



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

# Review of the universal postal service specification

## Submissions to Consultation Document No. 18/66

### Submissions to Consultation

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

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## Submissions Received from Respondents

Consultation:	18/66
Response to Consultation:	18/99 and 18/100

# Content

## Section

1: An Post

2: Tico Mail Works

# 1: An Post

**REVIEW OF  
UNIVERSAL POSTAL SERVICE SPECIFICATION**

**COMREG DOCUMENT 18/66**

**AN POST RESPONSE**

**7 September 2018**

**Non-Confidential Version**

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## Introductory Statement

1. An Post welcomes the opportunity to set out its views on ComReg's preliminary views and findings published in its public consultation document "Review of universal postal service specification: Consultation and draft amending regulation" (ComReg No. 18/66) on 11<sup>th</sup> July 2018 (the "Consultation").
2. ComReg is proposing to amend the universal service specification by
  - a. Removing the requirement for bulk mail
  - b. Removing the requirement for parcels between 10kg and 20kg
3. ComReg is proposing to maintain the ancillary services in the universal service specification.
4. An Post's view is that the universal service specification should not be changed at this time.
5. By law, ComReg is required to review the universal postal service specification on occasion in order to ensure that it is fit for purposes of ensuring that the universal postal service develops in response to the technical, economic, and social environment and to the reasonable needs of postal service users and to then make regulations specifying the services to be provided by a universal postal service provider relating to the provision of a universal postal service. This process was last concluded in 2012, resulting in SI 280 of 2012.
6. An Post acknowledges that a removal of a service from the universal postal service specifications would mean that the provision of these services would now be a commercial matter for the postal sector, in particular An Post.
7. An Post is very clearly of the view that any narrowing of the universal postal service specification, in the instance where the existence of a fully competitive postal sector has not been tested and proven, would be premature.
8. Further, such actions could be damaging to the needs of postal customers, particularly vulnerable customers and those that are digitally disadvantaged.
9. In approaching this review, ComReg *ab initio* chose to narrow the scope of its inquiry to the following three areas only: certain bulk mail services; basic parcel delivery and certain 'ancillary services' in isolation.

10. In An Post's view the approach adopted is by its very nature highly selective. Failure to consider the potential impact of decisions which may arise from this consultation on the market in the round could lead to a mistaken understanding of the bulk and ancillary markets. To put this in context it must be recognised that bulk mail is a fundamental element of An Post volumes, accounting for almost 50% of volumes in 2017. The cost of delivery for single piece mail will increase significantly if bulk mail volumes decline further as a result of the decisions from this Consultation.
11. ComReg's preliminary views, as set out in the Consultation are that two of the three identified areas considered within the scope of this review, namely certain bulk mail services and basic parcel services for parcels 10kg-20kg should be removed from the specification of the universal postal service.
12. In addition, ComReg's preliminary view is that certain 'ancillary services' should remain in the specification of the universal postal services.
13. An Post acknowledges that the removal of a service from the universal postal service specification would represent a decrease in the regulatory burden. However, as acknowledged by ComReg, it is also important to ensure that such actions are not to the detriment of postal users' needs, particularly in the absence of a fully competitive postal sector.
14. It is An Post's view that the two areas identified by ComReg for removal from the universal postal service specification, namely certain bulk mail services and basic parcel delivery for parcels 10kg-20kg should be retained within the universal postal service specification.
15. An Post's view is that the identified bulk mail services should be retained with the universal postal service specification because:
  - a. A competitive market has not been tested or established. As acknowledged by Frontier Economics (18/66a) "Alternatives for bulk mail are available on a national basis, although many of the alternatives rely in whole, or in part, on An Post's network". It is quite surprising that ComReg proposes to remove certain bulk mail from the universal postal service specification when it is clearly understood that there is no alternative provider of this service to meet customer's needs.
  - b. Since the original research by Frontier Economics was concluded, CityPost has exited the market. The recent exit of CityPost from the Irish market is clear evidence that no alternative network for bulk mail has developed, due mainly to the size and demographics of the Irish market, with limited economies of scale resulting in no self-financing alternative being developed for this type of mail.



- c. Further, the remaining 'competitor' organisations either offer services which are dissociable from the universal service or use the An Post network, in whole, for their service offering. These organisations may provide some services avoiding a single part of the An Post Network, e.g. Pre-sortation, but these services are only provided as an ancillary service to the primary service offered, i.e. printing.
  - d. The key argument offered by ComReg for removing these bulk services is that customers are using less of the universal services, and that users have alternatives that would be available commercially even in the event that the designated universal service provider (currently An Post) chose not to supply the services. It is questionable whether any or all of the current services would be offered in their current form or at their current prices if the product set was not anchored by the universal service bulk requirements.
  - e. Removing certain bulk mail services from the universal postal service specification could materially damage the overall universal service. Bulk mail is a key element of An Post's network volume (c.50%) and removal of this important service from the specification does not support the principle of providing a sustainable universal service.
  - f. Removing bulk mail from the USO appears to be a further push towards e-substitution of physical mail and could result in key services not being provided by the market, leading to possible further volume decline and increased costs in the provision of the single piece services remaining in the USO.
  - g. An Post is of the view that at least one bulk mail service should remain in the universal service specification. It may not necessarily be one of the current designated services. Experience has shown that customer requirements evolve over time. For example, the introduction of a deferred service (Discount 11) has resulted in significant volumes migrating from other bulk services to the new service. An Post would welcome an opportunity to work with ComReg to identify the bulk mail service or services that best meets the reasonable requirements of customers and to ensure that this service remains within the universal postal service specification.
16. An Post's view is that basic parcel delivery for parcels between 10kg and 20kg should be retained within the universal postal service specification because:
- a. Health and safety issues dictate different handling practices for parcels in excess of 10kg which have significant cost impacts (e.g. in certain circumstances requiring two or more staff to handle the product). Depending on the market volumes, and the cost of systems and other changes, it may not be commercially attractive for An Post to maintain the service;

