursuant to and having had regard to its statutory functions and objectives in relation to postal services, as set out in sections 10 and 12 of the Act;
- (ii) Pursuant to and having had regard to sections 18 and Section 19 of the Communications Regulation (Postal Services) Act 2011 (“the 2011 Act”)
- (iii) Having complied with the Procedures established and published by the Commission pursuant to section 19 of the 2011 Act in ComReg Document No. 19/64a
- (iv) Having had regard to the assessment and reasoning set out in ComReg Document No. XX/XX; and
- (v) Having had regard to the views of interested parties submitted in response to Consultation Document No. 22/85 as set out into Response to Consultation Document No. XX/XX, Decision XX/XX.

2. DEFINITIONS AND INTERPRETATION

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

PART III – DECISION

7 ComReg decides:

- 7.1 that in accordance with Step 1 of the Procedures there is a requirement for a universal postal service provider designation(s) post 1 August 2023, and
- 7.2 that ComReg will proceed to Step 2 as described in the Procedures.

7.3 Effective Date: this decision is effective from the date of publication and shall remain in full force unless otherwise amended by ComReg.

**GARRETT BLANEY
COMMISSIONER
THE COMMISSION FOR COMMUNICATIONS REGULATION
THE DAY OF DECEMBER 2022**

Annex: 2 Legal Basis

ComReg's functions and objectives relating to the postal sector

A 1.1 ComReg's statutory functions in relation to the postal sector are set out in section 10(1) of the Communications Regulation Act 2002, as amended, ("the 2002 Act") and are as follows:

"(ba) to ensure the provision of a universal postal service that meets the reasonable needs of postal service users,

(c) to monitor and ensure compliance by postal service providers with the obligations imposed on them by or under the Communications Regulation Acts 2002 to 2011 in relation to the provision of postal services."

A 1.2 ComReg's statutory objectives, in exercising the above functions, are set out in section 12(1)(c) of the 2002 Act, and are as follows:

"(i) to promote the development of the postal sector and, in particular, the availability of a universal postal service within, to and from the State at an affordable price for the benefit of all postal service users,

(ii) to promote the interests of postal service users within the Community, and

(iii) subject to subparagraph (i), to facilitate the development of competition and innovation in the market for postal service provision".

A 1.3 The European Postal Directive³⁰ and national legislation have set down the requirements for a "universal service" which guarantees, one clearance and one delivery to the home or premises of every natural or legal person every working day, even in remote or sparsely populated areas.

Designation of USPs – General Provisions

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

³⁰ Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service as amended by Directive No. 2002/39/EC of 10 June, 2002, and Directive No. 2008/6/EC of 20 February, 2008, of the European Parliament and of the Council.

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

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

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

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

(ii) decide that no such designation is required.

(2) Where the Commission makes a decision—

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

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

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

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

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

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

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

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

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

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

(c) shall cease to have effect—

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

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

USP Designation Reviews by ComReg

A 1.5 Section 19 “Review by Commission” provides:

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

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

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

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

(c) be published by the Commission.”

Notification of USP Designation by ComReg

A 1.6 Section 20 “Notification of designation” provides:

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

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

(b) notify in writing—

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

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

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

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

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