



Commission for
Communications Regulation

Draft Postal Strategy Statement 2015 - 2017

Submissions to Consultation 14/131

Submissions to Consultation

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An Coimisiún um Rialáil Cumarsáide

Commission for Communications Regulation

Abbey Court Lower Abbey Street Dublin 1 Ireland

Telephone +353 1 804 9600 Fax +353 1 804 9680 Email info@comreg.ie Web www.comreg.ie

Submissions Received from Respondents

Consultation:	14/131
Response to Consultation:	15/18a

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1: An Post

**ComReg's Draft Postal Strategy Statement
2015 - 2017**

COMREG DOCUMENT 14/131

**AN POST RESPONSE
16 January 2015**

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1. Introduction

An Post (“the Company”) welcomes the opportunity through this consultation to contribute its views on ComReg’s Draft Postal Strategy Statement for 2015 to 2017.

An Post also welcomes, in broad terms, the high level goals set out in the Strategy Statement as they largely reflect the implementation requirements of the Communications Regulation (Postal Services) Act, 2011 (‘the Act’).

As the designated Universal Service Provider, and in the interests of all stakeholders in the postal industry, it is important that An Post remains a strong and vibrant company. This was recognised in the current Government’s Programme for Government and is reflected in the current Strategy Statement of the Department of Communications, Energy and Natural Resources. The Programme for Government stated:

“A universal postal service is an essential public service, in particular for rural communities and those disadvantaged communities affected by the digital divide. A publicly owned, commercially viable, profitable and efficient An Post is critical to the long-term viability of the postal market”.

The critical importance of the Universal Service was set out clearly in the Act with ComReg’s objective to facilitate the development of competition and innovation being subject to the overriding objective of the availability of the Universal Service.

The sections of the consultation under High Level Goals #1 (Ensure the provision of the Universal Service) and #2 (Promote the interests of postal service users) provide an extensive overview of the challenging industry environment that is presently confronting the postal sector. These mainly stem from the continuing decline of traditional mail volumes. The postal market is now fully open to competition and this, together with the emergence of new communications technologies, provides customers with greater choice than ever in meeting their communication needs.

Measures by the Company to tackle its cost base have yielded significant results as noted by the Chief Executive in the 2013 An Post Annual Report. The Chief Executive observed that An Post had *“achieved ongoing cost reductions including a staffing decrease of 335 Full Time Equivalents (FTE)”*. He also noted *“that constructive dialogue continues in our efforts to reduce the Company’s staff numbers by a further 1,000 over the next 5 years”*.

The 2013 An Post Annual Report then proceeded to summarise the scale of the manpower reduction achieved since 2009. It noted that *“The relentless implementation of change programmes continued apace over the course of the year. In the period since 1 January 2009 there*

has been a reduction in the FTE number in the Company of 1,619 and the annualised labour cost has reduced by over €65m. In the year 2013, the average number of FTEs in the Company was 9,344; 297 lower than in 2012 which reflects the impact of ongoing change programmes on the cost base”.

Although there are no simple solutions to the challenges facing the postal industry, An Post has set out, in its rolling Five Year Financial Plan, how it intends to address the financial issues that arise from a decline in mail volumes while at the same time fulfilling its Universal Service Obligation. An Post’s strategy includes the implementation of each of the following:

- Continue cost reduction and efficiency improvement programme and build on the significant Full Time Equivalents (‘FTEs’) cost reductions to date and substantial non payroll savings that have also been achieved;
- Develop new revenue streams, mainly outside the Universal Service area; and
- Secure appropriate price increases in Universal Postal Services in line with the Price Cap Mechanism approved by ComReg along with relevant price increases in Non-Universal Services.

This Five Year Plan is designed to ensure that an efficient and high quality Universal Service can be maintained to meet the needs of all our customers and is financed, as far as is practicable, from within the resources of the Company.

As can be seen from above, payroll costs as well as non-payroll costs have been significantly reduced and An Post will continue to re-size the business to reflect the reality of reducing mail volumes. It must however be acknowledged that the available scope to continue to achieve further reductions in staff hours could well be limited by the USO obligation given the current specification of the USO.

The importance of the Universal Service is reflected in Section 10 of the Act. ComReg’s finalised Strategy Statement should continue to clearly reflect both the priority given to the Universal Service in the Act and the importance to all parties interested in the postal industry in Ireland in ensuring a vibrant An Post as the Universal Service Provider. It is also important that ComReg is proactive in ensuring that all postal service providers meet their obligations to protect the market as a whole.