- b. It is not clear that all customers (especially infrequent users in more remote locations) would have economically viable alternatives if An Post chose to discontinue the service;
- c. While a majority of users requiring parcels 10kg-20kg already negotiate rates with An Post and other suppliers, and would be unaffected, those smaller users who infrequently send such parcels and rely on An Post might find there is no acceptable alternative service; and
- d. The proposed removal of 10kg-20kg parcels from the specification may also have unexpected VAT implications. In this case, An Post must consider the cost associated with the application of VAT as part of its overall decision to provide this service into the future.

We agree that ComReg's review should take account of the changed realities of the postal sector both at home and abroad, in addition to the changing needs of postal users as both senders and receivers. It appears however, that the market research used to examine the market conditions may be incomplete and/or outdated.

For the aforementioned reasons, we are strongly of the view that both certain bulk mail services and parcel delivery service for 10kg-20kg should remain within the universal postal service specification.

### ***Timing of Consultation***

We note the EU Commission is undertaking an updated analysis<sup>1</sup> of postal user needs, including e-retailer and bulk mail sender needs. There may be a case for incorporating the outcome of this analysis into any amendment of the universal service in Ireland.

Brexit is a significant development which may have major implications for postal markets especially in Ireland and UK. The Consultation should have regard to these before any final decision is taken.

The awarding of the National Broadband Plan contract in the coming weeks will increase the likelihood of e-substitution over time and could impact on volume trends. Any decision to remove bulk mail from the specification of the universal postal service must take account of the timing of such broadband

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<sup>1</sup> The EC has published in the Official Journal on 12 July 2018 an invitation to tender for a study on "User needs in the postal sector" (see attached). Under "short description" the Commission states that "The purpose of this study is to evaluate the functioning of the Postal Service Directive and identify future needs of users, considering as "users": private users (individuals and businesses, including e-retailers and bulk mail senders); public sector users, both as senders and recipients and other actors, notably postal services providers (and "competitors" who use access to the postal network to provide services) and regulators, with a focus on the letter market."

The value of the contract is € 300k with a duration of 9 months. The time limit for the receipt of tenders or requests to participate is 11 September.

This is the third study underway from the EU postal unit within the Commission (the other two being the Copenhagen Economics 3 year review of the postal market developments and the WIK examination of the role of the postal sector in cross border e-commerce).

roll-out and the resulting increased availability of an alternative to bulk mail, before reaching any final decision.

### ***ComReg Review of Universal Postal Service Specification (the Consultation)***

The Consultation essentially poses three questions to be responded to:

- Q1: Do you agree that certain bulk mail services be removed from the specification of universal postal service
- Q2: Do you agree that certain basic parcels in the weight range 10kg to 20kg be removed from the specification of universal postal service
- Q3: Do you agree that certain ancillary services remain in the specification of universal postal service

There are two further ancillary questions asking for comments on the draft amending regulation (Q4) and the Regulatory Impact Assessment (RIA) (Q5).

An Post's responses to all three substantive questions can be summarised as follows: the specification of the universal service should be considered as a whole, and adding or removing elements has the potential to dilute the availability of essential services required to meet the reasonable needs of customers, increase losses in the remaining universal service areas, and potentially accelerate volume decline. Therefore, we do not agree that all bulk services or parcels 10kg-20kg should be removed at this time. We agree that ancillary services should remain unchanged in the specification at this time.

In responding to the individual questions posed in the consultation document An Post has framed its responses within the terms of both its own strategic objectives, and ComReg's statutory objectives under the Act. An Post has been particularly careful to give responses which are designed to address the needs of users of the postal service, and the efficient operation of the service. It has also endeavoured to highlight to ComReg how some of the proposals outlined in the consultation document could, if implemented as regulatory policy, result in further volume decline and undermine the sustainability of the provision of the universal service.

While ComReg and An Post are charged under legislation with playing very different roles in the postal sector, they both have a joint interest in ensuring that the postal sector in Ireland remains vibrant, commercially sustainable and that it efficiently meets the needs of Irish business and society. An Post hopes that the ultimate decisions made from this consultation will advance this joint interest and facilitate achievement of the Department of Communications, Climate Action and Environment ('DCCA') stated strategic objective;

*'[t]o ensure Irish customers, both business and residential, enjoy competitively priced, high quality postal services on a par with the highest quality standards in key comparator EU economies' (emphasis added)*

An Post notes that this Consultation may be followed by others dealing with other aspects of the universal postal service. We trust that the wider issues of the requirement to assess users' needs for postal services and the financial sustainability of the Universal Service Obligation ('USO') as currently constructed or as revised will be addressed both in the decisions arising from this consultation and in future consultations.

## Industry Context

The postal industry worldwide is experiencing very serious challenges arising from severe decline in mail volumes due to increasingly pervasive electronic forms of communications as a substitute and replacement for physical mail. In 2017, the overall volume of mail declined 14% to 490m items, from 567m in the previous year. The decline was 12% for USO volumes with non-USO volumes reducing by 16%.

While this switch from physical to electronic communications is essentially being driven by changing consumer and business behaviour, there is no doubt that prices and product features of mail has influenced and continues to influence the rate of e-substitution. Businesses and other entities (e.g. charities, government) continually seek efficiency and cost reduction and e-substitution can reduce billing, cash collection and customer care costs, generating savings far in excess of the simple saving from a decision to abandon physical mail in favour of perceived cheaper alternative bill distribution.

Despite these pressures, bulk mail still accounts for a very significant percentage (48%) of all mail and plays a fundamental role in determining the size and scale economies of the overall postal network. This suggests some users - as senders or recipients of mail - either cannot find an alternative or consider mail to be a preferable, cost-effective solution.

In the current environment, maintaining as much volume as possible is vital to securing the economic viability of a self-financing universal service. Any action that has the effect of further undermining total mail volumes should not be considered or implemented.

In making decisions about the future direction of the Irish postal industry, An Post is anxious that ComReg fully complies with its statutory objectives as set out in the Act to promote the development of the postal sector and the availability of the universal service at an affordable price for the benefit of all postal users, having understood the needs of postal users and ensuring the ongoing sustainability of the universal service, and by extension, the postal sector as a whole.

## General Observations

- The overwhelming regulatory requirement is the need to maintain a Universal Postal Service that meets the reasonable needs of Irish postal users – for that to be achieved, it is imperative that there is a properly formulated universal service. This is the primary requirement of the Act, of the EC Postal Directive<sup>2</sup> and of the DCENR's Statement of Strategy<sup>3</sup>.
- In order to effectively meet this requirement, the definition of the postal services included in the specification of the universal postal service must be informed by an evidence-based assessment of (i) the needs of users, (ii) the extent to which these needs would be met by normal market conditions, and (iii) the impact of the specification of the universal postal service on the commercial returns and overall economic viability of the designated universal postal service provider.
- The absence of the development of an alternative nationwide delivery network is clear testament to the importance of the An Post network in meeting the reasonable needs of postal service users. Although there are some “alternative service providers”, as pointed out in paragraph 37 of the Consultation, it must be recognised that these “**alternative service providers**” use the **An Post** delivery network for nationwide deliveries.
- We note that much of the data purporting to underpin the decisions in the Consultation is derived from research carried out in July, August and September 2017 and was therefore already 10-12 months old at the time the Consultation was published. For example, the only alternative supplier, CityPost, exited the market after the data was gathered by Frontier. We do not consider it possible to run an informed Consultation without reference to this very significant development.
- More specifically, An Post believes that the following are key considerations in considering the Questions posed by ComReg:

### ***The Relevant Statutory Framework***

The relevant section of the Act in relation to this Consultation are:

- Section 9, which sets out ComReg's function:

*'to ensure the provision of a universal postal service that meets the reasonable needs of postal service users' (emphasis added)*

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<sup>2</sup> 96/67/EC, as amended

<sup>3</sup><http://www.dcenr.gov.ie/Corporate+Units/Press+Room/Publications/Corporate+Publications.htm>

We note that the term “users” refers to both senders and recipients of mail. There is also a requirement in the Act to develop the postal sector.

- Section 10, which sets out ComReg’s objectives:
  - ‘(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 (emphasis added) postal service users*
  - (ii) to promote the interests of postal service users within the Community*
  - (iii) subject to sub-paragraph (i), to facilitate the development of competition and innovation in the market for postal services provision’*

Given the nature of the current legislative framework, it is essential that in balancing various considerations, ComReg should keep at the core of its decision-making the need to secure the continued existence and viability of a universal service and any decision regarding the services to be provided should be consistent with that strategy.

The universal services provided must address the needs of users. Before changing the list of services to be provided within the specification of the universal postal service, a detailed investigation into the needs of users should be undertaken. The research undertaken by Frontier Economics/ Amárach Research is a useful step in the right direction, but because it put a focus on only three elements of the universal postal service specification, the work is incomplete. The Frontier Economics/Amárach Research review is lacking in not addressing the key question of what the customers’ reaction would be if bulk mail was removed from the specification of the universal postal service.

- The DCCA Strategy Statement 2016-19 states that its core objective for the postal sector is:

*‘[t]o ensure Irish customers, both **business** and residential, enjoy competitively priced, high quality postal services on a par with the highest quality standards in key comparator EU economies’ (emphasis added)*

In particular, the specific strategies set out for the postal sector include:

- *‘Work to ensure An Post remains a strong and viable company, providing a high quality nationwide postal service and availing of commercial opportunities to leverage its asset base and to diversify’*

Outcomes and Performance Indicators are described as:

- *‘A well-functioning market with universal service provision being delivered in accordance with the statutory framework’*

- *'An Post in a position to discharge universal service obligations with a nationwide, customer-focused network of post offices in operation.'*
- *'An Post experiencing a sustainable profitable financial position...'*

***Postal Regulation must be informed by an Accurate and up to date Description of Current and Changing Market Conditions***

ComReg must consider the key realities of the postal market as set out in the Industry Context Section to this response, including:

- Declining Mail Volumes: The domestic universal service is currently loss-making which raises questions about its sustainability in the face of further drops in volume. The specification of the universal postal service and the funding of same must be seen in this context. Losses may be exacerbated if these proposals are advanced and this must be properly considered. The consultation has an undue focus on bulk mail and does not sufficiently consider the challenges facing the industry as described earlier.
- VAT: In the Consultation document ComReg makes reference to VAT, suggesting that the “exclusion of certain bulk services from the universal postal service **should** (emphasis added) have no VAT implications”. Please note that the issue of VAT is complex and An Post does not have a blanket VAT exemption for its services. Certainty over the VAT treatment of such services is of material concern to An Post requiring consultation with the Revenue Commissioners.