2. Response to Consultation Questions

Q1. Do you agree with ComReg's proposed high level goals?

An Post broadly welcomes the proposed high level goals as being appropriate broad objectives designed to lead to the attainment of a more dynamic postal market.

High Level Goal #1: Ensure the provision of the universal postal service

An Post supports ComReg's goal in relation to ensuring the provision of the Universal Postal Service but believes that the crucial qualification that encouragement of competition and innovation must not adversely impact on the provision of the Universal Service (as required by section 10 of the Act) should be further highlighted in the Strategy Statement particularly as the market continues to develop at a significant pace.

ComReg sets out on Page 12 of the consultation paper some of the perceived competitive advantages from providing the Universal Postal Service. These include brand/corporate reputation and VAT exemption. However, it should be borne in mind that An Post has worked hard to enhance its brand and reputation. It is not the case that being designated as the Universal Service Provider automatically confers a brand benefit, much of the continued high brand value can be attributed to An Post's overall corporate reputation, its high level of trust (needed as a successful intermediary) and high levels of quality and customer service in both the Mails and Retail businesses. An Post was named as the most reputable public service body in Ireland for the second consecutive year and the 3rd most reputable Irish company overall - up from 15th place in the previous year - according to the results of the annual Ireland RepTrak® 2014 study, announced by The Reputations Agency.

In relation to VAT exemption, this is a complex area. The question of fiscal neutrality (that similar transactions should attract the same VAT treatment if they meet the same needs of the customer) in the field of postal services was considered at length in the ECJ cases of TNT and later of Rank.¹ In these judgments the court found that in order to assess the comparability of the services it is necessary to not only look at the services being provided but also the context in which those services are supplied. The obligations on the public postal service put it in such a different position from that of a competitor that, in the opinion of the ECJ, the differing VAT treatments did not result in a breach of fiscal neutrality.

It is noted that ComReg perceives that there is the scope for Universal Service Providers to "*rework their legacy networks into parcel networks*" to better meet the challenge of e-commerce. In reality the potential for this is somewhat limited particularly in urban areas where dedicated letter and parcel channels are more practical.

High Level Goal #2: Promote the interests of postal service users

An Post supports ComReg's goal to promote the interests of postal users.

High Level Goal #3: Promote the development of the postal sector

An Post supports ComReg's goal to promote the development of the postal sector. We would point out however that the contention by Boston Consulting Group (BCG), referred to in the Strategy Statement, that the parcel market will soon outgrow that of mails is unlikely to occur in Ireland in the short to medium term. BCG had contemplated a much longer term horizon of 10 years for this development to occur than the shorter timeframe of ComReg's plan.

An Post would also like to make a number of points on the general issues of declining letter mail volumes, increasing parcel volumes and the changing postal sector which impact all three high level goals.

Declining letter mail volumes

The extent of the market decline off the peak volumes in 2007 is estimated to be c. 32% to the end of 2014 and An Post is expecting ongoing declines of 3% to 4% per annum over the medium term.

An Post's strategy for maintaining the Universal Service in the face of declining volumes is described in the consultation paper as having *"mainly concerned more efficient working arrangements and automation. However, automation systems require volume to remain viable and this needs constant attention by An Post"* (page 13). Succeeding in the goal of efficiency is clearly dependent upon achieving an arrest in the rate of decline in volumes which is not totally under the control of An Post.

An Post has been very clear that all three policy levers under its Five Year Plan must be harnessed in order to safeguard delivery of a viable USO (cost reduction programmes, exploiting new business opportunities and appropriate price increases for Universal Postal Services).

ComReg's prescription for dealing with the decline in mail volumes presented implies that a wide range of attainable options exist when this is not the case. An Post is told that it enjoys *"full commercial freedom to ensure that its non-universal postal services and other commercial services are financially viable"* (page 11). However, this observation must be set against the reality that An Post derives over 70% of its total postal revenues from Universal Postal Services. Consequently no simple solution exists for addressing ongoing mail volume declines. The decline in mail volumes experienced worldwide is both structural and economic in its causes - not only does it reflect changing usage patterns but also the impact of the recent deep recession. An Post has set out its

Plan which is both realistic and achievable and needs the support of ComReg to ensure its success.