## Response to Consultation Questions

The questions set out in the Consultation are replicated below followed by the An Post response to each question.

### Certain Bulk Mail Services

***Question 1: Do you agree with the preliminary view to remove certain bulk mail services from the specification of the universal postal service? Please explain your response.***

#### Response to Question 1

##### *Definition of ‘Certain Bulk Mail Services’*

We understand the proposal is to delete all references to domestic bulk mail services from the definition of the universal postal service, and to delete the requirement for international bulk mail.

The “certain bulk mail services” are those listed in Regulation 3(1) of S.I. No. 280 of 2012, Communications Regulation (Universal Postal Service) Regulations 2012 (“**SI 280 of 2012**”), in sub-paragraphs 1 (h), (i) and (j).

These are described as follows:

- (h) A service for the clearance, transport and distribution of “postal packets deposited in bulk” for “delivery only”.*
- (i) A service for the clearance, transport and distribution of foreign “postal packets deposited in bulk” pre-sorted by country of destination.*
- (j) A service for the clearance, transport and distribution of “postal packets deposited in bulk” for “deferred delivery”.*

Some of the relevant terms describing these services are given a specific meaning in the context of SI 280 of 2012:

*“deferred delivery” means deposited at a delivery office for delivery within the State one day later than would otherwise be the case using the “D+n” formula;*

*“delivery office” means an office managed by the universal service provider for the purposes of processing postal packets immediately prior to the activity of delivery to the addressee;*

*“delivery only” means deposited pre-sorted at a delivery office for delivery within the State using the “D+n” formula;*

*“foreign” refers to any postal packet deposited at an access point in the State for transmission by post to an address outside the State;*



So, in essence, ComReg is proposing to amend and remove current requirements set out in SI 280 of 2012 as follows:

- a. Regulation (3)(1)(h) - which is met by the current (Pre-Sorted) Discount 9, which has limited volumes
- b. Regulation (3)(1)(i) - which is met by the International Bulk Mail Service (IBMS), which accounts for about 6 million items per annum
- c. Regulation (3)(1)(j) - which is met by the (Deferred) Discount 6 and Packet element of Discount 7. Together these discounts have over 55 million items per annum

The bulk services specified as USO comprise about (confidential: 25%) of all bulk mail volume.

The key argument offered by ComReg for removing these bulk services is that customers are using less of the universal services, and that users have alternatives that would be available commercially even in the event that the universal service provider chose not to supply the services. It is questionable whether any or all of the current services would be offered in their current form or at their current prices if the product set was not anchored by USO bulk requirements.

An alternative interpretation is that the universal service is not currently correctly defined, and perhaps it should be set out as the services that customers actually need and use. So, perhaps customers want lower prices but don't need a D+2 guarantee: they might accept D+3 or D+5 if it were lower cost. So, if the specification of 3(1)(j) was maintained, but the definition of "deferred" was altered to be,

*"deferred delivery" means deposited at a delivery office for delivery within the State ~~one~~ up to 2 days later than would otherwise be the case using the "D+n" formula;*

then the universal postal service specification would encompass a majority of all bulk mail, because the most popular discount 11 would also meet the specification and provide an anchor for other bulk offerings which are inextricably linked within the bulk product set.

Similarly, if the definition of "delivery only" was amended to delete the requirement for bulk mail to be "pre-sorted" then almost all bulk mail offers currently in the market would meet the specification of the universal postal service.

Rather than deleting bulk mail from the specification of the universal postal service on the basis that users do not use the exact form of bulk mail specified in the Statutory Instrument, ComReg should consider if a change in the definitions in the SI 280 of 2012 is needed to ensure continued provision of the services actually used by customers.

The continuing requirement for bulk mail is clearly evident from figure 5 on page 20 of 18/66 where 43% of SMEs have none or little likelihood to move to electronic communications.

### *Alternative Providers in a Competitive Market*

There is little consideration of how the market might evolve if the requirements for bulk mail were removed. Would An Post maintain the existing services, or move to alternative offerings? Are there really alternative operators available to users, who can deliver to every house in the State?

It is important to note that everyone who has an authorisation to provide a bulk postal service is not necessarily a real competitor of An Post. Some operators register with ComReg merely so that they can meet the requirements of certain government tenders which require bidders to provide a certificate of posting issued by an authorised postal service provider in respect of their postings. Such providers may provide no postal service (collection or delivery) themselves.

We believe there is no alternative delivery network to An Post's. This is called out in the Frontier Economics/ Amárach Research (18/66a) which acknowledges that many of the alternative providers rely in whole or in part on the An Post network. Consider for example the operators listed in figure 6 on page 21 of the Consultation and further discussed in paragraph 38. Are these really "alternative operators" with their own infrastructure to deliver bulk mail? By definition, An Post cannot compete with itself, so "An Post - Meter", "An Post Discount 6" and "An Post Discount 9" are not alternative competing service providers. We discuss the actual "operators" below.