Increasing parcel volumes

An Post agrees that there are growth opportunities in the parcels and packet market but replacing the reduction in revenue arising from a decline in letter volumes with volume increases in a very competitive parcels and packet market is just not realistic. The Hooper reportⁱⁱ, a seminal piece of research on the Universal Postal Service commissioned by the UK Government, provides a more relevant assessment of the state of the industry. This report finds:

“The decline in letter volumes worldwide is predominantly structural in nature, caused by e-mail and mobile data substitution. This structural decline has been exacerbated by cyclical decline caused by the recession. The hole created by falling letter revenues and profits will not, unfortunately, be filled by the welcome growth in revenues and profits from packets and parcels as a result of online shopping (e-fulfilment). This is because the packets and parcels market is smaller than the letters market and is much more competitive.”

Changing postal sector

An Post is satisfied that ComReg’s draft Strategy Statement addresses the key developments and challenges that face the Irish postal sector over the next three years.

The consultation document urges An Post to give constant attention to the parcel market (page 14 of the consultation paper). However, this does not fully take into account the significant advances already achieved by An Post in relation to new or enhanced revenue streams such as Admailer.ie and a range of service enhancements to meet the demands of on-line shoppers.

ComReg sets out on page 20 of the consultation paper, under the heading ‘Securing the trust of postal service users’, a paragraph which, in An Post’s view is critical to how users view the industry. It is worth repeating here for emphasis that if customer trust is not maintained, the industry as a whole will suffer:

“ComReg considers that new entrant and existing postal service providers need to secure the trust of postal service users in order to develop and expand their businesses. ComReg recognises that this is a particularly challenging task for new entrants competing against the An Post brand which is generally highly regarded, trusted and respected. Consequently, it is essential that every postal service provider upholds their obligations under the 2011 Act to provide clear and unambiguous codes of practice to ensure that the interests and trust of postal service

users is secured so that competition can develop. ComReg will play its part by ensuring compliance with those obligations.” (emphasis added)

Based on the above, An Post recommends the following challenges are further highlighted in the finalised Strategy Statement:

- Ensuring the Universal Service remains strong and financially viable over the period; and
- Ensuring that all operators in the postal market are meeting their obligations which will help to maintain the current high confidence levels of postal users.

For these reasons, An Post sees regulation of all postal service providers as being extremely important so as not to lose the confidence of consumers and other postal users in the system of supervision which could undermine all operators in the market.

Q2. Do you agree with ComReg’s proposed priorities within the high level goals?

5.1 PRIORITY: Protect the stability of the universal postal service by applying effective and proportionate regulation

Quality of Service target

Section 32(1) of the Act states that ComReg may from time to time, revise the Quality of Service Standard. The current Direction is in place since 2004.

Quality of Service must be viewed in the context of a mails market undergoing a profound and radical transformation. While An Post shares the observation expressed in the paper that *“the availability of an efficient, high quality postal service on a par with the best in Europe is a key objective for a modern competitive society such as Ireland’s”* and that a next working day service should be provided (page 22 of the consultation paper), it is vital that the service levels and targets are reflective of current market needs.

On gauging the actual needs of users, a European Commission postal study conducted by WIK Consultⁱⁱⁱ declared that *“these needs may evolve over time. If, for example, expanding use of email reduces the need of rapid delivery of letters, then the quality of service standards should be relaxed.”*

In a more recent report to the European Commission WIK Consult recommended that as part of a more flexible USO definition *“Member States to adapt parameters such as service quality to the needs of users”*.^{iv}

In this context An Post welcomes ComReg's commitment to review the existing quality of service target within the period of this Strategy Statement.

Access Points

ComReg intends to review its 2003 Direction on access points which may focus on its requirements set for a 'minimum' number.

ComReg is on record as having said that there is generous overprovision in the collection box network at a national level. It is worth noting that other Universal Service Providers across Europe have embarked on quite radical restructuring programmes of their own networks. One striking example is a draft law before the Dutch Parliament which would see the collection box network there practically halved.

An Post welcomes ComReg's planned review of the Direction.