- **Lettershop** is shown in figure 6 of 18/66 (and figure 25 of 18/66a) as being "Single Piece" operator. If that was their only service, then this company would be not at all relevant to ComReg's rationale to remove bulk mail from specification of the universal postal service. In fact, Lettershop will accept bulk mail but have no fixed minimum volume threshold. The company will aggregate consignments for delivery by An Post, or in some circumstances will deliver directly without using An Post at all. This latter service is provided in Dublin only and not nationwide.
- **DX Ireland** is not a "Bulk" mail service provider. Rather it is a closed network of collection and delivery points for a small niche range of customers, typically for sensitive documents in the legal or financial professions. DX is a service entirely dissociable from the USO. In no sense is it a competitor for bulk services. Ideally, the Consultation should have made this clear by listing e.g. how many customers and delivery points does the DX network cover, and whether it is publicly available or requires membership or is otherwise restricted? It is potentially misleading to include them here.

- Despite being so authorised, **RR Donnelley** is not in reality a postal delivery operator, but is primarily a marketing communications company. In a postal context, they offer business services such as booklet, direct mail and bill printing but they operate many channels across print, web and retail physical environments. RR Donnelly rely on An Post bulk mail services for their delivery in Ireland.
- In its company information, **Tico Mail Works** claims to be “the experts you can trust to print, pack and post your letters”. Again, although authorised as a postal service provider, Tico Mail Works do not actually deliver any post - they liaise on behalf of customers with An Post to obtain the optimum and most cost effective method of posting for their clients.
- **CityPost** was a postal operator but with a limited footprint for collection and delivery, and in fact used An Post to deliver much of the post for delivery outside its core catchment area. We understand that in June 2018 the company withdrew all services to customers (see letter issued on 15<sup>th</sup> June attached as a confidential annex to this response, which refers to An Post as the alternative supplier).

In summary, Figure 6 of the Consultation document is not a table of alternative providers for bulk mail. None of the entities listed provides a bulk service for domestic mail. We understand that, with the exceptions of An Post and Citypost, none of the providers in the market offer upstream sortation or have any means of doing so. When they print mail, they can merge demand and can control the order in which material is printed such that the output can meet pre-sort requirements. This ordering of file entries is a feature ancillary to the printing process rather than provision of an upstream sortation service for physical bulk mail.

This clearly shows the “market” competitors do not and will most likely not provide actual bulk mail services - other service “providers” do not actually provide the bulk mail service, they merely provide a link to the An Post delivery service, ancillary to their design and printing offerings.

The existence of RR Donnelley and Tico Mail Works and the scale of other large users such as Government, Banks and Utilities does of course mean that there is substantial countervailing buyer power, constraining any tendency to monopoly pricing - but that is quite different from competitive pressures from alternative postal networks.

ComReg is correct to point out in paragraph 40 that bulk mail is less costly to process than single piece mail. However, the suggestion in paragraph 41 in 18/66, that the cost difference presented in figure 8 reflect competitive dynamics from other operators and e-substitution, is not correct. The competitive pressures of alternative delivery impact on the willingness to pay, but they do not explain the cost difference of bulk compared to single piece stamped mail.

The main driver for bulk mail to have a lower cost than Stamped mail is clearly shown in the Regulatory Financial Statements (RFS). It arises because of fundamental differences between the processes for stamped mail and USO bulk mail services, as shown in the following table.

**Confidential: Table of Cost Differences between Bulk and Single Item**

Operation	Unit Cost Difference	Remark
Revenue Collection costs” (primarily stamp sales at Post Offices)	€X	Does not arise for bulk mail - account paid on master bill
Collection (e.g. from post box to mail centre)	€X	Does not arise because bulk mail is taken by the customer to the sorting office
Outward Sort cost - differential	€X	While outward Sort costs arise for bulk mail, there is a much lower unit cost reflecting reduced sorting and handling arising because clarity and completeness of address is typically much higher for bulk mail than for single piece
Common Cost mark-up	€X	Higher direct costs attract higher common cost mark-up

Together these factors explain almost all of the observed cost difference, and, due to market forces, this cost difference is then reflected in the lower prices charged for bulk mail.

Given our understanding of the roles of the providers listed in figure 6, the statement in paragraph 47 that 39% of SMEs have used an “alternative postal provider” is somewhat misleading. The research seems to indicate the customers used, or considered using, a service provider who prepares and collects mail, but does not deliver. As we have discussed above, and ComReg remarks in paragraph 38, “*The majority of these providers rely on the An Post network exclusively for delivery of mail.*” and could have added that the remainder do not deliver bulk mail either. The statement in paragraph 47 and the associated figures 11 and 12 are designed to lead the reader to believe the bulk mail service could and would be provided by an alternative operator if An Post was not obliged to provide bulk services as part of the specification of the universal postal service. Amárach do not appear to distinguish between domestic and international bulk mail.

### *Understanding of Bulk Mail Services in USO*

Section 4 of the Consultation 18/66 shows a number of tables and paragraphs of text that describe the elements of bulk mail services which are part of the USO and those which are not. There are a number of inaccuracies in this material.

These include:

- In figure 2 on page 16, Discount 7 is correctly shown as applicable to packets only, but the column labelled “letter price” shows the tariff for letters, which are not USO.
- In paragraph 29, there is a reference to eight non-USO services: in fact there are nine such services. In figure 3 on page 17, eight services are listed as non-USO but discount 7 (letter and flats) is omitted.