5.2 PRIORITY: Protect the stability of the universal postal service by considering all possible means to ensure the efficient provision of the universal postal service

Net USO cost

An Post does not fully agree with ComReg's observation under Priority 5.2 that "*ComReg considers that it is likely that a request to seek any net cost arising from the universal postal service may realistically only be for the period from the enactment of the 2011 Act (2 August 2011) to July 2014 when ComReg's price cap decision took effect*". While USO losses are expected to reduce, the limits on price increases imposed by the Price Cap decision, compliance with International Postal agreements i.e. the UPU inter governmental agreement, continued observance of the principle of affordability and adherence to a uniform tariff regime means that services embraced by the Universal Service Obligation will continue to incur significant losses in the medium term.

5.3 PRIORITY: A universal postal service that meets the reasonable needs of postal service users by ensuring that the universal postal service provider complies with its obligations

An Post welcomes, in broad terms, the high level actions set out in section 5.3 as they largely reflect the implementation requirements of the Communications Regulation (Postal Services) Act, 2011 ('the Act').

6.1 PRIORITY: Protect postal service users by ensuring postal service providers comply with their obligations

Terms and conditions of universal postal services

Circumstances which would justify a ComReg request to An Post to modify its Terms and Conditions are outlined. As any change could have potentially serious and negative implications for An Post's profitability these

circumstances should be extended to take account of the financial viability of An Post as the Universal Service Provider. Therefore ComReg should have due and proper regard of such legitimate concerns before contemplating any action. ComReg should consider amending the text as follows:

ComReg may *“require appropriate modification having regard to the obligations imposed on the universal service provider, ~~and~~ the reasonable needs of postal service users and the economic viability of An Post as the Universal Service Provider.....”*

6.2 PRIORITY: Empower postal service users by ensuring the availability of appropriate information on postal services

Complaints and redress procedures

An Post believes that certain private postal operators are remiss in their responsibility to their customers and workforce in not properly advising them on procedures for processing and handling undeliverable mail. In some instances undelivered mail of other operators is directed, perhaps inadvertently, to An Post for attention. As a consequence ComReg should ensure that *“the codes of practices set out by the respective postal service providers are sufficient and contain appropriate information.....”* (page 32 of the consultation paper).

6.3 PRIORITY: Protect postal service users by ensuring complaints and redress procedures provided are transparent, simple, inexpensive, and enable disputes to be settled fairly and promptly

Consumer and redress procedures

An Post welcomes the conclusions reached by ComReg in its consultation on *“Section 43(3) Dispute Resolution Procedures”*, No. 14/87 dated 21 August 2014, and expects that this will outline a range of remedies that are proportionate to the gravity and seriousness of the complaint.

7.1 PRIORITY: Provide information regarding the provision of postal services in Ireland

ComReg refers to its role in maintaining a register of authorised postal service providers. In An Post’s opinion this is a responsibility which demands constant vigilance in order to ensure that operators are not exceeding the terms of their authorisation.

ComReg intends to extend the range of consumer surveys which it undertakes: *“ComReg also intends to publish further research and market data on the postal sector in Ireland ComReg plans in the coming year to commission and publish research on the growing parcel sector”*. This is to comply with the stipulation in Article 5.1 of Directive 97/67/EC that the Universal Service *“shall evolve in response to the technical, economic*

and social environment and to the needs of users". ComReg should be mindful that any research conducted in this market segment acknowledges the limitations of such research, particularly in relation to the potential shortage of data (in a highly competitive market) and the rapidly developing nature of this market segment.

An Post will endeavour to maintain its success in meeting customer needs which has been evidenced in recent surveys that were commissioned by ComReg. In the IPSOS survey published in November 2013 one of the conclusions was that *"All organisations use An Post as their primary postal provider, and claim to be satisfied with the service received"*.^v

7.2 PRIORITY: Facilitate the development of the postal sector by acting in accordance with our mandate set by legislation

An Post welcomes, in broad terms, the high level actions set out in section 7.2 as they largely reflect the implementation requirements of the Communications Regulation (Postal Services) Act, 2011 ('the Act').

7.3 PRIORITY: Facilitate the development of the postal sector by applying effective and proportionate regulation

It is important that customers can rely on a continuous service from all providers, particularly considering the potential impact of withdrawal of a service provider from the market e.g. the recent closure of City Link in the UK. An Post suggests that a mechanism be put in place to ensure customers are protected from loss of service in such cases.

Q3. Do you agree with ComReg's proposed actions to achieve the priorities within each of the high level goals? Are there additional actions required over the period of this strategy statement?

An Post would suggest that the following modifications be made to the Actions.