### *Negotiated Prices*

An Post negotiates prices for non-USO parcels, but does not negotiate prices for bulk letter mail. Therefore, we find the statement at paragraph 49 perplexing. ComReg quotes the Frontier Economics/Amárach Research (page 42 of 18/66a) which claims that 53% of SMEs commercially negotiate on the service for bulk mail. The actual question that supports this figure does not seem to be reported. We suspect that SMEs use parcel providers for express or urgent letters or other mail, and that they negotiate with An Post for non-USO parcel service, or with other parcel operators or couriers. The statement that SMEs or indeed anyone negotiates with An Post or other bulk mail providers in Ireland is erroneous.

ComReg will be aware that bulk mail is sold only at published rates. An Post does not negotiate with any customer on either USO or non-USO bulk mail pricing. The prices charged for these services are included in the Schedule of Charges and the An Post Pricing Brochures. These prices are charged in full to all bulk mail customers. ComReg is aware of this and it is clearly shown in the RFS, e.g. the average rate for Discount 6 in the RFS is €0.57 per item.

The Published rates for Discount 6 were €0.52 for first part of 2017 and €0.60 from 13/4/17, giving a straight line average rate of €0.57.

Therefore there are no grounds for ComReg to state that the “majority” of SMEs negotiate lower rates.

There may be some confusion arising from the Frontier interpretation of the Amárach survey results. Frontier’s figure 27 (Service provider in which SMEs use to send mail”) is reproduced in 18/66 with a new title as “Figure 13: Service provider SMEs use to send letters”. The question asked by Amárach was “who do you use for sending letters” so the ComReg title is more accurate.

Frontier may have misinterpreted a question about letters as being about mail, but this question is certainly not about bulk mail, it is about letters. And if a customer uses DHL or Fastway to take an urgent contract to a supplier or customer that is a single item courier service, not bulk mail.

The providers the SMEs use are predominantly parcel operators or express courier operators. None of them provides a bulk mail service. As ComReg suggests in paragraph 50, these providers are most likely used for urgent items, either single item or small consignments.

However, ComReg then goes on to add further confusion by the statement in paragraph 51 that these suppliers offer consolidation, print and fulfilment, and delivery. The reader is led to believe the providers in paragraph 50 and figure 13 offer these services.

Paragraph 52 then claims the reasonable needs of postal service users, both large mailers and SMEs, are being met by the postal sector, and highlights that the predominant bulk mail service is not a universal postal service. There are several concepts being mixed together in these last few paragraphs. There are suggestions that maybe SMEs do not need a bulk mail service, that SMEs negotiate on bulk service, that SME needs are merely for courier and express, and that large customers use bulk services provided by alternative operators.

To be clear, both large users and SMEs use bulk mail. Both use intermediaries, who in turn pass most of the mail onwards for delivery by An Post. No other operator delivers bulk mail throughout the state. Bulk mail rates are published and all users pay the published rates.

An Post’s most popular bulk mail services is provided under an authorisation under section 37 of the 2011 Act.

The fact that the most popular bulk mail offering is outside the specification as set out in SI 280 of 2012 is because An Post currently finds it commercially attractive to meet users’ needs in that manner. Perhaps those users are prepared to accept deferred mail later than D+2 in return for lower prices.

The pre-sort requirement does not make commercial sense for either An Post or for users (in practice, there is a non-zero cost to the user to pre-sort, which is not merited given the minimal saving to An Post, which is reflected in the price). This is clearly demonstrated by the lack of take-up for the pre-sorted discount 9.

The net effect is that user needs are currently being met on a commercial basis by An Post because it is able to fulfil such requirements, but there is no basis for the conclusion that “the market” will meet all needs if it becomes unprofitable for An Post to do. To make that claim is just wrong.

### *Vulnerable Mail Recipients*

We consider it somewhat odd that there is no consideration of vulnerable users in either the Frontier Economics/Amárach Research report or the ComReg Consultation. This is a significant deficiency in the analysis. From the recipient’s perspective, many vulnerable people who do not have access to electronic communications methods place significant value on receiving bulk mail/direct mail deliveries.

If bulk mail was taken outside the specification of the universal postal service, increased postal prices for senders (in particular charities and banks) and reduced service guarantees might result in (i) deliveries to these customers being terminated or reduced or (ii) senders of bulk mail seeking to pass on price increases to their customers. Indeed, Frontier suggest this might happen (page 70) when they refer to a growing trend towards requiring the customer to pay for postage when other free channels (such as websites or email) are available. Frontier’s remarks are in the context of the business reply service but they apply equally to companies sending out bills, reminders or other communication.

Some companies may penalise users who want post. Increasing cost of bulk mail can only exacerbate this trend. ComReg should not just consider measures for profit improvement for large corporations but should also have regard to the impact on vulnerable users, such as recipients living in rural areas (e.g. by virtue of an additional bank service fee for postal correspondence when their local branches are closed, and internet access is non-existent).

Vulnerable user detriment would also arise if An Post stopped delivering bulk mail but continued delivering single piece mail in specific rural areas.

The above consequences of removing bulk mail from the specification of the universal postal service could lead to harmful social exclusion, in particular of older people.

## *IBMS*

The Consultation does not address the requirement for international bulk mail in any meaningful way, yet proposes it is to be removed from the specification of the universal postal service.

### *European Context*

International benchmarks must be put in context and in this case are not comparable to Ireland due to demographics and location (Island), e.g. IBMS is important for multinationals located in Ireland.