- Amend Action 6.2.1 to read *"Ensure appropriate information on postal services is available for postal service users including the identity of the sender and the service provider used by the sender"*

Q4. Do you agree with ComReg's proposed indicative timing of actions?

An Post would welcome the following change to the timetable of actions.

- Timing of Action 5.1.3 ("consider Access Points Direction") should be deferred until Q3 2016 to afford sufficient time for the new Eircode system to be assessed.

3. Conclusions

An Post welcomes, in broad terms, the high level goals set out in the Draft Strategy Statement as they largely reflect the implementation requirements of the Communications Regulation (Postal Services) Act, 2011 ('the Act').

4. References

ⁱ TNT Post UK Ltd v HMRC Case C-357/07 and HMRC v The Rank Group plc Case C-259/10

ⁱⁱ Hooper Report, Saving the Royal Mails Universal Postal Service in the Digital Age, September 2010, Page 8 (<http://www.bis.gov.uk/hooper-report>).

ⁱⁱⁱ European Commission - Role of Regulators in a More Competitive Postal Market: (WIK 2009 page 301)

^{iv} WIK Consult "Main Developments in the Postal Sector (2012-2013)", page 339

^v IPSOS "Large Postal Users Survey" - ComReg 13/107 of 19 November 2013

2: Irish Bulk Mail Producers Association

IRISH BULK MAIL PRODUCERS ASSOCIATION

RESPONSE TO COM REG

DRAFT POSTAL STRATEGY STATEMENT 2015 TO 2017

Document Reference: 14/31

Date: 16 January 2015

The Irish Bulk Mail Producers Association (IBMPA) thanks Com Reg for its draft strategy statement for 2015 to 2017 and notes, in particular, the list of actions which Com Reg proposes to take during this period. The Association has an important proposal to make.

New regulatory measures on paper/e communications needed to assure the rights of postal service users

The IBMPA believes that additional important measures in relation to e substitution need to be included in the Strategy Statement for 2015 to 2017, if two of the high level goals viz.

- Promote the interests of postal service users
- Promote the development of the postal sector

are to be adequately addressed.

Identifying the problem

There is considerable uncertainty and confusion in relation to the rights of postal service users and consumers in relation to the question of e substitution. Com Reg itself has commendably been to the fore in regulating the position in so far as the communications sector is concerned. The following extract from the Com Reg Chairman's Report on 2013 is particularly apposite.

“In June 2013, following a public consultation, ComReg issued a Decision in relation to providing bills to consumers of electronic communication services. Prior to the introduction of this regulation, there were different regulatory requirements in relation to billing in place for ECS {electronic communications

services) providers, in some cases there were no requirements on certain ECS providers in respect of bill itemisation or bill mediums (i.e. paper or electronic bill)..”

Suggested first step to address the problem

Unfortunately, the problem identified by the Chairman, of “*different regulatory environments*” and “*in some cases... no requirements*” on service providers is commonplace. The IBMPA believes that, at the very least, Com Reg should begin a process of promoting and encouraging the implementation of regulation in all sectors along the lines of the good work already undertaken by Com Reg in the communications sector.

A useful starting point would be for Com Reg to ascertain the statutory and administrative positions obtaining in key service sectors, such as:

- Energy
- Banking
- Waste collection
- Road Tolling
- Revenue Commissioners
- Department of Social Protection

with a view to making proposals on a nationwide best practice systems. Individual sectors would then have a benchmark to implement statutory regimes tailored to the requirements of their customers.

The above list of service providers is not exhaustive but would represent a good beginning in trying to bring order and certainty on the question of postal and e communication requirements into the principal public and private service sectors in the State.

Postal service users need to be respected

The key issue here is that the right of postal service users to continue to receive paper communications must be respected.

Com Reg surveys of postal users during 2013 – Com Reg document 13/67b - showed that consumer preference for receiving bills and statements by post is very strong. Consumers and postal users can only be sure of fair play, and service providers assured of a level playing field, if regulatory authorities and service providers are proactive in putting reasonable measures in place to guarantee postal service users rights in this regard.

As the regulator for the postal industry, and as a regulatory authority that has already undertaken useful work on this issue in the communications sector, Com Reg is well placed to now take an initiative in this regard. The Irish Bulk Mail Producers Association would be pleased to assist in any appropriate way with this work.

The Irish Bulk Mail Producers Association looks forward to a considered and favourable response from Com Reg to this suggestion.

Alex Pigot

Chairman, Irish Bulk Mail Producers Association