There is a claim in the Frontier report that there is a trend for bulk mail not to be in the specification of the universal postal service, with 5 countries listed where bulk mail was removed from universal service since 2010, making 12 in all. We note 17, a majority still maintain bulk mail in the universal service specification - the report does not indicate whether the universal service was reviewed in any of these 17 resulting in bulk mail being retained. For example, specification of the universal postal service was reviewed in Ireland in 2012 and bulk mail was included in the specification of the universal postal service at that time.

While EU benchmarks are informative, there is no obligation for ComReg to treat bulk mail as other National Regulatory Authorities treat it. The decision must be based on the expected position in Ireland in the forthcoming period before the next review. The demographics of Ireland must be considered, e.g. size of market, low population density, low volumes of mail per capita etc. and to the extent these differ from the relevant parameters in other EU states, a different conclusion, appropriate to Irish conditions, may be drawn. For example, the report does not highlight that many (Eastern European) countries never had bulk mail, and so it was never introduced and such countries are therefore not comparable with Ireland.

We note that Frontier consider (page 80, of 18/66a) that it is difficult to assess the impact that USO changes across Europe have on the affected operators, even after several years; so it cannot be assumed there will be positive impacts in Ireland if similar changes were made here.



We note that ComReg has a statutory duty to have regard to relevant international developments in postal regulation. In this respect, it is relevant that Ofcom, the UK postal regulator took a decision to remove all bulk mail services from the USO in August 2011, on the basis that competition had developed sufficiently (in particular, upstream competition) for it to be assured that users' needs would continue to be met by normal market conditions. At the time of the decision, Royal Mail had a relevant market share of 38% only (in the upstream market in 2010). This is not comparable to the current market development in Ireland where even upstream sortation services are very limited or perhaps non-existent as explained above.

An Post is not aware of any evidence regarding the dynamics of competition in the Irish postal market on which ComReg could base a reasonable assumption that postal users' needs in relation to bulk mail will inevitably continue to be met by normal conditions of competition, and therefore do not require the safeguards provided by their inclusion in the specification of the universal postal service.

#### *Conclusion on Bulk Mail*

We consider that several of the key summary bullets in paragraph 55 of the Consultation are incorrect and are proposed without sufficient grounds for decision-making.

An Post is not asking lightly for Regulation to be maintained or added to - An Post is keen to ensure that Regulations are only amended on the basis of up-to-date correct information and valid conclusions arising from this information.

The consequences of poorly understood change may be that the remaining obligations become unsustainable. Neither An Post, ComReg nor users want to see that happen.

## **Basic Parcel Service upper limit of 10kg**

***Question 2: Do you agree with the preliminary view to remove a basic parcels service above 10kg from the specification of the universal postal service? Please explain your response***

### **Response to Question 2**

An Post is of the opinion that the USO parcel weight should be left as is (up to 20kg).

Reducing the maximum weight for domestic parcels in the USO would result in heavier items being classified outside the USO. The question arises whether An Post would continue to provide a service for parcels in the range 10kg - 20kg and if so at what price. Health and safety issues dictate different handling practices for parcels in excess of 10kg which have significant cost impacts. Depending on the market volumes, and the cost of systems and other changes, it may not be commercially attractive for An Post to maintain the service. It is not clear that all customers (especially infrequent users in more remote locations) would have economically viable alternatives if An Post chose to discontinue the service.

While a majority of users requiring parcels 10kg-20kg already negotiate rates with An Post and other suppliers, and would be unaffected, those smaller users who infrequently send such parcels and rely on An Post might find there is no acceptable alternative service.

The proposed removal of 10kg-20kg parcels from the specification of the universal postal service may also have VAT implications. If VAT applied to parcels greater than 10kg in weight, An Post would have to amend IT systems (including certain meter machines at customer premises and in Post Offices) and processes to allow VATable parcels to be accepted. An Post would require adequate time to make these amendments to systems and processes. An Post is currently implementing significant changes to sustain the overall business and additional requirements diverting scarce resources from this task would be unwelcome and might not be undertaken.

We note ComReg had additional reasons for maintaining the limit at 20kg in section 5.31 of the Consultation document 12/38. It is unclear what, if anything, has changed in the market for single piece parcels to make that argument invalid.

## Ancillary Services

***Question 3: Do you agree with the preliminary view to maintain certain ancillary services in the specification of the universal postal service? Please explain your response and provide any evidence to support any addition or removal of ancillary services from the specification of the universal postal service***

### **Response to Question 3**

An Post agrees that there is no need to change the specification for ancillary services at this time.

***Question 4: Do you have any comments on the proposed amending Regulation? Please explain your response***

### **Response to Question 4**

The draft amending regulation is set out at section 7 on page 51 of the Consultation, and is framed as a Statutory Instrument amending SI 280 of 2012.

While we do not support the proposed changes, we would argue strongly that it would be conducive to making matters clearer and more user-friendly for all if SI 280 of 2012 were restated to reflect and include all of the proposed changes, rather than amended, so that only one set of regulations were applicable.

SI 280 of 2012 is only 10 pages in total and amending it will take another 3 pages simply to delete a few lines. The existence of two instruments which must be read together may easily cause confusion for future users of the legislation.

The first amendment changes 20 kilograms “where it occurs” in SI 280 of 2012 to 10 kilograms. Although there is only one such occurrence, the phrasing of the proposed amendment suggests there are several. The single occurrence is in the definition of parcels in paragraph 2 Interpretation. As a result, we would again suggest that a new regulation containing all relevant new definitions is set out instead.

The simple deletion of 3.1 (h) (i) and (j) is also problematic.

Deleting (h) leaves a definition in paragraph 2 (“delivery only”) which is no longer required and so should also be deleted.

Deleting (i) leaves the definition of foreign redundant

Deleting (j) makes the definition of “deferred delivery” redundant.

Deleting (h), (i) and (j) together makes the definition of “postal packets deposited in bulk” redundant.

If the amending regulation were adapted to correct these omissions, it would begin to exceed the size of the original regulation.

Therefore, while we do not agree with the proposed amendments, if they were to be enacted we consider restatement of SI 280 of 2012 with the new regulation, rather than amending it, is more efficient and effective.

As stated above, these comments are made in the interests of making the relevant regulations more straightforward for users of postal services generally. We do not however support the proposed changes.

Any change in regulation should only become effective at a date that allows An Post sufficient time to make the appropriate system and process changes.

***Question 5: Do you have any comments on the draft RIA? Please explain your response***

**Response to Question 5**

The RIA does not properly consider valid alternatives such as making the bulk services actually used by customers' part of the universal service specification.

Similarly, the RIA does not properly address the options for IBMS or the situation that might arise if Ancillary services were withdrawn from the universal postal service.

The RIA does not consider the impact of the alternatives on vulnerable users.

The RIA is fatally deficient because it is predicated on two premises which are demonstrably factually incorrect:

- It assumes alternative operators in the upstream market for bulk mail: there is no meaningful alternative delivery operator
- It assumes SME users negotiate rates for bulk mail with An Post and others: SME customers do not negotiate rates for bulk mail with An Post and there are no others.

By failing to consider the correct alternatives, and by reaching conclusions that are demonstrably false, the RIA is seriously deficient.

**Annex 1 – CityPost notice to customers - Confidential**



## **2: Tico Mail Works**



Tico Mail Works

Mr Stephen Brogan,  
Commission for Communications Regulation,  
One Dockland Central,  
Guild Street,  
Dublin D01 E4X0.

10 August 2018

**Re: Tico Mail Works Response to ComReg document 18/66 -  
Review of universal postal service specification and draft amending  
regulation**

Dear Mr Brogan,

Tico Mail Works Ltd. wishes to respond to the ComReg consultation, specifically in relation to the proposal to remove certain bulk mail services from the universal service. Tico Mail Works is opposed to this proposal.

ComReg has indicated that its proposals are guided by two overarching principles.

1) In proposing the **removal** of any service from the universal service, ComReg must be satisfied that postal service users' needs would continue to be met by effective competition in the market.

2) If a service is to **remain** in the universal service, ComReg needs to be sure that it will not be to the detriment of competition for the supply of this service.

Tico Mail Works is in general agreement with these principles.

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Tico Mail Works

The existence of two bulk mail services within the universal service did not inhibit the launching of the new Ceadúnas 11 service. Therefore, the ComReg principle of ensuring that the existence of a service in the universal service should not hinder competition, has not been compromised, in so far as bulk mail is concerned.

On the other hand, there are justifiable concerns that the removal of existing bulk mail services from the universal service would offend against the other ComReg principle, that users' needs should not be adversely affected. Removal of bulk mail services from the universal service creates real risk that the needs of postal service users (and providers other than An Post) could be compromised by the dominant market player with, as ComReg puts it, "full commercial freedom".

Tico Mail Works notes that the position in Ireland remains that, while there are elements of competition within bulk mail services, An Post remains the dominant player for **delivery** of mail, including bulk mail. An Post's domination of the market for mail delivery suggests that it would become a price setter in the absence of a regulatory regime, such as exists within the universal service. We are further strengthened in this view by the position regarding competition from e substitution to bulk mail.

While competition from e substitution exists, An Post, as evidenced by its responses to the Joint Oireachtas Committee on Communications, Climate Action and Environment, on 17 January 2017, believes that e substitution is going to happen anyway, irrespective of whether bulk mailers **"are paying 57 cent, 67 cent or 80 cent."** This suggests that the threat of e substitution is not an effective dampener on An Post bulk mail price increases.

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## Tico Mail Works

Tico Mail Works sees nothing in the consultation that would change its view that it is prudent to maintain at least some bulk mail services in the universal service (and therefore subject to some regulatory oversight), as an alternative service for postal service users. No compelling case has been made that competition is being inhibited, or that it would be enhanced, by the removal of these bulk mail services from the universal service. Rather evidence to date (in particular the launching of Ceadúnas 11), suggests otherwise.

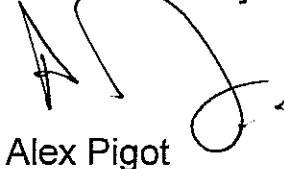
In our view the key threats to the universal service are:

- mail volumes will fall as companies move their singular communications mail stream to electronic;
- universal service price increases in the domestic market continue to be used to subsidise losses on inbound international mail. (We welcome the fact that ComReg, An Post and the Department have shown a recent willingness to tackle this situation. It would be useful to have an update on progress.)

In conclusion, Tico Mail Works believes it would be imprudent to tinker with the sustainability of the universal service by removing certain bulk mail services from its ambit, at this time. No material advantage that would follow from their removal, has been identified. Furthermore, their removal would create unnecessary risk for the interests of postal service users and providers. Tico Mail Works strongly advocates a "no change" position in relation to bulk mail products within the universal service. The matter can be revisited in the future should circumstances change.

Kind regards.

~~Yours sincerely~~



Alex Pigot

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